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## The Open Method of Coordination: Underconceptualisation, overdetermination, de-politicisation and beyond\*

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**Abstract:** This introduction provides a brief overview of the existing OMC literature with regard to the introduction of the OMC, its theoretical conceptualisation of effectiveness and legitimacy and related empirical findings. The main part of the introduction, however, focuses on chosen shortcomings of the literature and how the contributions to this special issue deal with these shortcomings and contribute to surmounting them. In particular, the central assumption about learning is questioned at macro-, meso- and micro levels; potential ways, apart from learning, as to how the OMC can ‘matter’ are explored as well as the impacts it has. Finally, the assumption that the OMC could be a neutral instrument is questioned, and doubts are therefore raised as to its legitimacy.

**Keywords:** soft law; open coordination; democracy; legitimacy; multilevel governance; Europeanization; integration theory; European social model; welfare state; social policy; political science

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### 1. Introduction

It is possible to say that not only has there been a governance turn in recent years (Kohler-Koch and Rittberger 2006; Treib, Bähr and Falkner 2007), but that more particularly this governance turn has been an Open Method of Coordination (OMC) turn since the introduction of the Lisbon Strategy in March 2000. Few renowned European scholars interested in (traditionally national) social policy and politics resisted the temptation to jump on the bandwagon (Atkinson et al. 2002; Berghman et al. 2003; Citi and Rhodes 2006; Hemerijck and

Visser 2003; Hodson and Maher 2001; Offe 2003; Scharpf 2002; Tólo 2001). What is more, several of these scholars were associated with the political process in a quite direct way by providing reports to different Presidencies (Portuguese, Belgian, Hellenic, Luxembourgish, Finnish) and / or assisting in indicator development (Atkinson et al. 2002; Berghman et al. 2003; de Burca and Zeitlin 2003; Ferrera, Hemerijck and Rhodes 2000; Kvist and Saari 2007; Marlier et al. 2005).

The OMC has produced a huge amount of publications to which the Wisconsin University, Madison OMC website testifies in particular<sup>(1)</sup>. Contributing to the wealth of this OMC literature, this special issue offers truly original and previously unpublished contributions. These bring to the table a large variety of theoretical approaches that have not been applied to the analysis of the OMC thus far as well as new empirical evidence. The theoretical plurality is seen as one of the central contributions of this issue in that it offers different perspectives on the OMC which all contribute in rather complementary ways to its future conceptualisation. Obviously, it is therefore not the aim of this introduction to provide a common theoretical framework for all the contributions. Instead, it has two aims, one minor and one major. First, a brief overview of the existing OMC literature and controversies therein will be provided (section 2)<sup>(2)</sup>. The main aim of this introduction, however, is to engage in a discussion of the shortcomings of the published literature: underconceptualisation, overdetermination and depoliticisation, and indicate how the contributions to this issue relate to these three issues (section 3). The final chapter concludes, indicates remaining questions, and offers hints for future OMC-related research (section 4).

## 2. The OMC between hard politics and cheap talk

At the Lisbon summit in March 2000, and with the Lisbon Strategy, the OMC was introduced. Accordingly, a “fully decentralised approach will be applied in line with the principle of subsidiarity in which the union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership” (European Council 2000, para 37). The OMC in its quality of soft law should be a “means of spreading best practice and achieving greater convergence towards the main EU goals” (ibid.). This should be reached through the adoption of guidelines (or objectives), the establishment of quantitative and qualitative indicators and benchmarks, national and regional targets and periodic monitoring (through the Commission and the Council), evaluation and peer review organised as mutual learning processes. According to the Lisbon Conclusions, the OMC should contribute to the convergence of domestic performance, to the modernisation of the “European Social Model”, and to social cohesion (European Council 2000; Ferrera, Matsaganis and Sacchi 2002; Tólo 2001; Vandenbroucke 2002).

It is commonly shared that the OMC was a further consolidation and institutionalisation of instruments that the EU had used since the early 1990s in economic, monetary and employment policy. It has since its introduction been associated with social inclusion (2000), pensions (2001), and health care and long-term care for the elderly (2004), to name but the social OMCs. Important changes occurred since under different influences: The Kok report (2004), which testified to a lack of efficiency and implementation in the Lisbon Strategy; a Council with a large conservative government; a then new conservative President of the European Commission, Barroso; as well as Eastern enlargement. The European Employment Strategy had already been linked more closely to the Broad Economic Policy Guidelines in 2003, whereas the Lisbon Strategy, in its mid-term review (2005), was reset around the goals of competitiveness, growth and jobs. While the goal of social cohesion was officially maintained, it clearly became a function of economic success (Zeitlin 2009). In view of the many reporting obligations, the three social OMCs mentioned above were “streamlined” into the Social Protection and Social Inclusion OMC (OMC/SPSI) which now follows a common reporting cycle. While the OMC or OMC-like instruments have thus been in place for a while now, there is still substantive disagreement about why the OMC was introduced to begin with, how its effectiveness and legitimacy should be conceptualised and what can be said empirically about these two criteria with regard to the OMC.

## 2.1. For the better or the worse: The introduction of the OMC

The economic, political and judicial developments and pressures which led member states to increasingly coordinate their employment and social policies have been aptly described (Büchs 2007; de la Porte 2008; Goetschy 1999). Due to the institutional diversity of welfare arrangements and to the limited problem-solving capacity of the EU in terms of “positive integration” (Scharpf 1999), the Community Method was not available to respond to the identified coordination need. Instead, a Council dominated by social-democratic governments decided, in 1997, to introduce an employment chapter in the Treaty of Amsterdam, which became the legal basis of the EES, introduced later that same year. This initiative was taken a step further in the context of the Lisbon Strategy, adopted by an overwhelming and unprecedented social-democratic majority in the Council (Manow, Schäfer and Zorn 2008; see Schäfer and Leiber in this issue)(3).

The Lisbon Strategy seeks to combine different aims. First, it defends a new economic paradigm – competitiveness – which is based on innovation and technological progress, the goal of which is the accelerated realisation of the Single Market (Goetschy 2004). It perceives shortcomings of the labour market – long-term unemployment, too low employment rates particularly amongst women and older workers, and under-development of the service sector – as the main sources of insufficient competitiveness and growth, and it accordingly sets out to adapt the European labour market(s) to more flexibility through structural reform.

Second, by lifting social policy up to the top of the European agenda, the strategy seeks a recalibration of economic and social policy (Ferrera et al. 2002). It does so by “reconciling” economic and social policies which are seen as interdependent and mutually re-enforcing (Begg and Berghman 2002). Social policy is perceived as a productive factor rather than a hindrance to economic growth (Berghman et al. 2003: 26).

Third, the strategy affirms the existence of a particular “European Social Model”, which somewhat paradoxically, must be modernised in order to be conserved, in particular through the flexibilization of labour markets and the reform of social protection systems (Goetschy 2004). The theoretical frame of reference is the concept “of an active welfare state based on employment” (Berghman et al. 2003: 15), the main policy objectives of which are an increase in employment rates, activation of people, “making work pay”, and (lifelong) investment of employees into their human capital (Barbier 2004). The concept rests on the idea that “increased growth with more and better jobs should reduce social exclusion” (Mayes 2002: 195).

Both political and scientific actors tend to accentuate one of these three aspects. Thus, whether the OMC is evaluated as a success story or as a failure very much depends on what authors think its primary goal was and why it was introduced in the first place. Some will argue that the OMC was the crystallisation of years of social-democratic engagement for “social Europe” (Collignon et al. 2004; de la Porte 2008), others will see competitiveness as the primary goal of the Lisbon Strategy and therewith of the OMC (Joerges and Rödl 2005; Radaelli 2003) or focus on substantive disagreements between governments about the outlook and the desirability of a European social policy (Schäfer 2004); still others argue that member states are engaging in the OMC for strategic reasons in order to prevent worse outcomes (i.e., an even stronger dominance of market / economic actors) (de Ruiter 2007; Greer and Vanhercke 2009).

Scholars have perceived of the OMC in different ways. Mostly, scholars seem to perceive of the OMC as a *procedure*. From this perspective, scholars address whether or not the OMC can bring about policy change, particularly through learning (Heidenreich and Zeitlin 2009; Kvist and Saari 2007; López-Santana 2006; Zeitlin, Pochet and Magnusson 2005). There is often an implicit normative bias in this branch of the literature in that axiomatically, learning is seen as positive and desirable while the preconditions of learning as well as the desirability and

legitimacy of such learning processes are generally not reflected (Offe 2008).

Those who consider the OMC a *policy* are more interested in the political economy of the OMC and *what* it permits to learn – or to un-learn. From this perspective, the OMC is commonly perceived as a fundamental change in the purpose of European integration, as an explicit affront against the institutions of regulated capitalism, perpetuated by the Commission in particular (Offe 2003; Raveaud 2007; Salais 2006; Schäfer 2006; Niechoj in this issue). A somewhat lighter version of the OMC as policy holds that it does not allow for market-correcting policies, and that soft governance structurally favours supply-side policies (Büchs 2007; Scharpf 2002; Büchs in this issue). From this perspective, the OMC is a sort of an intergovernmental non-decision since there is no political decision-making framework in the context of which one could end the competition between the welfare states and commonly act in favour of “positive integration”.

For a third group of scholars, the OMC equals cheap talk, symbolic politics for which „there is little evidence that any of this matters for policy outcomes“ (Moravcsik 2005: 26; Hatzopoulos 2007; Idema and Kelemen 2006; Lodge 2007; Smismans 2004). The symbolic character of the OMC would materialise in the vagueness of agreements and its non-binding nature.

## 2.2. The effectiveness of the OMC

Whether authors do or do not believe in the potential of the OMC to be effective depends not only on how they interpret the introduction of the OMC, but on their appreciation of soft law more generally. Defenders of soft law argue that it respects subsidiarity; that it better accommodates existing structural diversity; that it responds better to strategic uncertainty due to its flexibility and revisability; that it involves lower transaction costs than hard law; that it helps to avoid political deadlock; that its effects may be longer-lasting than hard law which it could additionally bring about; and that it is more open in terms of stakeholder participation (Abbott and Snidal 2000; Jacobsson 2004; Maher 2004; Snyder 1993; Trubek et al. 2005). Defenders of hard law, in contrast, argue that soft law leads to uneven integration while it cannot assure compliance; that it cannot prevent a race-to-the bottom of social standards; that it sharpens the democratic deficit by not securing institutionalised participation rights to all relevant actors; that it cannot compensate “negative integration” and instead favours the adoption of market-making policies; and that it opens the door for blame avoidance strategies as well as for legitimising discourses which are not democratically backed (Büchs 2007; Höpner and Schäfer 2008; Scharpf 2002; Smismans 2007).

The effectiveness of the OMC has been associated with such concepts as lessons-drawing, policy transfer, diffusion, naming and shaming or benchmarking. It is the concept of *learning*, however, which has dominated in particular the early OMC literature (Begg and Berghman 2002; Berghman et al. 2003; de la Porte and Pochet 2002; Eberlein and Kerwer 2004; Ferrera et al. 2002; Heidenreich 2009; Hemerijck and Visser 2001; Overdevest 2002; Trubek and Mosher 2003; Trubek and Trubek 2005; Wincott 2003; Zeitlin 2005). The expectation of learning is associated with subtle forms of influence on the basis of new information, and ongoing communication and exchanges between involved actors. In the context of regular communication and exchange, existing interpretations of reality are perceived to be open to change, while a common discourse about causal relationships between policies and performances can be developed and policies eventually adapted or modified. The diffusion of performances in turn can create pressure on poor performers (Borrás and Jacobsson 2004; Jacobsson 2004; Scott and Trubek 2002).

Empirically, scholars have focused on ideas, policies and procedures as objects of learning. With regard to ideas, the OMC is seen to help member states accommodate a changed environment in which the rights and duties of the state and its citizens should be re-organized. In a nutshell, the individual is encouraged – some argue forced – to take greater responsibility for his or her wellbeing and welfare. With regard to policies, attention has been directed to the increased support of activation and workfare policies (Barbier 2002; Nedergaard 2006) as well

as to the role of the EES in gender equality policies (Rubery 2004; see Radulova in this issue). A technique that supports activation policy is an increased focus on indicators and benchmarks. Some authors have found that national statistics have improved due to European coordination (Hamel and Vanhercke 2009). Finally, authors have drawn attention to changing procedures and patterns of interaction. In this vein, attention has been brought to the re-organisation of NGO structures and activities in reaction to the OMC process and their (greater) familiarization with European social policy (Johansson 2007; Kröger 2009), to increased consultation of NGOs in the context of drafting the National Action Plans, now Reform Programmes (Armstrong 2003; Johansson 2007), to increased interministerial coordination (Hamel and Vanhercke 2009), and to increased intragovernmental cooperation (López-Santana in this issue).

However, most recently, the OMC literature has become more critical. Ideationally, then, the OMC is seen to transport a neoliberal understanding of competence-sharing between state, market and individual, privileging the market over social rights and the individualization of social risks (see Flear, Pfister, Radulova in this issue). Policy-wise, some authors do not see policy change due to the OMC (Johansson 2007; Lodge 2007), while others point to a particular focus on supply-side policies that would be supported by the OMC, an encouragement to ‘un-learn’ the traditional continental welfare model (Büchs 2007; Offe 2003; Salais 2004). The chosen indicators are seen as problematic for a country comparison and the goal of learning, and could additionally fall victim to manipulation (Salais 2006; Schmitt 2009).

Most of the critical accounts, however, focus on procedures, and on the architecture of the OMC. From this perspective, the intended learning processes by and large do not take place (Mailand 2008). This is associated with the choice of so-called ‘good practices’ and indicators, too much of information and documents along with too little time for discussion, language barriers, governmental reports rather than strategic plans, a lack of political elites in OMC processes, a lack of transfer of what was eventually learned into the ministerial hierarchy, and institutional differences between welfare systems (Casey and Gold 2005; Kröger 2006, 2008b; Lodge 2007; Radaelli 2003; Salais 2004). More generally, lack of incorporation into existing policy-making cycles is observed (Armstrong 2005; Büchs und Friedrich 2005; Friedrich 2006; Johansson 2007; Kröger 2006) as well as a lack of political will on the part of governments to implement the OMCs (Hamel and Vanhercke 2009; Kröger 2008b; Sacchi 2004). Some authors have suggested hardening the OMC in order to deal with some of these shortcomings (Héritier 2003; Rhodes 2005; Scharpf 2002; Trubek and Trubek 2005) while others have more fundamental objections (see below, chapter 3).

### 2.3. The legitimacy of the OMC ↑

Most recently, some scholars have devoted increasing attention to the legitimacy of the OMC (Borrás und Conzelmann 2007; Büchs 2008; de la Porte and Nanz 2004; Friedrich 2006; Kröger 2007; Radulova 2007; Dawson in this issue). When introduced, the OMC was often assumed, both by politicians and by scholars, to help cure the perceived democratic deficit of the EU. It was hoped that through the inclusion of a broad range of actors and increased transparency, it could contribute to reducing the gap between Brussels and “its” citizens (Borrás und Jacobsson 2004; de la Porte and Pochet 2002; Rodrigues 2001).

This branch of the literature is more often than not inspired by the concepts of deliberative or participative democracy. The yardsticks of democratic policy-making are thus direct participation, public debate, and communicative exchange of rational arguments (deliberation). Concretely, authors have focused on participation and deliberation (Borrás and Conzelmann 2007; Kröger 2007; Nanz and Steffek 2005; Radulova 2007), and to a lesser degree on representation and accountability (Kröger 2007, 2008b). The inclusion of participation as a variable seems a logical consequence of the OMC architecture, which was designed to include a broad variety of actors in European governance. Obviously, the need for participation can also be deduced from deliberative democratic theory. The inclusion of deliberation as a

variable, in contrast, seems to be more influenced by theory than by the architecture of the OMC. It denotes the way political decisions are reached, namely through communicative exchange of rational arguments between equals. The inclusion of representation is also more theory-driven, designed to assess which segments of society are actually represented in OMC processes. The inclusion of accountability can be seen as both politically and theoretically inspired. From a political perspective, monitoring, mutual review and naming and shaming were the mechanisms foreseen in official documents in order to hold in particular governments responsible. Theoretically, accountability is a central device of democracy which assures that power is conditional and controlled, and abuse of power punished.

Empirically, some authors have found that OMCs have provided an arena in which established as well as new actors have joined forces and come together more systematically in order to elaborate policies (Armstrong 2003; Hamel and Vanhercke 2009; López-Santana, Vanhercke in this issue). More numerous, however, are the accounts which assess the empirical democratic quality of OMC processes more critically. Many scholars perceive a lack of openness in the OMC processes, which are found to be even more closed than their hard law equivalents. OMCs, by this view, do not live up to the deliberative ideal in any way, but rather resemble deliberation between elites for elites in which parliaments, social partners and NGOs are hardly involved, and political alternatives not discussed. Accountability does not exist as the involved experts cannot be held accountable by anyone, not least due to a lack of transparency (Arrowsmith et al. 2004; Berghman and Okma 2002; de la Porte and Pochet 2003; de la Porte and Nanz 2004; Friedrich 2006; Goetschy 2004; Hemerijck 2004; Jacobsson and Vifell 2007; Kröger 2007, 2008a; Natali 2005, 2009; Papadopoulos 2005; Radaelli 2003; Smismans 2004, 2006; Vifell 2004; Wessels 2003; Dawson in this issue). More broadly, OMCs cannot challenge existing power structures (Chalmers and Lodge 2003; Kohler-Koch and Rittberger 2006) and therefore can represent executive politics in disguise (Borrás and Conzelmann 2007; Peters and Pierre 2004). The sum of the above mentioned shortcomings would add up to a real democratic deficit of OMC processes (Büchs 2008; Goetschy 2004; Kröger 2008b) which would have little to do with democracy (Radaelli 2004: 28). Therefore, the ambition of the OMC to be superior to hard law processes in terms of democratic quality is at best an illusion (Wessels 2003: 24). After this overview of the main findings of the published literature, I will now address diverse issues that in my view deserve more attention.

### 3. Underconceptualisation, overdetermination, de-politicisation... ↑

#### 3.1. Underconceptualisation

Since the learning assumption has simultaneously been central and underexplored in the OMC literature, I will focus exclusively on it. It is argued that the OMC does not satisfy the requirements for a learning-friendly environment. This has to do with macro-, meso- and micro reasons which can act as obstacles to learning.

At the *macro-level*, the most likely obstacle to learning processes seems to be the absence of a shared political vision of the “social”. The absence of such a common vision can be seen as the reason why the OMC was introduced in the first place (Schäfer 2004). Actually, every standard account of the OMC refers to the institutional diversity of the welfare regimes of member states while nevertheless holding on to the idea of supranational learning. The absent common vision materialises in objectives or guidelines that mirror the lowest common denominator between the capitals, in a vague language of official documents from which all member states can pick as they please, sometimes with potentially contradictory signals, rendering political ownership of the process difficult (Natali 2009b; Schmitt 2009; Büchs in this issue). It has been shown – for example – how interest conflicts between economically and socially oriented actors mattered in “all the phases of emergence, evolution and indicators production” of the pensions OMC (Natali 2009b: 825) and how a “compromise on vague guidelines led to the definition of partly contradictory objectives that left room for manoeuvre in their application by EU member states” (ibid.: 826). Something similar happened when the



OMC was associated to “social inclusion”. The French delegation resisted the poverty-language of the British delegation while the latter resisted the social exclusion language of the former. “Social inclusion” then became the “neutral” ground on which both delegations could eventually meet (Kröger 2008b). One can thus see how institutional diversity does not seem to encourage cost-intensive learning processes. As has rightly been pointed out, “politics is not about learning or problem solving, but about power” (Visser 2009: 54; Radaelli 2003). Therefore, politics “hardly satisfies the ideal conditions of a learner friendly environment” (Hemerijck and Visser 2003: 16) as politicians want to remain in control which is at odds with open-ended learning.

Furthermore, the relationship between soft law and the EU’s single market and monetary union context which sets clear boundaries to learning is often neglected in OMC research. It does not analyse whether what is ‘learned’ through soft law is enhancing social standards or restricting them; and it fails to analyse what type of policies are legitimised through this mode of Europeanisation and what EU policies are actually made effective through soft law (cf. Büchs in this issue). Rather than being a neutral forum for open-ended learning, the OMC occurs in an environment that is shaped by multiple pressures on the welfare state and therefore is less voluntary and more competitive than often suggested. From such a perspective, the OMC may contribute to policy learning, but not in ways that would prevent welfare retrenchment.

The different interests present in the Council also play a role in the organisation of the OMC, i.e. at the *meso level* (Casey and Gold 2005; Kröger 2006; Lodge and Chalmers 2003; see Hartlapp in this issue). This means that the instrumentation of the OMC can work against learning processes. Political guidelines and recommendations seem to stand in contrast with open-ended learning processes as do quantified targets which do not favour mutual trust relationships, but competition and bargaining. Benchmarking openly designates good practices and “best” performers, thereby ignoring national diversity and excluding alternatives. Who defines so-called good practices on the ground, and on which criteria, by contrast remains open. With regard to the national reports, sub-national actors are hardly involved in them (for diverging evaluations in different OMCs, see Dawson and López-Santana in this issue), thereby not fostering bottom-up learning while the reports themselves are generally over-enthusiastic governmental reports who rarely give detailed information about particular policies. This is even more accentuated in the Joint / Progress Reports which focus on a few “good” practices only, thereby bringing a hierarchy into the process that is at odds with open-ended learning. With regard to the indicators, it is not sufficient to rely on outcome indicators alone which do not permit us to learn something about the relationship between programmes and policies, and performance. The trouble is further increased by some governments, who insist on national definitions, rendering transnational comparison impossible (Kröger 2008b; Salais 2004).

At the *micro level*, the demands of learning processes have also been neglected (Schout and Jordan 2008). Political elites are broadly absent from OMCs (see Dawson in this issue), while the bureaucrats who are present not only often lack the knowledge of foreign languages necessary to have meaningful discussions, but also lack the financial resources and the decision-making power to make sure that new information is circulated and implemented in and by their home ministry. At EU-level, the contribution by Horvath indicates important and numerous barriers to learning processes in committees, e.g. in the Social Protection Committee (SPC): the large number of delegates, their high turnover rate (implying lack of knowledge about previous agreements and the functioning of the committee as well as lack of trust), an overloaded agenda where delegates hope that “not everybody will speak” (Horvath in this issue: 8), a focus on procedural issues rather than on political debates (left to the Council), insufficient administrative capacity back home (disadvantaging new member states), a national mandate that limits their room for manoeuvre, and the existence of ideological right-left coalitions. Additionally, “learners” may not be able to convince their national colleagues of the lessons learned; they may not themselves be governing, so that, as a result, lessons learned cannot be implemented or learners might be replaced by others. Alternatively, they might decide not to change a policy because of what they have learned; or face severe administrative and / or political inertia. How these macro-, meso- and micro-factors play out in the single OMCs is the object of empirical in-depth analysis.

Besides these potential and / or real macro, meso, and micro obstacles to learning, the way learning itself is conceived is open to debate. Most scholars “take a positivist standpoint looking for causal relationships within an objective and external reality. [...] [K]nowing is understood as having information” (Pfister in this issue: 3) while the “social and discursive production of knowledge in terms of concepts, problem definitions and political strategies are largely beyond the reach of this perspective” (ibid.: 4). Since OMC accounts, and the governance literature more broadly, do not conceive of learning as social processes, which include several steps and particular forms of interactions, they cannot say, when policy change occurs, whether this was due to ‘learning’ or some other factor(s).

### 3.2. Overdetermination

An important issue that has not been given due consideration is the issue of influence in the context of the OMC. There are three questions to be asked:

- a) How can influence be assessed?
- b) Which are the mechanisms of influence?
- c) What sort of influence is evident in the OMC?

a) How can the influence of the OMC be assessed? This question has been given relatively little attention(4). The influence of the OMC is indeed very difficult to establish. This is mainly due to the vagueness of the OMC discourse in official documents, to the non-binding character of the OMC, to the political games interviewees and governments play, and the difficulty of accessing all relevant documents. For example, governments may affirm that the OMC was not influential on labour market reforms while it played a crucial role, only so as to keep the impression of sovereignty intact. Or, to the contrary, they may defend the introduction of labour market reforms pointing to European pressure coming from the EES while reforms were already underway before and independently of it. Furthermore, alternative exploratory variables for policy change have not sufficiently been explored in the OMC literature (but see Büchs, Hartlapp, Niechoj, Weishaupt in this issue). Other external and internal factors which can be drivers of change are not considered as counter-factuals to the learning hypothesis. However, even if learning happens, it may not be the initial driving force behind change (Visser 2009). Instead, in the context of the EMU and SGP contexts in which the OMCs are embedded, demographic change and the globalisation of the economy, coercion and competition seem to be much more plausible sources of policy change. Furthermore, politicians may change policies (or refrain from changing them) in light of partisan politics. Finally, soft governance processes are dynamic, two-way, reflexive processes which do not take the EU-level as a given and address how European guidelines are implemented domestically. Rather, they have been praised for their flexibility and revisability. As the evolution of the different OMCs testifies, there was indeed room for revision and re-organisation, opening the door for constant up- and downloading in diverse directions. It is therefore necessary to address how far governments succeeded in uploading their preferences onto the EU in the course of such governance processes and how they then download what has been agreed at EU-level (see Vanhercke in this issue for a successful upload and subsequent implementation of the OMC pensions in Belgium), making it even more difficult to evaluate which influence came first.

Neatly separating these – and more – influences is both analytically and empirically difficult. One way of dealing with these methodological difficulties is to be careful in developing hypotheses. In such research, the complexity of the multiple factors influencing the effect of the OMC is acknowledged, and studies are explorative in nature and context-sensitive. They engage in thick process tracing in order to develop plausible narratives (see Dawson, Horvath, López-Santana, Vanhercke, Weishaupt in this issue). The advantage is a profound knowledge and understanding of the process under review, while the disadvantage is the limited potential for generalization.

Another way of dealing with the difficult issue of evaluating influence is to provide an analysis

of the potential of the instrument (see Büchs, Hartlapp, Niechoj, Schäfer and Leiber in this issue) and strictly limit the empirical analysis to those focus points where the OMC can be grasped, e.g. the guidelines / objectives, national as well as joint reports (including “good practices”) and the mobilisation of actors for their development, common indicators, peer reviews, opinions of committees, Council Conclusions, Communications of the Commission etc. (Kröger 2008b). It would be erroneous to assert that addressing the construction of an instrument such as the OMC does not permit saying something about its later influence. Rather, it has been shown that instruments and techniques of governance influence policy development (Lascoumes and Le Galès 2007).

A third way – these ways are not exclusive – to deal with the issue of influence in the context of the OMC is to develop variables. The advantage is that this sort of research is more theory-driven and thus more strongly connected to existing theories of social sciences. An original example of such a strategy is the contribution of Vanhercke in this issue. Departing from the garbage can model of Kingdon, he operationalises as variables the recognition of policy problems (agenda-setting), the political playing field, and the generation of policy alternatives by policy entrepreneurs which he then applies to his empirical analysis of the OMC pensions.

b) What are the mechanisms through which OMC matters? It is widely assumed that OMCs matter through processes of mutual socialisation, learning and deliberation(5). As discussed above (and in the contribution of Hartlapp in this issue), there are considerable limitations to mutual learning processes built-in in the very architecture of the OMC. The assumption of deliberation as the mechanism leading to learning has, in proportion to its theoretical significance, received little empirical attention. Indeed, there are barely any empirical studies which are dedicated to deliberative processes or “deliberation in action”, and where scholars did investigate this issue, the results are disillusioning (Kröger 2008a). It is known that in “encapsulating the meaning and value a society attaches to certain practices at a historic juncture, institutions thereafter privilege this interpretive framework” (Skogstad 1998: 465). The result is that “deliberations under institutional auspices are not a freeform exercise, where all potential interests, meanings, and values are created or treated as equals” (Heclo 1993: 379).

That deliberation between free and equal participants is not what is happening in the context of OMC committee governance is illustrated in the contribution by Horvath. She explores committee interactions in the context of the SPC, the (high-level) steering committee of the social OMC(s). She not only shows how the SPC members perceived it to be subordinated to other (financial, economic, employment) committees, but also how delegates to the SPC enjoy “unequal opportunities to influence discussions, especially due to differences in national level factors” (Horvath in this issue: 12). These inequalities have to do with size and geography of the country, experience, expertise, seniority, available resources, and administrative capacity. Finally, she points out that the SPC’s different functions and its daily operation (policy learning and political forum) stand in the way of deliberative processes, be it simply because in-depth discussions are not perceived as useful or simply because they do not take place.

If learning and deliberation are not the (central) mechanisms through which the OMC matters, which other mechanisms can be identified? Different ones are explored in this issue. Weishaupt shows how *party politics* mattered in the way the OMC was dealt with at domestic and at EU-levels. He describes how partisan politics kept conservative parties in Ireland and Austria from adapting childcare provisions in line with the EES until 2003 and how they mediated the institutional compromises that were later on adopted in both member states (see Greer and Vanhercke 2009 for the same point with regard to the health and long-term care OMC).

*Money* can also be hypothesised to have a catalysing influence on domestic appropriation of the OMC (Jacobsson and West 2009). As López-Santana shows, the European Structural Fund (ESF) was increasingly linked to the EES since 2000, in particular to its local implementation, to the point that “ESF funds were somewhat conditional on the implementation of the EES” (López-Santana in this issue: 3). She concludes that the “chances of lower levels

experimenting with soft governance instruments increase when they are accompanied by tangible incentives (financial and technical)” (ibid.: 13). Weishaupt in turn illustrates how the ESF was used to support training capacities in Ireland and how in Austria, they contributed to developed instruments for groups that are distant from the labour market. Both authors show that the ESF has increasingly become the main financial instrument of the EES and that receiving money from it has been linked to the implementation of EES priorities.

Finally, the OMC may matter through *discourse*. Discourse theory claims that all practices are socially meaningful, interpretively constructed, and that the interpretation of these meanings is shaped by social and political struggles in specific socio-historical contexts. Politically, discursive practices support and alter specific power relationships between collective actors which struggle over the control of society. Discursive analysis therefore focuses on the discourse coalitions that develop, who is included and who is excluded from participation, and examines the ways in which these discourses become imbedded in specific institutional and organizational practices. Such an approach is chosen by Radulova. She demonstrates how the EES promotes childcare discourse as matching the “master discourse on competitiveness and the employment discourse of activation” (Radulova in this issue: 12), and, how “certain policy solutions could only achieve public policy agenda status and be implemented once they are packaged sufficiently well with and accorded to dominant paradigms and hegemonic normative discourses” (ibid.), namely the discourse of competitiveness (see also Flear in this issue).

That mechanisms other than learning are likely to be dominant in the context of the OMC does not exclude the possibility of creative usages of the OMC in chosen domestic settings. An example is provided by the contribution of Vanhercke who shows how, in the Belgian case, the OMC pensions was used as a window of opportunity “which EU and national policymakers use in their efforts to discuss, manage and reform pension systems” (Vanhercke in this issue: 13). Similar usages are shown by López-Santana, who addresses the intragovernmental coordination processes in the context of the EES. Particularly in Spain and Belgium, national ministries which were previously gatekeepers for labour market policies, have now become associated to subnational levels which “have had an active ‘say’ in national spaces dedicated to the EES” (López-Santana in this issue: 13). It is worth noting, however, that both creative usages were observed in Belgium, as Vanhercke himself admits, arguably the most likely case for a traceable OMC impact, while in Spain, de jure devolution of labour market policies had begun before the introduction of the EES.

c) What impact does the OMC have? The difficulties of measuring influence in the context of the OMC notwithstanding, three different sorts of impacts have been noted: procedural, substantial and institutional. With regard to procedural impact, it is indeed likely that states in some way respond to the coordination demand that the different OMCs pose. In such a vein, López-Santana shows that intragovernmental relations and coordination changed in three member states in response to the EES. In particular in Spain and Belgium, so the argument, did subnational levels become important policy developers with regard to the EES while the trend appears to be weaker but also existent in Sweden. In particular the “consultative and coordinative framework of NAPs increased the frequency of interaction, thus, influencing the de facto (informal) nature of intra-governmental relations on issues linked to LMPs [Labor Market Policies]” (ibid.: 13). This greater “say”, submits López-Santana, also brought about an increased “acting” of subnational levels in the context of the EES. A different assessment is made in Dawson’s dealings with the OMC SPSI process. He argues that the participative structures “are manned by procedural ‘gatekeepers’ at the national level” while local and regional governments “have no automatic right of ‘structural entry’ into strategic discussions of social inclusion and protection policy, either at national or European levels” (Dawson in this issue: 11). Where input was possible, it could not be equated with having “a say”, rather, “its capacity to feed back into, or ‘re-frame’, central practice is limited” (ibid.).

Those who perceive of the OMC as a policy tend to conclude that the policies which find majorities under the OMCs aim at increasing competitiveness and supply-side policies or in any event do not seem to prevent welfare state retrenchment. Büchs illustrates this impact in

three case studies which include the EES, the social inclusion and the pension processes. She argues that the OMC is capable of influencing national policies in ways that are coherent with the single market. What is more, the OMC may not only be “largely ineffective in preventing welfare state retrenchment; in fact, it may even contribute to it” (Büchs in this issue: 2) . Schäfer and Leiber share this interpretation, concluding that “the boundaries in which for example the European Employment Strategy can search for solutions are rather narrow” (Schäfer and Leiber in this issue: 3).

Radulova’s argument goes in the same direction. She shows how the normative and ideational foundations of childcare policy have moved from egalitarian to competitive motivations. Prior to the introduction of the EES, childcare policy was linked to gender inequality, while it has become associated to economic interpretations since, and particularly by means of the EES. Radulova concludes that “the EES gradually ‘redesigned’ the initial (feminist) reading of what childcare is about, and diffused a much narrower notion of childcare that presents it as a tool that only fosters female labour market participation” (Radulova in this issue: 12). What is more, member states are institutionally “chained” to this narrow interpretation via the EES. Furthermore, Flear illustrates how the health and long-term care OMC contributes to advanced neoliberalism in which the responsibility for welfare and well-being are increasingly individualized through governance at a distance. In his analysis of the pensions OMC, Vanhercke shows that the direction of learning is not “necessarily seen as *positive* by the actors involved” due to the “direction of the reforms promoted through OMC (e.g. focus on competitiveness rather than solidarity)” (Vanhercke in this issue: 12).

That the OMC seems firmly embedded in the competitiveness discourse does not exclude a priori creative usage in support of market-correcting policies. Such usages, however, depend on favourable domestic conditions such as interested and strong political actors and the availability of financial means to support respective policies. The increased political activities of the Commission as well as recent ECJ rulings, however, make such market-correcting policies ever more unlikely.

With regard to institutional impact, three points can be made. The first is that the impact of the OMC seems to be filtered by the setting of domestic institutions. This is highlighted by the comparative studies in this special issue. Accordingly, López-Santana observes that in a centralized state like Sweden, subnational levels are less involved in intragovernmental coordination than in federal states like Belgium or Spain. She argues that the different organization of the *polity* is an “important factor to understand why stakeholder participation on the OMC remains uneven” (López-Santana in this issue: 13). Weishaupt in turn shows how national *politics* mediated the ways in which activation and childcare policies were introduced and formed, being shaped nationally “by partisan politics and historical trajectories” (Weishaupt in this issue: 12).

The second institutional impact is observed by Niechoj, who shows how the pressure of the Broad Economic Policy Guidelines (BEPG) and the Stability and Growth Pact (SGP) affects the bargaining power of trade unions and employer’s organisations by pushing a “gradual erosion of the industry-wide labour contract” (Niechoj in this issue: 9) and therewith contributing to the fading normative power of collective agreements. From such a perspective, the national effects of open coordination processes contribute to the erosion of the preconditions of European coordination.

The third impact consists of a development away from integration and from regulated capitalism at EU-level. As Schäfer and Leiber show in this issue, there is an overall development towards “a ‘double voluntarism’ that not only delegates the responsibility for social policy to the social partners but also favours soft law over binding legislation” (Schäfer and Leiber: 12). By means of the OMC, from this perspective, politics is escaping the questions of a structure for European social policy and regulated capitalism at EU-level. Instead, politics and political conflicts are fragmented and separated into small bits and pieces such as peer reviews, common objectives, reports, indicators, etc. While Schäfer and Leiber characterise this development as double voluntarism, one could also say, along the same lines,

that the OMC is the institutionalisation of the absence of a political ambition with regard to a regulated capitalism at EU-level.

### 3.3. De-politicisation

In the context of the OMC, de-politicisation can refer to two issues: one alludes to a transfer of political decision-making authority into isolated political arenas such as expert committees, the other to the perception of the OMC as a neutral instrument, capable of promoting any sort of policy. Such an interpretation, however, denies the political and financial stakes in the game, conflicting interests and power relations, pointing “to a rather thin notion of politics” (Pfister in this issue: 4). (Public) policy instruments are not neutral, they are a form of power, bearers of power relations and values which structure policies and their outcomes in that they partly determine what resources can be used and by whom (Lascoumes and Le Galès 2007), who has access and who has not, influencing which topics are on the agenda and which are not. It is therefore important to ask why particular instruments are chosen at a particular time for a particular policy as Flear does in his contribution to this issue.

With the help of the governmentality approach, he perceives of the Lisbon Strategy as a neoliberal governance architecture in which the economy is the ordering principle of all societal spheres and human conduct (see also Shore 2006: 18-19). The governmentality approach, derived from Foucault, is interested in the way power is exercised, and how societies and individuals are being governed. It is particularly apt to capture new management styles of public policy-making as enshrined in the OMC, which is not only an input into the policy-making process, but constitutes an instrument “to formulate and define problems, goals and strategies” (Pfister in this issue: 3).

In the governmentality perspective, power, and thus governing, is an omnipresent social relation that also operates at a distance. It is distant constitutionally since decisions are taken in non-political modes (such as expert committees); it is distant spatially in that a variety of experts from different sites outside the centre of power (government) are included in policy-making. The form of citizenship that is envisioned in the neoliberal rationality associates the individual to self-empowerment and self-entrepreneurship, resting on the assumption of free and active citizens, informed and responsible consumers “capable of taking decisions at their own risk and danger” (Cicarelli 2008: 16) while poverty is understood as produced by the inability of certain individuals to exercise their autonomy, rather than as a social question. This becomes particularly visible in the health care discourse and policy and its goal to prevent disease, as Flear (this issue) shows. Here, the permanent ambition is to prevent risks and diseases risks suppressing liberal life and creating a “system of totalising prevention” (Cicarelli 2008: 25). However, such ambitions and related paternalistic policies impose a normative ethic from which follow securitarian if not authoritarian policies and institutions, which are everything but neutral.

There is further evidence that the OMC is far from being neutral. Different contributions show how, in different fields, the OMC is supportive of a neo-liberal discourse and supply-side policies (Büchs, Flear, Niechoj, Radulova, Schäfer and Leiber, Weishaupt in this issue). In particular the contribution of Radulova and Flear highlight that the OMC not only sets a procedural but also a normative mechanism in motion, thereby advancing a particular vision of what appropriate policy is about, while other options are left out. The existence of diverging interests, in turn, is well developed in several contributions (Horvath, Niechoj, Schäfer and Leiber, Vanhercke, Weishaupt this issue) which show the opposition of “economic” and “social” actors in different contexts of different OMC.

Actually, whereas the official rhetoric promotes the inclusion of a variety of actors in the process, the functioning of the OMC depends on closure. As described by Hartlapp in this issue, learning with and from others presupposes trust between the involved actors. This trust can only be created by isolating delegates and experts from public exposure and more political influences (Natali 2009b; Salais 2004). The isolation from public exposure should “help

experts to neutralise redistributive contestation through technical solutions” (Natali 2009b: 816) in technical committees while actors which commonly play important roles in domestic policy-making – parliaments, politicians, social partners, NGOs – have almost no role. One obvious consequence is that more critical positions are set aside.

A last point that has not been discussed sufficiently is the legitimacy of the OMC(6). Why is a non-binding process such the OMC in need of legitimacy? First, it is a political process in which social norms and values are interpreted and chosen. These choices and interpretations highly affect the distribution of risks and costs between the state, the market and individuals. They can also directly affect living conditions of citizens and therefore need another sort of legitimation than if the same goal were to be reached merely by a different instrument. Second, the OMC can forego hard law, and in this respect needs public debate. Third, it can be used by both national and supranational actors as a reference in order to support a given preference or claim (Borras and Conzelmann 2007). Finally, the accumulated practices of instruments such as the OMC may contribute to changing the functioning of and expectations towards democratic policy-making more broadly.

Early expectations associated the OMC to a reduction of the perceived democratic deficit of the EU. However, empirical research indicates that the link between the OMC and the democratic legitimacy of the EU is not straightforward. Rather to the contrary, the OMC in certain instances, policy fields, and member states has proved more closed than the Community Method. It can be said to contribute to a democratic deficit as it only involves a rather closed circle of non-accountable bureaucrats while other actors are not included. One consequence is that a public debate is not possible while political alternatives (to the Lisbon agenda) are by and large excluded from the process. As Dawson shows in this issue, “there is little evidence of the multiplication or ‘broadening’ of accountable actors” (Dawson in this issue: 11), with no automatic right of structural entry for local and regional governments into discussions at different governance levels. Instead, national ministries continue to act as gatekeepers to these processes. Finally and paradoxically, while one of the main argument for the introduction of the OMC was the institutional diversity between welfare states and the need to respect that diversity in the context of the principle of subsidiarity (Scharpf 2002), the OMC concentrates on only a few “good practices” and inclusion models, thereby reducing diversity and posing a challenge to legitimacy also from this angle (see Hartlapp and Vanhercke in this issue).

While there is thus evidence that OMCs did not live up to legitimacy-related expectations(7), more far reaching thoughts on how the increased use of soft modes of governance and their lack of democratic legitimacy may impact both domestic democracy and the legitimacy of the EU are by and large missing (but see Schäfer 2006). This is not only due to the methodological difficulties of proving how a soft instrument such the OMC can impact democratic politics and democracy more broadly, but also to the broader missing link between the governance literature and the literature on democracy and democratic legitimacy in the EU. What is more, the governance literature does not really seem to be concerned with normative issues such as: Which actors are actually involved, and with what mandate? How can be assured that actors, if not present themselves in policy-making, are accurately made present (Lord and Pollak 2009)? Who controls the actors that act within networks and with which means? What does it mean if accountability is no longer to one single public – to the demos – but to a plurality of publics, much more likely to be constituted of bureaucrats and stakeholders (Shore 2006)? Who is the demos, who are the rulers and who are the ruled, in the governance regime? In the words of Dawson, “[t]he ‘lesson’ of the OMC should [...] [be] a warning against the dangers of executive dominance and political alienation that lay dormant within the larger debate over ‘new governance’ in the European Union” (Dawson in this issue: 12).

#### 4. Conclusion

In this introduction, I have first reviewed the main scholarly discussions around the OMC: Why the OMC was introduced, and how its effectiveness and its legitimacy are analytically

conceived of and empirically evaluated? In the second part, I have then concentrated on issues that in my view deserve more attention than has generally been afforded. These include the underconceptualisation of the OMC, its overdetermination and the de-politicisation highlighted in parts of the OMC literature.

With regard to the introduction of the OMC, it may be misleading to interpret the introduction of new policy instruments in the EU *ex post* as strategic choices. Instead, this introduction may rather reflect “unplanned developments resulting from the constraints of divergent preferences across member states and EU institutions and the path-dependence of initial compromises” (Menon and Sedelmeier 2010: forthcoming; Lascoumes and Le Galès 2007). However, particularly in the EU-context, there are reasons to believe that issues become part of the policy agenda only when they are successfully linked to the dominant discourse, as shown well in the contribution by Radulova in this issue.

With regard to policies, and in light of the empirical evidence gathered in this issue, it cannot be convincingly argued that the OMC is supportive of market-correcting policies and regulated capitalism at EU-level. It rather seems that today, EU policies are mainly about the market as the dominant form of governance. With regard to democratic legitimacy, the OMC re-casts vast areas of (redistributive) policy as essentially technical or organizational matters to be decided on the basis of scientific and technical expertise rather than public debate. It leaves out all those political conflicts and political alternatives which are taking part outside of the respective committees and governance arrangements and therefore works contrary to the standards of public deliberation (Offe 2008).

Both streams, the procedure and the policy stream alike, do have their weaknesses. Those interested in procedures tend to neglect the substance of what the OMC is about while those who perceive of it as a policy tend to neglect the daily operation of OMCs and its (lack of) legitimacy. One promising way forward may be the approach developed by Lascoumes and le Galès. They argue that an instrument “constitutes a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries” (Lascoumes and le Galès 2007: 1). Public policy instruments reveal a “theorization of the relationship between the governing and the governed: every instrument constitutes a condensed form of knowledge about social control and ways of exercising it”(ibid.: 3). The OMC, in this terminology, is a “technique” which is used in order to implement the instrument. The advantage of the approach is that it combines the analysis both of the substance of what is more traditionally called a policy (here instrument) and the way it is being implemented (traditionally procedure, here technique) and how it structures policy-making. Furthermore, it explicitly involves a theorisation of power and distribution of resources – a clear advantage in a politically normative field such as social policy.

A somewhat similar way of discussing these things is offered by the governmentality approach, which addresses the neoliberal conduct of conduct and permits a reflection both of the specific historical context of policy-making and the concrete technologies and instruments through which power is exercised. However, this approach has difficulties “to determine how specific knowledge settings come about, reproduce and change due to a missing strong notion of agency” (Pfister in this issue: 10) and it is not – as the instruments approach by Lascoumes and le Galès – sufficiently equipped to deal with the issue of legitimacy in that it does not specify the normative principle(s) according to which power should be dispersed. Future research will have to address how the different dimensions that the OMC accommodates – the broader institutional environment of the EU, the discourses and related power relations that appear in the OMC, the policies that the OMC transports and the techniques that are used to that effect, the legitimacy of OMC, and the daily operation of the different OMC processes – can be meaningfully conceptualised. The contributions to this issue provide a rich basis for further related reflections.



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## Endnotes

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(1) <http://eucenter.wisc.edu/OMC/open12.html>.

(2) For much more detailed overviews see Natali 2009a; Zeitlin 2005; 2009.

(3) While it seems plausible to assume that the coordination effort that the OMC and the Lisbon Strategy testify to would not have come about without the social-democratic majority in the Council, the Lisbon summit also testifies to how much West European social-democrats had cognitively accommodated the competitiveness paradigm and related activation strategies in their ideological programme.

(4) Exceptions include Büchs 2003; Kröger 2008b; Hartlapp, López-Santana in this issue.

(5) Other mechanisms through which the OMC may in theory matter were mentioned above, but due to lack of space are not dealt with here.

(6) More correctly, one should differentiate between the contribution of the OMC to the legitimization of the EU and the overall legitimacy of the EU as a political system. However, as it is of use to speak of the legitimacy of the OMC, I will do so, too, in the present context.

(7) This does not preclude that in single cases, the OMC was temporarily used as a window of opportunity for the inclusion of more actors which, however, remained without formal influence on the policy-making process, see Johansson 2007.







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## Governing the knowledge society: Studying Lisbon as epistemic setting\*

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**Abstract:** This paper is interested in the role of knowledge as resource, medium and product of governance as well as in ways of studying knowledge and processes of knowledge construction in EU governance. Its particular focus in this context is on the Open Method of Coordination (OMC) and the Lisbon Strategy. Based on a discussion of accounts of policy learning, governmentality and Science and Technology Studies (STS), the paper claims that studying Lisbon could be about much more than the effectiveness and the legitimacy of the OMC. Accordingly, it calls for a two-fold extension of the scope of analysis: First, investigations should feed back into reflections about the broader picture. Here, the political space of Lisbon can be analysed in terms of indirect government under the conditions of a knowledge society. Second, in order to achieve a larger picture the analysis should be extended downwards to the everyday practices within (and beyond) the different OMCs where knowledge is produced and through which the epistemic culture of Lisbon is governed and constituted. While this move away from the meso-level of institutions is mainly motivated by a review of governmentality, STS can provide the necessary theoretical and methodological guidance to put such a comprehensive perspective into empirical practice.

**Keywords:** discourse; governance; knowledge; methodological issues; open coordination; policy analysis, policy learning; sociology; power analysis; political science

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### 1. Introduction

Knowledge has become part of everyday discourse in European Union (EU) policy-making. For instance, the EU has set itself the goal “to become the most competitive and dynamic knowledge-based economy in the world” (European Council 2000: no 5). Based on this central political objective, the Union’s Lisbon Strategy aims at “modernising” labour markets and social security systems of the member states. The composite governance regime of the strategy is bound together by a dominant discourse on welfare modernisation which promotes (among

others) the key concepts of activation and an activating welfare state stressing (to different extents) universal labour market participation and investment in human capital (for example Jenson 2007; Jenson and Saint-Martin 2006; Serrano Pascual and Magnusson 2007; van Berkel and Møller 2002; van Berkel and Valkenburg 2007) (1). Furthermore, regarding procedures, this governance regime is composed of different Open Methods of Coordination (OMC). As the EU lacks legal competences in social policy, this instrument is non-binding, offers only minimal possibilities of sanctioning or financial incentives, and operates mainly on the basis of commonly identified objectives combined with various reporting and monitoring procedures on how they are put into practice (the contributions to this special issue provide a wide variety of details; for an overview see Kröger this issue).

Against this context of a dominant conceptual discourse combined with non-binding instruments, this paper is particularly interested in the role of knowledge and knowledge production for understanding the workings of the OMCs and of the Lisbon project as a whole. However, in contrast to the more limited notion of knowledge used in EU political rhetoric the paper adopts a much broader notion of knowledge that allows for better understanding indirect governing beyond the state. All processes within the Lisbon programme are framed as primarily technical problem-solving exercises characterised by conceptual-analytical language and interaction between experts (mostly from the Commission and national administrations). The various OMCs rely heavily on the methodological collection, interpretation and comparison of data, on measuring performance through indicators or on defining political goals in terms of quantitative benchmarks. Moreover, the discursive interactions in these processes can be understood as ‘conceptual debates’, which are about defining problems, solutions and strategies linking the former and the latter (Pfister 2008). Against this backdrop, the paper asks how we should study the role of knowledge and processes of knowledge production within the governance mechanisms of the Lisbon Strategy.

Looking for theoretical guidance in this direction, the OMC has been singled out as facilitating ‘learning’. However, while knowledge – at least implicitly – plays a central role in all arguments about policy learning, the latter often fail to problematise the nature of knowledge itself. Moreover, they do not provide significant insights about the character of the broader socio-political setting that is governed through – and indeed constituted by – learning, expertise and knowledge. Therefore, in a second step, the investigation is extended to governmentality perspectives which offer additional insights in the importance of knowledge in contemporary politics. On the one hand, they expand the scope from policy-making to a world entirely constituted by knowledge, discourse and practices. On the other hand, they draw our attention to the concrete technologies of power at the micro-level. However, they are unable to provide a fully satisfactory empirical account of knowledge and of how a certain order is created and operates. Hence, in the third step, the attention is turned towards Science and Technology Studies (STS), an interdisciplinary enterprise concerned with knowledge itself and the conditions of its production. While the initial focus of STS is on science, its insights are highly relevant for other areas of social enquiry. Most important, in this context, the governmentality perspective can be complemented with a substantial empirical programme.

The paper argues that studying EU governance within the Lisbon programme could be about much more than about the effectiveness and legitimacy of the OMC. The Lisbon Strategy constitutes a key project of European integration in which the parameters for social and economic modernisation are renegotiated on a large scale. Hence, the paper calls for a two-fold extension of the perspective: First, such studies should feed back into reflections about the broader picture. Here, a focus on knowledge production provides a good frame to gain deeper understanding about the political space created by the Lisbon project as an epistemic culture constituted by different governance instruments and an encompassing conceptual discourse. Second, in order get such a larger picture the analysis should be extended downwards to the everyday practices and micro-processes within the different OMCs where knowledge is produced and through which that specific political space is governed and brought about. Thereby, it is not the aim of the paper to present a final theoretical account of what the Lisbon Strategy is but rather to provide some new ideas about how we should study it.

## 2. Governing Progress – Learning Knowledge? ↑

In the context of Lisbon, the OMC has received most academic attention as the dominant instrument. Moreover, the latter seems to be particularly relevant with regard to knowledge and knowledge production. For instance, Jonathan Zeitlin notes substantive reorientations of policy-making, concrete policy-changes in specific member states as well as procedural shifts in the context of the Lisbon Strategy, which he mainly assigns to its specific governance arrangements (Zeitlin 2005a; Zeitlin 2005c). So he asserts that the status of employment and social inclusion policies has risen at national and EU levels, a new language including new concepts, problem definitions, solutions and strategies has emerged, and, finally, different procedural shifts reflect new ways how these concepts should be applied and implemented. Moreover, these shifts have a clear transnational dimension as there is much overlap in the language used, the problems identified and the priorities set at EU level and its member states.

Political developments in this context are often attributed to processes of ‘policy learning’ which should be particularly encouraged by the OMC (Kerber and Eckardt 2007; Mosher and Trubek 2003a; Mosher and Trubek 2003b; Zeitlin 2005b; Zeitlin 2005c) (2). With the recent expansion of soft law and new modes of governance the topic of learning has gathered new momentum among the EU studies community. Drawing on Hall (1993), Mosher and Trubek distinguish three types of learning: “learning that fine-tunes existing policy instruments, (learning that) keeps goals intact but modifies instruments and (learning that) leads to a change of the goals themselves” (Mosher and Trubek 2003a: 76). In another account, Ferrera and Sacchi (2005) distinguish learning processes where, first, the identification of a common European challenge and a respective approach contribute to broad shifts in national thinking about policies (i.e. heuristic learning); secondly, where the non-binding OMC has led to common indicators and data sets as well as to adjustments of national statistical systems (i.e. capacity building); finally, learning could be reflexive when established practices and ways of thinking are re-examined on the basis of comparisons.

Overall, these accounts of learning point to a central role of knowledge in the governance context of the Lisbon Strategy. It becomes clear that knowledge is a central resource, medium and outcome of governance likewise. At the core of the process lies the collection of data and information. The preparation of National Action Plans (now National Reform Programmes), Joint Reports by the European Commission and statistical indicators and data sets are the essential ingredients on which governance in the Lisbon Strategy is based. Exact and detailed knowledge about the situation in the different member states is seen as essential precondition for being able to learn from each other. Moreover, the central role of this information and the specific way it is used in those modes of governance indicates, in a very specific way, how politics is formulated in the context of the Lisbon Strategy. These reports and indicators are not merely input to the policy process. In addition, they constitute new media to formulate and define problems, goals and strategies. Eventually, these media could have major effects on the very conditions of policy-making. For example, borrowing from Armstrong (2005), the predominant mode of governing under the Lisbon roof could contribute to the decentring of law as the main medium to define and communicate rules and principles in a society. Finally and following from the previous aspects, the governance processes within the Lisbon Strategy produce a new body of knowledge which consists of the concepts and strategies resulting from the collection and processing of information within a specific governance arrangement. However, policy learning accounts of the OMC also suffer some shortcomings which shall be addressed in the following.

To begin with, many accounts take a positivist standpoint looking for causal relationships within an objective and external reality. This raises theoretical as well as methodological questions. Regarding theoretical issues, ‘knowledge’ in this case is mostly used synonymously with ‘information’ while the latter is assigned objective and material qualities. In other words, knowing is understood as having information. Learning, then, crucially depends on the availability and the quality of appropriate information as well as on mobilisation of all those

actors who could provide, gather or process information. In this narrow sense, knowledge can only work as a resource of governance, while the social and discursive production of knowledge in terms of concepts, problem definitions and political strategies are largely beyond the reach of this perspective.

In contrast, it can be assumed that learning processes, which imply fundamental reorientations towards new analytical frameworks and normative evaluations, are the result of a more complex process. Yet, while governance perspectives are able to detect such reorientations through their focus on changing policies, they are unable to provide adequate conceptualisations of the processes preceding it. However, the latter is necessary before we can decide whether we really want to label them 'learning'.

Turning to methodological questions, such perspectives see policy change as the most important evidence for policy learning. However, this direct causal connection is problematic. It is theoretically more than questionable to infer cognitive or ideational phenomena from observed behaviour nor can such an analysis do justice to the complexity of a process like learning (with an individual and a collective dimension). Furthermore, between a learning process (for example, identifying a problem, reflecting on past practices, finding a solution) and an observable new policy comes the crucial step of implementation. Even in the case of mere imitation the latter is still difficult, time-consuming and requires a certain amount of innovation itself (Kerber and Eckardt 2007).

Even learning approaches that are more aware of those issues have to answer some questions. First of all, there is a strong normative bias: Learning is quite consistently presented as positive and desirable. In contrast, negative instances of learning are reflected rather rarely. For example, the actors participating in a specific OMC could also learn free-riding, how to avoid criticism while not changing perspectives or policies, how to push their standpoint in negotiations about objectives, targets or indicators, and finally, they could learn to block the governance process as such. In fact, empirical research suggests that, if learning takes place at all, a good part will consist of such less positive processes (Kröger 2006).

Closely connected with this optimistic bias is a second concern about the dominant meaning of learning as it (and consequently all related instances of policy change) is mostly presented as an aware and voluntary process. Such a portrayal of learning as conscious (and rational) application of freedom of choice would not only require that the participating actors are fully aware of all aspects of the learning process, but also that they are fully in control of it. In contrast, the extensive political bargaining about targets and guidelines that can be observed suggests that these processes involve a significant element of political power. Moreover, other developments seem to be – at least partially – due to complex non-personal, collective dynamics rather than individual choices (see Carmel 2005; Serrano Pascual and Crespo Suarez 2007a; Serrano Pascual and Crespo Suarez 2007b).

Finally, those overly optimistic assessments of learning point to a rather thin notion of politics. However, governance of social and economic modernisation within the Lisbon Strategy is not just about solving objective problems but also about fundamental political conflicts, unequal power relations, opposed interests and antagonistic identities (following Clarke 2004; Newman 2005; Walters 2004).

Overall, descriptions of the Lisbon Strategy as a space where governance is mainly based on learning within different OMCs direct attention to knowledge as resource, medium and outcome of governance. Moreover, for such descriptions Lisbon seems to be best understood as the sum of OMCs and generalisations tend to be about the OMC as such rather than about the Lisbon programme as the broader context. However, due to the mentioned limitations their strength is rather in understanding the resource aspect of knowledge while they fall short with regard to the latter two.

Yet, regardless of whether the Lisbon Strategy is mainly about governance through OMC-induced learning or whether the latter is actually taking place, there is widespread consensus

that it is an important arena where a new common discourse has emerged (Jacobsson 2004; Noaksson and Jacobsson 2003; Serrano Pascual 2007). This discourse involves a specific language but also specific epistemic assumptions (e.g. about causal relationships) and normative evaluations. In other words, this discourse reflects new knowledge about the subjects of and the goals for social and economic policy, as well as about the appropriate ways of putting those goals into practice. However, if we want to fully understand this transnational political phenomenon, arguments about learning cannot provide the whole picture. In particular, positivist versions of such arguments are unable to analyse the conceptual discourse in line with the procedures of the OMC. Yet, this overarching discourse is equally significant, if not even more interesting than the existence of an intergovernmental regime with limited legal force (an everyday phenomenon in international relations). Therefore, it is useful, to expand this survey to another perspective which offers a broader view.

### **3. A World of Knowledge – Extending the Scope Upwards and Downwards** ↑

This section discusses a perspective where knowledge is taking centre stage: governmentality approaches. For Foucault, governmentality describes a specific form of political power that has gained dominance since the 18th century and which has as its two poles the individual and the population. Moreover, due to the powerful role of liberalism as conceptual foundation of Western societies, government cannot rely on direct force or command but on the ‘conduct of conduct’ of free subjects (Foucault 1991). All approaches following Foucault in this respect are interested in how political problems, objects and spaces as well as the correlated subjects are constructed and governed. According to Rose and Miller, “knowledge is ... central to these activities of government and to the very formation of its objects, for government is a domain of cognition, calculation, experimentation and evaluation” (Rose and Miller 1992: 175). Knowledge is never just understood as information that can be methodologically gathered, transferred and applied from one context to another. In contrast, together with language and practices knowledge is the very matter which constitutes society. Together these elements determine the space, the problems and subjects of governance as well as concrete technologies of governing (see also Flear this issue). Therefore, it is inevitable to make knowledge a central analytical category.

Knowledge here does not mean ‘ideas’ but refers to the vast assemblage of persons, theories, projects, experiments and techniques that has become such a central component of government (...) the ‘know how’ that makes government possible (Rose and Miller 1992: 178).

While governmentality has entered the social sciences on a broad scale, it is yet to gain prominence in EU studies. Accordingly, this part mainly focuses on a volume by Walters and Haahr, hitherto the most comprehensive attempt to transfer this programme to European integration studies (Walters and Haahr 2005; Haahr 2004; Shore 2006, 2009; see also Flear this issue).

First, a governmentality perspective allows for extending the theoretical scope upwards to reflecting on the Lisbon Strategy as the specific historical context in which the single OMCs are embedded. The historical context of the Lisbon project is constituted by cognitive and discursive practices, or in other words, by a dynamic body of knowledge. Furthermore, Lisbon is said to reflect a certain style (or mentality) of government which is described as advanced liberalism (see below). Liberalism, in this context, is not viewed as an ideology or a set of policies but means that the subjects of governing cannot be ruled by direct command and coercion but by “government at a distance” (Miller and Rose 1990: 9). “Here, power works in terms of the ways we govern ourselves” (Walters and Haahr 2005: 13) within a range of freedoms which we can practice and are obliged to exercise. While liberalism has always been a decisive characteristic of European integration, advanced liberalism means even less involvement in economic policy-making – not even the centrally organised lifting of barriers as in the creation of the single market – but “becomes concerned to reform the conduct of individuals and institutions in all sectors to make them more competitive and

efficient” (Walters and Haahr 2005: 135). At the same time, the space of the European economy is extended from the single market to issues of employment, social benefits and education (i.e. the fundamental reorientations detected above by Zeitlin). Finally, advanced liberal government relies on specific subjects and identities. The Lisbon Strategy draws on specific notions of society, citizens and other collective subjects (see also Flear this issue). Society has come to be seen as field of potentials and energies able to find and provide its own solutions to most problems. It is constructed as a domain of autonomous and capable actors who can get involved and collaborate.

Second, governmentality perspectives make it possible to expand the scope downwards by focussing on concrete technologies of power, that is, the concrete practices, strategies, instruments and idioms with which power is exercised and political problems are handled. Unlike policies and administrative procedures, these technologies are often not explicitly defined but rather embedded in contextual knowledge and practices. Especially interesting in the context of this issue, Walters and Haahr do not identify the OMC itself as technology of power but point to the many separate instruments within this mode of governing. Hence the analytical separation between the OMC as set of procedures and the Lisbon Strategy as encompassing political programme is dissolved while the main focus is shifted towards the latter. Instead of focusing on single OMCs, the authors distinguish two major means of power which dominate the whole Lisbon project: ‘technologies of agency’ and ‘technologies of performance’. The former are based (and rely) on the notion of society as a domain of active and autonomous actors constituting multiple potentials to be tapped. All those technologies do not aim at direct intervention but at fostering...

... agency within and across the space of the governmental apparatus of local, national and European institutions. We see a move to implicate other agencies, bureaucracies, organizations and enterprises within a logic of self improvement and the self-driven but carefully regulated optimization of performance (Walters and Haahr 2005: 120).

Thereby, these technologies shall mobilise the relevant actors to recognise and to acknowledge their stake in the project of social and economic modernisation and to contribute to its realisation. The best example is the large-scale production and exchange of knowledges, where large groups of EU and national civil servants, experts from the academy and consultancy (and to some limited extend social partners and NGOs) have become involved in the information collecting, report producing and in systematically exchanging of information and opinions in seminars, peer review sessions etc. However, we should not jump to the premature conclusion that open coordination therefore also contributes to democracy and legitimacy. Rather, the situation is ambivalent (Kröger 2007). Governing at a distance in the context of the Lisbon agenda is not just about promoting agency. The latter is strictly limited by another group of technologies, which must be included in the picture.

As a second major type, according to Walters and Haahr, technologies of performance restrict the freedom of those subjects whose agency shall be activated and increased. The best examples are the systematisation of comparisons, the comprehensive evaluation and monitoring procedures, the definition of political objectives in terms of quantitative targets, the emphasis on performance indicators and, hence, the measurability of progress (examples throughout all contributions to this issue). It is mainly through such technologies of performance that the subjects involved and targeted are to be transformed into calculating and strategic actors. However, the close interrelationship and mutual interdependence of technologies of agency and performance is crucial to understand the ambivalence of the Lisbon programme. Accordingly, agency is mainly fostered when it contributes to the strategic goals. The involvement of activist NGOs or trade unions, however, who promote alternative visions of Europe, is unlikely to be supported.

Overall, governmentality studies provide a broad perspective according to which the Lisbon Strategy is not just a programme employing new procedures. In contrast, it is the European expression of specific discourses and knowledge of government (i.e. advanced liberalism, at a

distance, etc.) and of a much broader and closely connected discourse on the modernisation of social policy and its relationship with the economy and the state (often termed 'activation'). At the same time, this phenomenon at the macro-level is based on specific technologies of power in everyday practice. Furthermore, governmentality approaches draw our attention to the ambivalences inherent in each political settlement (see Flear this issue; Radulova this issue).

However, the governmentality discourse (as put into practice by Walters and Haahr) also has to answer some critical questions. For example, it is rather unclear which agents are in charge of the transition to advanced liberalism, the formulation of a specific notion of society or the acts of subjectifying and identifying. A further critical question follows, since governmentality approaches might be accused of a certain one-sided or unidirectional perspective. Without doubt all those subjectifications, identifications and technologies of power will not remain without reaction from their targets. However, apart from some general hints to the possibility of resistance, Walters and Haahr remain rather silent about those aspects. Yet, Lisbon is not a monologue but a dialogue and without taking into account the different responses, it will be impossible to judge whether the Lisbon Strategy actually fulfils all those deeds attributed to it. Therefore, governmentality approaches also run the risk of over-generalising by analysing the Lisbon Strategy solely on the basis of its textual and procedural expressions. A final point follows from that. While governmentality perspectives draw our attention to the historicity and exceptionality of each social, political and economic formation, they say rather little about how those orders emerge.

We are faced with a perspective that claims that knowledge is a constitutional element of governing and of the world we are studying. However, due to the mentioned limitations it becomes difficult to determine how knowledge is actually produced, or how a specific body of knowledge has emerged. In short, the theoretical potential of governmentality studies should be complemented with an empirical programme.

#### **4. Governing the Knowledge Society – the Potential of Science and Technology Studies Approaches** ↑

In order to gain the broader perspective suggested in the previous section, this part suggests combining governmentality perspectives with approaches from STS. Both perspectives are able to communicate well with each other. Both share a broad and rather practical notion of knowledge (as 'know-how' rather than 'know-what'); both share a key interest in how discourse, practice and technical aspects contribute to social order. In fact, governmentality perspectives are often at their best where they draw on concepts from STS for empirical purposes (see below). Transferring the latter to the study of European integration can provide crucial theoretical and methodological guidance for thorough empirical studies of the single OMCs and the Lisbon project as a whole. Thereby, it becomes possible to gain crucial insights about how knowledge is actually produced within this composite governance regime and what role the latter plays for government from the distance.

In general, the trans-disciplinary enterprise of STS investigates the technological, social and symbolic dimensions of science and the practices of collective knowledge production in this field. It is mainly interested in empirically studying the conditions and processes in which scientific knowledge is produced and how scientific facts are constructed. One central finding is that the knowledge production of science is not epistemologically (though sociologically!) different from other forms of knowledge production, for example, in a court room or a government agency. A second key finding is even more important for the purpose of this paper: Within processes of scientific knowledge production, nearly everything is negotiable among the actors involved (Knorr Cetina 1995; Latour 1987; for other examples see Latour and Woolgar 1986; Lynch 1985; Lynch and Woolgar 1990; Pickering 1992) (3). Hence, the key challenge for the researcher becomes to investigate the practices through which scientific facts are constructed and the conditions limiting the scope of such constructions.

Similar to governmentality, STS is a diverse field inhabited, for example, by sociologists,



anthropologists, philosophers, or historians who share key common interests – mainly in empirically investigating the actual workings of science and the production of scientific knowledge – but whose accounts display a remarkable theoretical richness. Therefore, the following discussion first draws on Karin Knorr Cetina's work as exemplary (and as one of the most influential, most useful accounts). Where appropriate the discussion is then extended to other accounts.

Knorr Cetina's arguments are based on the assertion that Western societies are increasingly ruled by knowledge and expertise. Put differently, they are transforming into 'knowledge societies'. However, in contrast to predominantly economic (for example Bell 1976; Drucker 1993; Stehr 1994) or technological accounts (Castells 1996) of this development, she promotes a notion of knowledge societies which ...

... switches the emphasis to knowledge as practiced – within structures, processes, and environments that make up specific epistemic settings. If the argument about the growth of expert systems is right, what we call "society" will to a significant degree be constituted by such settings. (...) this is why the study of knowledge settings becomes a goal in the attempts to understand not only science and expertise but also the type of society that runs on knowledge and expertise (Knorr Cetina 1999: 8).

As a further key concept, practice constitutes the basic conceptual unit of her approach. A focus on practice implies researching experts at work and the single "acts of knowledge making" (Knorr Cetina 1999: 8) rather than focussing on knowledge in terms of theories or ideas. Practices are not only the 'actions' of individual or collective actors but certain patterns that structure social life and create the conditions for collective and individual action (see Reckwitz 2002; Reckwitz 2003; Reckwitz 2004; Schatzki, Knorr Cetina, and Von Savigny 2001). A particular practice has to be analysed in relation to its wider context containing specific understandings, rules and other practices that interact with the former (see Schatzki 2001).

Closely connected with the notion of practice is the notion of culture. The latter is understood as larger setting composed of practices and denotes a specific conceptualisation of social order as internally diverse, contested and dynamic. Particularly important, according to Knorr Cetina, the notion of culture implies ruptures and diversity of practices rather than uniformity and coherence. Moreover, it points to the essential richness of ongoing processes and events involving, among others, multiple instrumental, linguistic, theoretical and organisational frameworks (Knorr Cetina 1999: 10). Finally, culture points to the importance of symbols and meanings as key aspects of practice. This interplay between the key concepts of practice and culture offers exactly the perspectives on agency including issues of creation of and response to dominant discourses that are necessary for studying knowledge and knowledge construction as key ingredients of indirect government from the distance. Within the Lisbon project, both agency and government can now be analysed as facilitated and limited by the social order of a specific epistemic culture.

In addition, a view on STS provides interesting methodological inspiration concerning the organisation of empirical research. For example, most studies rely on ethnographic methodologies to study actors in their natural environment (for example Knorr Cetina 1999; Latour and Woolgar 1986; Lynch 1985). Secondly, this move is often accompanied by a scaling down of the units of analysis. For example, many STS analyses are "laboratory studies" where the laboratory is a key site for empirical research but also a crucial social configuration (Knorr Cetina 1995). At the same time, it is possible to construct a broader image of a social order consisting of smaller, local configurations.

How can these insights from the study of science be transferred to studying the EU's Lisbon Strategy? To begin with, all OMCs rely on different interlocking expert systems which produce knowledge, but also where knowledge is the key resource, medium and product of governing. Furthermore, these expert systems and the knowledge they produce play a central

role in creating and reproducing the broader socio-cultural framework of the Lisbon Strategy – i.e. the epistemic culture determining the conditions of governing within the Lisbon Strategy. Investigating practice and the rich everyday activities within these epistemic settings would contribute valuable insights about the ‘how’ of governing in this particular context. Moreover, when studying Lisbon in terms of knowledge, practices and culture, the interest shifts from observable behaviour (as in many accounts of learning) towards meanings and symbolic aspects. Crucially in this respect, Lisbon is not only a constellation of specific procedures, actors and interests but also a dynamic system of meaning and meaning-making (see Horvath this issue; Radulova this issue). In addition, Knorr Cetina points to the importance of identifying the ‘laboratories’ within each OMC, that is the committees, subcommittees and working groups but also the offices where knowledge about economic and social organisation is negotiated.

Interestingly, the potential value of science studies for empirical research in other areas of social science is also demonstrated by governmentality authors. To begin with, Miller and Rose (1990) base their fundamental idea of ‘government at a distance’ on the work of Bruno Latour and Michel Callon – two key figures of STS. The latter have coined the concept of ‘translation’ to describe the process in which a scientific fact is becoming accepted as true. Accordingly, it does not depend on the inherent truth of a research result but rather on the ability of its producers to build a big enough network (i.e. an ‘audience’) within which a specific definition is accepted. For a scientific debate to be settled, each statement needs to be translated in a way that it appeals to the interests and identities of the involved actors. In fact, translation also implies regular reframing of interests and identities. In the course of such translations, statements that were once uttered by a specific actor can become ‘objective facts’ (see Callon 1986; Callon 1995; Latour 1986; Latour 1987). Similarly, negotiations about the significance of specific data, about the definition of indicators, or about choosing and setting a specific benchmark within an OMC committee could also be investigated in terms of processes of translation. In this case, the participating officials negotiate ‘facts’ they are prepared to believe in and which they would accept as direction for their policies. For example, the prevalent supply-side orientation in employment policy or the widespread abolition of early retirement programs throughout Europe could be further investigated as processes of translation.

From this need to translate and to establish a sustainable network with – often distant – actors follows also that power is an effect rather than cause (Latour 1986). In the context of the OMC, this means that it becomes a powerful regime only if a body of knowledge can be negotiated that binds crucial actors to the process while pre-existing institutional resources (such as votes in the Council) are less important.

In addition to literary and rhetorical means to translate and to objectify a fact, various STS studies deal with the role of technical means, which are used to represent a fact (see Knorr Cetina 1995), most important, ‘inscription’. Inscription devices are the different means with which phenomena can be made visible and thereby turned into facts, such as diagrams, statistics or graphs (Latour 1987) (4). Inscription “renders reality into a calculable form” (Rose and Miller 1992: 185) which means that specific objects are constructed and that it becomes possible to evaluate, to calculate and to intervene in them. For example, Hacking (1991) has pointed to statistics as the crucial inscription device to create social categories but also to organize them along categories, for example, of ‘normal’, ‘problematic’ or ‘deviant’ behaviour (bureaucratic government). In a similar manner, further research on the OMC and Lisbon could focus on the broad spectrum of inscription devices used. How are reports, indicators, Council decisions, tables or benchmarks used to create ‘objective’ knowledge about welfare and welfare problems in the member states? How are they utilised to stabilise theoretical concepts? How are social categories created in that context? A further set of questions refers to how inscription is used by specific actors to create ‘centres’ of information and thereby control the knowledge production within the epistemic culture of Lisbon.

In general, only on the basis of this empirical programme, it would become possible to analyse conceptual discourses and procedural aspects of governance alongside in a single research

programme.

## 5. Conclusion

This paper was interested in the role of knowledge in the governance context of the Lisbon Strategy. It surveyed three kinds of literature: Arguments about learning as key element of the OMC suggest that knowledge is a central resource, medium and outcome of policy-making in the context of Lisbon. However, they fall short of conceptualising knowledge itself as theoretical category. Remaining at the meso-level of political institutions, they neglect actual practices on the ground and offer only limited insights in how expert systems and processes of knowledge production could feed back in the constitution of the political space of the Lisbon Strategy comprising the respective OMCs and but also a wider conceptual discourse.

In contrast, the governmentality approach by Walters and Haahr proposes a perspective where knowledge is a key constitutive element of the (social) world. Their focus draws our attention to wider questions about the constitution of particular historical contexts as well as to micro-level questions about concrete technologies of power of which those contexts are composed. However, their perspective finds it difficult to determine how specific knowledge settings come about, reproduce and change due to a missing strong notion of agency. This also implies difficulties for translating this theoretical building into empirical research.

Looking for ways to achieve such a comprehensive perspective, the paper suggested complementing the outlook on dominant discourses and rationalities of government with perspectives from STS which provide a rich empirical programme. Thanks to the resulting emphasis on practice and the methodological stress on ethnographic research, such an approach is expected to open up new and original ways of studying the micro-processes that constitute the conditions for knowledge production, mediation and consumption in the framework of the Lisbon Strategy. Moreover, especially due to its composite conceptualisation of culture, STS is capable of linking perspectives on actual practice back to insights about the epistemic culture that sets the conditions for governing within the Lisbon Strategy in general. Importantly, based on the empirical insights facilitated by such an approach, STS could also crucially complement the critical potential of the governmentality perspective by showing how ambivalences are negotiated in concrete situations.

So far, considerations about the significance of Lisbon or the OMC have often limited themselves to arguments about EU social policy, processes of welfare state reform or questions of legitimacy. The combined approach suggested here for the study of European integration can provide a much more comprehensive picture based on the study of actual practices on the ground (rather than institutions) and on how norms, analytic concepts and power relations feed back into the epistemic culture of Lisbon. Indeed, much more research of this kind is necessary before we can fine-tune our disputes about politics, legitimacy and democracy to the particular historical circumstances – especially as we can only judge the ambivalence inherent in the Lisbon project (an indeed in all political constellations) with a view to how they are produced, interpreted negotiated and contested in practice. For example, Armstrong's (see above) question whether a language of statistics, indicators and benchmarks would be decentring law as central means of communication (including all possible implications) can only be fully addressed from such a perspective on practice and meanings. Similarly, much more insights of that kind are necessary before we can decide whether and how key meanings of EU law are transforming (for a critical discussion see Dawson this issue) or whether the Union is turning into a directly-deliberative polyarchy (Cohen and Sabel 2003; Gerstenberg and Sabel 2002; Sabel and Zeitlin 2007).

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## Endnotes

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(1) This list of key concepts is just a rough sketch; importantly, most of the concepts used within the debate about welfare reform (especially at close inspection) combine analytical and normative elements.

(2) For a detailed presentation of different assessments of the OMC, see Kröger this issue.

(3) This does not mean that scientific knowledge has no connection with the physical world or that it is entirely random but rather that it is essentially uncertain and contested because the outcomes, even of the most sophisticated experiments are always undetermined and open to numerous interpretations.

(4) This term also includes visualisations on screens or scales of technical instruments; yet, the latter are less important in the context of the Lisbon Strategy.







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## Learning about policy learning. Reflections on the European Employment Strategy\*

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**Abstract:** The concept of policy learning has been attracting increasing attention in the political science literature, notably in the many publications on the Open Method of Coordination (OMC). However, much research faces fundamental methodological problems regarding the mode of functioning and extent of policy learning. This paper shows that these problems can be avoided if we take a closer look at the potential of the OMC instruments to stimulate learning. The paper differentiates between three types of learning: learning by own experience, learning from others and learning with others. Systematic links are established between them and the learning conditions created by the European Employment Strategy (EES) tools casting doubt on the steering capacity of the EES through learning. Moreover, there is a fundamental contradiction between actor orientation in deliberative policy learning and competitive policy bargaining which questions the learning potential of the EES.

**Keywords:** open coordination; employment policy; policy-learning; benchmarking; participation; social policy; European social model; governance; political science

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### 1. Introduction

In recent years, both scholars and practitioners have shown increasing interest in policy learning and related concepts like policy transfer and policy diffusion. This can be attributed not least to European integration, which has seen the establishment of the Open Method of Coordination (OMC), a mode of governance based on the assumption of mutual policy learning. There are hopes that this instrument can stimulate policy learning, bringing positive

innovation and expansion compared with the classical forms of regulation with all their limitations. Against this backdrop, I examine the OMC with an eye to what characteristics of the instruments it deploys can in fact stimulate and guide policy learning. I am thus concerned with the effectiveness of OMC in promoting policy learning, not with its factual effect in the member states.

The OMC finds application in a number of policy areas. Despite differences in process and modalities, OMCs in all policy areas share a conviction that member states should learn from one another through iterative reporting, benchmarking, and peer review in the pursuit of common policy goals. The toolbox provided by the European Employment Strategy (EES) is older and better developed than OMC instruments in other policy areas; it is therefore particularly useful to take a closer look at it (also Niechoj, Radulova, López-Santana and Weishaupt this issue). It is likely that the design and processual use of the instruments stimulate various forms of learning (vs. Pfister this issue). But they possibly also stimulate other transfer mechanisms. This is of practical and theoretical importance. On the one hand, differentiation into various forms of learning allows systematic comparison of the learning potential offered by EES instruments. On the other hand, it is important to investigate interaction between instruments and their compatibility. Corresponding instruments may reinforce each other and lead to more comprehensive learning effects. At the same time, even if certain instruments have the potential to stimulate learning, if they are used at cross purposes to other tools this could reduce or neutralise the learning potential of EES as a whole.

The aim of the article is to contribute to understanding learning as a causal mechanism and thus to a better appreciation of the learning potential of the OMC.

- I begin by outlining different learning concepts discussed in the research literature ([section 2](#)).
- I continue with a critical summary of research findings on policy learning in the context of the OMC and discuss the methodological problems involved ([section 3](#)).
- Finally, conducting my own analysis of learning in the EES framework that departs from the instruments, I show that their steering potential consists only to a limited extent in stimulating or initiating policy learning. Moreover, the fundamental idea of the steering function of deliberative learning processes runs counter to increasing differentiation in the form of more concrete targets and the associated policy conflicts ([section 4](#)).
- I finish by summarizing findings and discussing possible recommendations on expanding the potential for learning by modifying existing instruments ([section 5](#)).

## 2. Different forms of learning

This section provides a basis for empirical analysis by considering forms of learning and the underlying conditions for learning. With reference to the much quoted definition by Heclo (1974), I understand learning for my present purposes to be an alteration in the behaviour or preference of a rational actor (in our case a government) in reaction to a modified information pool (in this case the EES). The information pool is a necessary but not sufficient condition for change through learning. By making a selection of experience and data out of the information pool, by filtering and interpreting, the actor generates new knowledge. This knowledge forms the basis for her decisions.

As far as the depth of learning processes is concerned, the most important distinction is whether actors' strategies for action and steering instruments alter because the information pool has changed with respect to the possibilities and contexts of problem solving, or whether actors also learn with regard to their preferences. If actors seek effectively to attain a constant goal the process is referred to as "single loop learning" (Argyris and Schön 1996: 20) or "simple learning" (Deutsch 1969: 146-147); adaptation of existing instruments is called "first order change", and the introduction of an instrument designed to attain an existing goal "second order change" (Hall 1993: 279). In the case of "complex learning" (Deutsch 1969:

147), actors also consider whether the values on which their action is based are ‘wrong’ and change their preferences on the basis of new cost-benefit considerations (*updating beliefs*). Here Argyris und Schön (1996: 20-22) refer to “double-loop learning”; Hall (1993: 279) to “third order change” in policy goals or the policy paradigm.

A change in the information pool is necessary for both simple and complex policy learning. It can be generated in various contexts (see Visser and Hemerijck 2001) (1): First, the most everyday form of learning is expanding the information pool through one’s *own experience*. This form of learning can be fostered by focused inducement to learn in the sense of reflexive evaluation or support in the search for information on the context of problems. But decisions need not be based on an actor’s own experience. Second, if governments use information on the effects of policy decisions and on the policy instruments of other countries without experiencing them themselves, they can learn *from others* (“lesson-drawing”, Rose 1991). On the assumption that rational actors seek solutions to problems, this allows transaction costs to be reduced (“learning ahead of failure”, Visser and Hemerijck 2001). Who learns from whom depends on a number of factors such as the pull of successful or the push of powerful countries, geographical distance, similar problems or functional interdependencies (Trubek and Trubek 2005: 93; Rose 1991: 14-17). Third, deliberative, experimental processes seek to generate new, innovative and better solutions to problems on the basis of voluntary exchange of information and positions in decisional situations. The approach proceeds on the assumption that frequent interaction can alter the preferences of member states and thus enable joint decisions to be taken (2). The concept of deliberative learning was developed with the aim of preventing bottle-necks in production and optimising processes at the plant level. By exchanging information, actors are able to check and adjust their own decisions with regard to anticipated changes in the behaviour of other actors (Sabel 1994: 158). This school of thought argues that these considerations can be transferred from business practice to governmental action (“democratic experimentalism”, e.g. Dorf and Sabel 1998). Consulting, experimentation, the exchange and pooling of information enlarge the scope for action and enable policy learning in the sense of pursuing common goals.

Steering instruments that improve the general conditions for generating and exchanging information between governments can foster learning processes (e.g. Sabatier 1986: 323). In contrast, no learning from others is to be expected if actors are called upon to defend (competing) or not easily incompatible (national) interests. If the institutional context increases competition between actors, confrontation or bargaining are more likely than joint learning or problem solving. Scharpf (1997: 124) describes the difference between the two forms of interaction as follows:

“The successful joint search for better overall solutions requires creativity, effective communication, and mutual trust, whereas success in the distributive battle depends on the strategic and even opportunistic, communication and withholding of available information [...] the ‘cooperative’ interaction orientation that is conducive to joint learning in the production dimension is psychologically incompatible with the “competitive” orientation that facilitates success in distribution [...]”.

In principle competitive settings still allow for “reactive learning [where] governments learn individually by responding to the challenges of the competition” (Benz 2007: 512). Yet this form of positive competition in the market of political ideas is exigent institutionally and “there is only limited evidence that, in practice, policy competition does play a significant role” (Benz 2007: 513). The following analysis of instruments and their operational mechanisms imply that the learning potential of the EES is rather determined by the dichotomy of competitive bargaining versus deliberative exchange and learning.

### 3. EES performance monitoring and related conceptual problems

Policy learning is not an end in itself, it serves to implement political programmes or in general

terms to attain goals. EES performance review is therefore an important element in examining policy learning. However, many of the studies on the subject suffer from major conceptual problems, which make conclusions about policy learning in the EES context more difficult (see Kröger this issue). Strictly speaking, a critical consideration of the research literature on the OMC reveals no more than that changes have been taking place in member states. And we know that there is a mode of governance at the European level that allegedly prompts or facilitates learning processes. To associate these two observations under the heading “learning process” is unsatisfying for three reasons.

*1. The problem of lacking empirical evidence:* Many (particularly early) studies turn to official documents in evaluating learning in the EES context. They take no account of the fact that these documents are not neutral assessments but reports prepared or at least approved by the national governments in question (e.g. Biagi 2000: 156; Mosher and Trubek 2003: 75). No check is made on whether a selective presentation of national policies (deliberately) overestimates or underestimates the influence of the OMC. Nor does this approach ensure comparability between countries. More recent studies comparing a larger number of member states can better cope with this problem (Zeitlin et al. 2005: 27-28). But even a great deal of empirical effort cannot eliminate difficulties in adequately measuring learning processes.

*2. The problem of alternative explanatory variables:* New policies can be introduced without the EES playing a role (Scharpf 2002: 654). Over and beyond the empirical questions on how various explanatory factors are to be weighted, here my criticism is levelled at the analytical negligence of alternative explanatory factors in identifying learning processes.

#### Figure 1

Very few studies conceptualise external factors (e.g., international financial crises) and internal factors (e.g., demographic change) as counter-factual explanations. Policy learning in the EES cannot be distinguished from other causes of policy change. Where different countries find similar solutions to common external or internal problems, this can result in policy change or even in convergence. Moreover, there are international organisations other than the EU with an interest in steering employment policy, such as the ILO and OECD (Schäfer 2005), equally causing (potential) policy change.

*3. The problem of functionally equivalent transfer mechanisms:* The third point of criticism is the underspecification of the mechanism underlying the change to be observed. In most studies on the OMC, the relationship between EES and change in national policies resembles a black box.

#### Figure 2

Many studies on the OMC assume implicitly or explicitly that the transfer mechanism in the ‘black box’ is learning (see López-Santana this issue, Vanhercke this issue). “Its [OMC] real effectiveness and influence nationally is part of a collective learning process” (De La Porte and Pochet 2002a: 13). Or “it organises a learning process in order to promote the exchange of experience and best practice” (Regent 2003: 191). Although assessment of learning processes in the OMC has become more sceptical over time, there is still a lack of systematic in-depth analysis showing that observable policy changes are due to learning by actors or the overall political system.

What is more, other transfer mechanisms can be posited for the EES. One important such mechanism is *pressure*. The OMC is described as a soft steering instrument because actors have no possibility for imposing direct sanctions. Ashiagbor (2004: 314 and 327) claims that learning processes can be initiated by exerting pressure (naming and shaming). However, I argue that changes in national employment policies driven by this logic must be fundamentally distinguished from learning, since any change is not brought about by alteration of the information pool.

### Figure 3

Change in employment policy through national government *political strategies* (typically motivated by economic or political interests) also differs from the transfer of European policies through learning. Soft European tools like the OMC may also be used by national actors for their “leverage effect” (Erhel et al. 2005) or as “selective amplifiers” (Visser 2005) for advancing specifically national interests. In such cases the OMC is a means to an end but not the factor that activates learning processes (see Weishaupt this issue).

A careful research design is needed to obtain an empirically clear distinction between political calculation, coercion, learning, and other transfer mechanisms such as imitation or copying. Of central importance is the precise analysis of government motives for action and the question whether changes in behaviour or preferences are subsequent to a change in the information pool. It comes as no surprise that the country chapters in Zeitlin et al.(2005) reach diverging conclusions on different transfer mechanisms. Since the individual articles do not systematically examine potential transfer mechanisms, it remains unclear whether this divergence points to country-specific differences or whether the applied research perspective is to blame.

Finally, another analytic-conceptual difficulty arises in the European multi-level system. The EES often reflects national policies, for what is taken to be Brussels policy is the result of negotiations between members states and European institutions. This is the case for the creation of the EES (Schäfer 2004) as well as for the elaboration of goals, guidelines, and indicators (De La Porte and Pochet 2002b; Jobelius 2003). The distinction between what is to be learned and what has already been learned tends to blur.

This paper is also unable to resolve many of the conceptual problems mentioned. But it points to a possibility for addressing the issue of policy learning in the EES in an alternative manner by examining the potential of steering instruments for stimulating learning.

## **4. The potential of EES instruments for stimulating learning ↑**

The EES consists of a number of instruments and processes that are repeated in regular cycles. The Council adopts Employment Guidelines and country-specific Recommendations (since 2005 part of the Integrated Guidelines for Growth and Jobs). On this basis member states draw up National Reform Programmes (NRPs; prior to 2005 National Action Plans – NAPs) which are assessed by the European Commission and the Council through the Joint Employment Report with a view to setting the next annual guidelines (3). Apart from the NRPs, additional indicators help in collecting information and comparing countries. Then the process starts over again. In parallel, peer reviews seek to identify exemplary procedures and to encourage their transfer to other countries through meetings and exchanges. The institutional design and processual deployment of these EES instruments determine what forms of learning are probable, or what other transfer mechanisms come into play. Does the given instrument satisfy the structural and procedural preconditions for stimulating policy learning to achieve the practical realisation of EES employment policy goals? If the nature of the instrument presents a major obstacle to learning, policy learning is unlikely to take place through the EES (4).

The following table assigns EES tools to one of the three analytically distinct forms of learning – for reasons of clarity, it shows the dominating form; further combinations and complementarities are discussed in the paper.

Table 1

It should be emphasised that the table makes no statement about actual learning processes or the relevance of learning as compared with other transfer mechanisms. After all, even in the best of cases, learning is not a sufficient condition for successful steering by the EES.

## 4.1. Guidelines and recommendations

Guidelines are proposed by the European Commission and adopted by the Council acting by a qualified majority. They set common priorities for European employment policy. Since 2005, they have applied for a period of three years (previously one year) and are integrated into European economic policy guidelines. The eight guidelines are subsumed under three priorities, which are concerned with both policies and outcomes:

1. attract and retain more people in employment, increase labour supply and modernise social protection systems,
2. improve adaptability of workers and enterprises and
3. increase investment in human capital through better education and skills.

The guidelines are supplemented by country-specific recommendations (in 2008 between 5 and 6 per country).

The relatively great potential of guidelines and recommendations for promoting learning consists in encouraging the interlinkage of known problems, generating information, and reassessing existing policies. Policy learning would then take place through inducement to expand one's own experience. Limits are that country-specific recommendations are in practice – with the exception of external studies or EES indicators (see 4.5) – largely based on reports prepared by national governments. Overall guidelines and recommendations are likely only in rare cases to cause alterations to the information pool.

At the same time recommendations contain no information about the policy of other member states from which a country could learn. First, deliberative learning with others presupposes a conviction that cooperation enables more successful problem solving. In view of the unrealistic goals of the Lisbon Strategy, the motivation for the individual to invest in an exchange of experience and common problem-solving should be limited (Zängle 2004). Second, guidelines and recommendations set goals and impose concrete targets. While deliberative exchanges between actors are expected to produce new and better solutions, the guidelines are based on compromise between political actors. In brief, the European Commission is interested in greater quantification and concretisation of goals and obligatory reporting (Bruno 2008: 105). However, it is in the interests of member states to avoid specific commitments as much as possible. Empirical studies show that consultations on formulating guidelines have increasingly taken on the character of “interest-driven bargaining“ rather than “result open deliberation“ (Jobelius 2003: 25; Radulova 2007: 374-5). Third, the growing substantive differentiation of guidelines into (partially) quantified, group-specific goals is at odds with the prerequisites for open learning processes. Finally, with their ideologically stamped plea for the promotion of employability and a shift from passive to activating social security benefits, the EES is in substance leaning towards liberal and social-democratic welfare state models (Salais 2006). Whether this policy orientation is itself based on a learning process (for example, owing to the relative poor performance of corporatist-conservative regimes) or is to be explained in terms of (ideological) interests of the given governments or the Commission cannot be conclusively judged in this context. What is certain is that the guidelines reflect a specific steering intention – in contrast to open-ended learning processes (5).

Overall, guidelines and recommendations appear not to be well suited to promoting learning processes. Relatively speaking, their greatest potential seems to be in inducing the expansion of actors' own experience. But they do not make information about the policies of other member states available. Unrealistic goals, uniform and increasingly concrete targets are likely to leave little scope for learning with others.

Over and beyond learning, other transfer mechanisms offer explanations for change. In recent empirical studies changes become apparent where guidelines or recommendations are used to defend their interests against criticism at the national level (see Vanhercke this issue) or where

financial support from the EU for social policy initiatives enhances the responsiveness of national actors to OMC guidelines and recommendations (Mabbett 2007: 88; Weishaupt this issue).

## 4.2. National Reform Programmes

On the basis of guidelines and recommendations, each member state draws up a National Reform Programme (NRP). Because NRPs are prepared at the national level, processes of learning with other national actors should be to the fore. The NRPs could prompt repetition of learning processes oriented on the European level between relevant actors. To this end they should be formulated in a wide circle of major stakeholders, national parliaments, taking account of sub-national interests and with „active participation of civil society” (Ferrera et al. 2002: 237).

In practice, the circle of actors involved is small (Kröger 2007; Kerber and Eckardt 2007: 236). Research criticises a failure to involve the local level (Jacobsson and Schmid 2003: 117) and social partners (De La Porte and Nanz 2004: 279; even where social partner involvement in national policy making is traditionally strong, e.g. Sweden, Vifell 2004: 17). Moreover, responsibility for preparing NRPs is often entrusted to departments specialised in international policies. Work proceeds in relative isolation from the decisive arenas of national employment policy and overall strengthens the executive(s) (e.g. for Sweden: Vifell 2004: 14; on other OMCs Kröger 2006; Radulova 2007: 373-374). At the European level, too, the circle of actors involved is limited and, in comparison with the early years of the EES, an “intergovernmental drift” is apparent (Goetschy 2003: 88; Salais 2006: 201). What is important is that the limits to learning described are grounded in the interests of national governments, in their endeavours to retain control of the process. Other than in the case of guidelines and recommendations, criticism is levelled not at the design of the instrument but at how it is used and deployed in most member states. For this very reason, the challenge to learning through NRPs is posed not only by their discussion of learning potential under ideal conditions but also by their concern with (power) political interests (see Flear this issue).

NRPs also have the potential to stimulate learning not only in the domestic arena but also with other member states at the European level. Here, too, assessment tends to be sceptical. One hope set in deliberative learning is that it can improve the basis for decision making through exchanges on future decisions and strategic planning. Although NRPs could in principle combine annual review and planning, they tend to be predominantly evaluative in nature, thus precluding their anticipation in their own policy decisions by member states.

Analysis of the instrument shows that NRPs primarily seek to promote learning with others at the national level. A major obstacle is the factual limitation to the actors involved in formulation. To this must be added the evaluative nature of NRPs, which reduces the potential for learning with others at the European level.

## 4.3. ‘Good practice’ benchmarking in the Annual Progress Report

The Annual Progress Report (prior to 2005 Joint Employment Report) serves to evaluate labour market policies and their outcomes. In the report, the European Commission assesses NRPs, compares member states, emphasises good practice, and benchmarks member state labour market performance. The main object of the report is to exchange information and learn from others. Two forms of interaction are to be distinguished: Horizontal discussion among member states in the Council, where the European Commission is also present (Cambridge Process) and bilateral discussion among representatives of member states and the Commission.

Horizontal exchange at meetings of the Council was originally restricted to less than an hour per country (Mosher and Trubek, 2003: 48). With the expansion and enlargement of the Council, NRPs are now discussed in four smaller working groups and summary results are

presented in the plenum (Zeitlin, 2005: 489). The text of the report as adopted by the Council is available on the EES website. In 2005 a scoreboard was introduced, assessing the policy response of member states to each country-specific recommendation on an A to D scale: A (completed), B (in progress), C (limited), or D (incomplete).

Bilateral exchange serves firstly to clarify issues and secondly, according to Casey and Gold (2005: 25) “to negotiate around any ‘recommendations’ that the report will contain.” This suggests that no learning processes are likely. Institutionalised horizontal exchange could facilitate learning from others. Although it seems unlikely that, in the brief period of formal exchange, decision makers can find “new solutions to problems often thought to be unsolvable” (Trubek and Trubek 2005: 93), the change in procedure in 2004 has continued to enable individual discussion of NRPs offering more potential not only for discussing reform outcomes but also impact chains and conditions for reform.

In the Progress Report, and more so in the scoreboards, bad performance is named (naming and shaming) and good performance praised (faming). The scoreboard allows member states’ policy successes to be directly compared and ranked. The scoring system recalls marks at school. A poor mark can amount to a communicative sanction “which can bring about real pressure on member states to change their policies” (Ashiagbor 2004: 315; Regent 2003: 210; Bruno 2008: 111).

This could have two consequences. The establishment of competition in the context of benchmarking could induce member states to take account of new strategies for solving problems. From this point of view, ‘sporting competition’ would provide a positive framework for reactive learning at an individual level (cf. Benz 2008: 37-38). However, it can be objected that even without the EES, there would in principle be competition in employment policy performance. On the other hand, the incentive for member states to engage in (potentially) costly reforms to do better in the Progress Report is likely to be small. Another interpretation is that benchmarking seeks to steer behaviour by discrediting member states. This sort of competition is likely to worsen conditions for learning from others. If so the assessment that EES instruments create “trust and cooperation” and thus stimulate learning processes (Ferrera et al. 2002: 227) would not hold true. Where member states change policies only to avoid being at the bottom of the class, the transfer mechanism involved is pressure (cf. Lodge 2007). Dissonance between conditions necessary for stimulating learning – trust and the conviction that cooperation is of mutual benefit – and the competition engendered by direct comparison are weighty obstacles to learning.

To judge conclusively the potential of Progress Report benchmarking for learning from others would require additional information on the selection criteria for the groups and on communication in the plenum. These factors influence whether horizontal exchange amounts to bargaining or deliberative problem-solving. Thus all that can be established at this point is that there is a basic incentive to exchange information.

Benchmarking in the Progress Report could serve to distinguish successful policies from those that are less successful, to select models (Regent 2003: 209) and to create coherent targets (mimesis, Trubek and Trubek 2005: 92). However, concentrating on single examples of good practice runs counter to the diversity of national policies (Scharpf 2002; Bruno 2008). This suggests, firstly, that certain models are suitable for all member states. Secondly, diversity is reduced and alternatives excluded. In complex fields like employment policy, various reform paths can lead to improved performance and attainment of EES goals even where problems are similar (equifinality). Benchmarking tends to suppress the necessary independent innovation and creativity that could provide responses to country-specific problems (Lundvall and Tomlinson 2001: 123). Thirdly, insufficient account is often taken of systemic contextual factors; incomplete or uninformed transfer can prove harmful and cause policies to fail (e.g. Kerber and Eckardt 2007: 234). Fourthly, best or good processual practices or strategies cannot as a matter of course be identified on the basis of outcomes (Arrowsmith et al. 2004: 320 and 328). Finally, not all policies that today appear to solve problems will be successful in the long term and with sustainable impact (“lemming effect”, Lundvall and Tomlinson 2001: 123). In



all, the instrument of benchmarking appears primarily suitable for stimulating learning from others where the problems involved are technical – and not so much in complex matters like employment policy.

#### 4.4. Peer review

Peer reviews were initiated in 1999 by the European Commission to stimulate learning from others through the exchange of good practices. Each country sends two representatives, a government representative and an independent expert; Commission officials also participate. The meeting lasts two days. Lectures and discussions on the policy example are mostly supplemented by a field visit, e.g. to a firm.

Each year six examples are selected (in earlier years between 8 and 10). At the same time, thematic seminars are held under the umbrella of the Mutual Learning Programme. Focal topics are dealt with in a semi-annual cycle. A start is made with a thematic seminar. Participation has been extended to include social partners and NGOs from the national and European levels. Finally, funding is available in connection with peer review for bilateral and multilateral follow-up activities, e.g. information events to pass on the knowledge gained at the EU level. With these reforms the instrument of peer review has on the whole improved the potential for learning from others as well as with others.

The limits within which peer review can stimulate learning are set by the general difficulty of transferring successful problem-solving in a complex economic, social, and ideological context. In empirical studies, Casey und Gold (2005) identify a number of institutional obstacles to the transfer of policies. Potential impediments include the lack of infrastructure for implementation, divergent legal systems (regulation by collective bargaining agreements or by legislation), the pattern of industrial relations (e.g. collective bargaining autonomy for the social partners or statutory minimum wage), social security systems (e.g. financing through taxes or contributions), and political structures. In a similar vein, Scharpf (2002) argues that learning processes can work only between countries with relatively similar, historically evolved institutional arrangements.

This fundamental criticism can be mitigated in two aspects. First, the intention of peer review is not necessarily one-to-one transfer. In positive terms, it can serve to breach patterns of thought and “to encourage poor performers to rethink their strategy” (Trubek and Trubek 2005: 94). Secondly, criticism does not primarily address the conception of the instrument but its organisation. Member states can choose countries and topics that display similarities to their own, institutional structures, and actor constellations. If peer review provides more information on these factors and if the selection process were more strongly structured in this regard, the preconditions for learning could improve. The difficulty of transferring policies in complex fields with historically evolved institutions remains – especially when the political will is lacking. In sum, peer review offers only limited potential for promoting learning.

#### 4.5. Indicators

Since 1997, performance indicators have been used in the EES context to facilitate evaluation of member state employment policy. Like guidelines, indicators have become more precise and numerous in the course of time. Key indicators (monitoring indicators) are used to measure the performance of labour markets with respect to prevention, activation, and employment, and to substantiate NRPs, for example, employment rates and long-term unemployment rates, as well as compatibility of work and private life. In parallel, context indicators (analysis indicators) permit better classification and evaluation of the key indicators of the given country, for example GNP growth, employment rate in full time equivalents or spending on life-long learning.

Of the instruments under study, indicators seem to be best suited to stimulate learning

processes through reflexive self-evaluation. The regular capture of key indicators gives member states an incentive to rethink the causal connections between the expected impact of policies and the results of action, and, where necessary, systematically to record existing imbalances (Zeitlin 2005: 479). It is assumed that, in response to the newly generated knowledge, governments adapt their policies to take account of the changed information pool in seeking to attain an employment goal (simple learning). The positive influence on learning processes is expected to go beyond single indicators. Empirical studies stress the effect of the instrument at the institutional administrative level, for example, where the obligation to capture data induces member states to introduce or improve national structures for supervising the labour market, or where some member states exploit the indicators for the purpose of “tracking national policy targets – not only European ones” (Radulova 2007: 376). Furthermore, it is to be assumed that comparable indicators in different member states structure information, and are thus a precondition for learning with others and from others in the context of NRPs, benchmarking, and peer review (sceptical, based on empirical analysis Mabbett 2007; more optimistic Atkinson et al. 2004: 68).

What indicators are recorded is decided each year by an expert group of the Employment Committee. De La Porte und Pochet (2004: 282) argue that an expert body is a better prerequisite for mutual learning than bodies dominated by political interests. However (final) decisions on indicators and their quality are made at the political level. Backdrop to the debate are both political positions and a conflict on competence between national governments and the European Commission (see Salais 2006: 205 on indicators „politically monitor[ing] the EES“). While these conflicts hamper learning processes that could be stimulated by the instrument (cf. bargaining versus problem-solving), it shows that the role of indicators is not limited to the generation of information. Quantitative indicators help consolidate the OMC. If it is true that member states have so far supported the OMC “because of its low degree of legalization and its limited potential for unintended consequences” (Schäfer 2004: 13), this development is likely to produce tensions. Whether this concern of member states is justified cannot be conclusively decided on the basis of the research literature. There are certain signs that the OMC is used by the Commission to obtain consensus for central decisions (Scharpf 2001). Similarly, the Commission could regard the OMC as an instrument for expanding competence. The OMC enables the Commission to act in policy areas where its scope for action has hitherto been restricted by the treaties or by persistent conflicts.

Indicators stimulate learning through reflexive evaluation and targeted inducement to generate information. In comparison with the other EES instruments, the stimulation of learning in this case is less affected by inherent problems like the non-transferability of complex solutions to problems or the selection of particular models but it is affected by the very choice of indicators. However, political conflicts are emerging about the finalité of the OMC, which could hinder the optimum exploitation of the learning potential offered by indicators.

## 5. Summary and recommendations for action

The point of departure for this paper has been the growing prominence of the learning concept in the research literature and the wide-spread hope that instruments that can promote policy learning constitute a positive innovation and expansion vis-à-vis classical forms of regulation with all their limitations. At the same time, research into ‘learning’ in the context of the OMC and the EES shows methodological problems in the empirical analysis of causal connections, in taking due account of alternative internal and external explanations, and in establishing an analytical distinction between various transfer mechanisms. I have argued that these problems do not arise if analysis of learning in the EES context starts with the instruments employed. Without permitting conclusions to be drawn on the actual extent of learning, this approach enables the potential of the tools for stimulating learning to be addressed.

The characteristics and processes of the steering tools used under the EES can foster various forms of learning and can vary in their potential for stimulating learning. If the design and processual application of an instrument is not suited to promoting learning, the steering effect

of the EES through policy learning will be weak. Overall, *guidelines and recommendations* appear to be not well suited to stimulating learning processes. Relatively speaking, their greatest potential seems to be in inducing actors to enlarge their own experience. However, like other forms of learning, this is limited by the fact that guidelines and recommendations seldom alter the information pool, that goals are unrealistic and uniform, and that increasingly concrete targets leave little room for learning with others. *National Reform Programmes* are designed to foster learning with others in a deliberative process. However, the relevant sub-national actors are very little involved at the national level in formulation and exchange processes. *Benchmarking* in the Progress Report aims to stimulate learning from others, but focusing on only a few models and the decontextualised perspective call learning from others into question. The *peer review* instrument promotes potential learning from other member states. What limits learning is the difficulty of transferring policies in complex fields with historically evolved institutions. Finally, *indicators* stimulate learning through reflexive evaluation and targeted inducement to generate information. While indicators have the potential to promote learning through own experience, political conflicts about the consolidation of the OMC may in future hamper the optimum exploitation of this potential. Overall, the analysis on the basis of existing studies has shown that the potential of the EES instruments to stimulate learning is subject to considerable limitations.

In some contexts these limitations could be eliminated (at least to some extent) by altering processes and characteristics. Learning through own experience could be further improved if indicators were more strongly geared to criteria developed by expert groups and researchers – the downside being low political feasibility and lack of democratic legitimacy. Nor is conflict about the consolidation of the method through the quantification of guidelines and indicators necessarily inevitable; it depends on the use the European Commission makes of the instruments as well as member state responses supported in turn by political majorities. The second form of learning, namely learning from others, could also gain potential from the modification of instruments. Greater process orientation and use of performance monitoring and case studies would enable loose but coherent steering (Arrowsmith et al. 2004: 325). *Peer review* should take place between groups of countries with similar institutional arrangements and structures. Policies in less problematic areas are likely to be more successfully transferred and changes more easily achieved through soft steering instruments, as well. Clusters, which could vary depending on the subject matter, could offer better conditions for learning from others. In general, the exchange of information can be promoted by greater transparency and the wider dissemination of the relevant documents among the actors affected. Finally, learning with others would be more likely if employment policy guidelines formulated realistic goals that could actually be attained through joint action (Zängle 2005). Deliberative learning processes would also benefit from changes in member state practices in preparing NRPs. The circle of actors involved should be extended and stabilised to include a broader group of sub-national actors. Zeitlin (2005: 486) proposes using benchmarking not only for policy results and outcomes but also for measuring the broad involvement and relative influence of relevant actors (determining the nominal participation and the points in the NRP that substantively concern sub-national interests).

However, this suggestion for stimulating deliberation through greater competition risks replacing learning processes by pressure to adopt policies. With respect to interaction between instruments and their compatibility, this constitutes the weightiest obstacle to stimulating learning processes through EES tools. The assumption was formulated at the outset that, where the steering intentions of different instruments contradict one another, this could reduce or neutralise the learning potential of EES as a whole. The underlying conditions for exchanges between countries in the sense of deliberative processes include similar or at least compatible interests, as well as trust, sustained relations between actors, and the conviction that cooperation in solving problems is to the benefit of all. These conditions are at odds with the interests of actors in situations that promote bargaining as an interaction mode. Benchmarking and (soft) sanctions seek to attain EES goals through competition between member states. The setting for learning with others is also negatively affected by the institutional context of increasing intervention by the highest political levels to influence operation of the OMC, the debates on consolidating the method, and political controversy about the quantification of goals. From a theoretical and abstract point of view, this tension arises from the contradiction

between two interaction modes, namely problem-solving and bargaining (Scharpf 1997: 124). A positive aspect that should be noted is that learning through own experience stimulated by EES instruments appears to depend less on the interaction orientations of the actors involved (but see Horvath this issue). If the EES wishes to contribute to attaining employment policy goals through policy learning, this is the field that offers the greatest potential.

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## Endnotes

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(1) In contrast to Visser und Hemerijck (2001), I do not treat the OMC as a homogeneous instrument that promotes only one form of learning but look at each tool used separately.

(2) Taking this argument further, much of the literature on deliberative processes stresses the value of decisions taken under this approach as increasing democratic legitimacy for the OMC (e.g. Eberlein and Kerwer 2004).

(3) Since 2005 the Employment Report forms one chapter within the overarching EU Annual Progress Report on the Lisbon Strategy.

(4) Kröger (2006: 13) makes a similar argument about the (lack of) potential of OMC social inclusion NAPs and peer reviews to stimulate learning. Lodge (2007) stresses the high instrumental and contextual prerequisites of OMC pensions and information society to operate effectively.

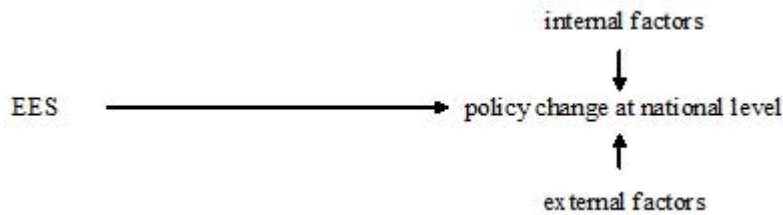
(5) A further point of criticism concerns the legitimization of this steering intention, seeking both new goals and a change in underlying standards and values (cf. Schäfer 2005: 219, Flear this issue).

**List of Tables and Figures**

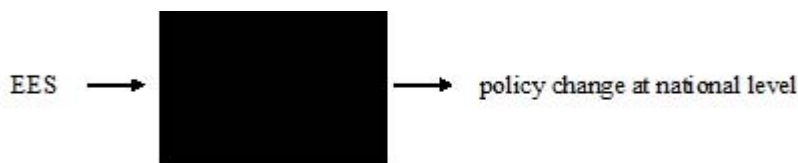
**Table 1: Overview of Different Forms of Learning and EES Instruments**

forms of learning	guidelines & recommendations	National Reform Programmes	benchmarking in Progress Report	peer review	indicators
learning from own experience	x				x
learning from others			x	x	
learning with (national) others		x			

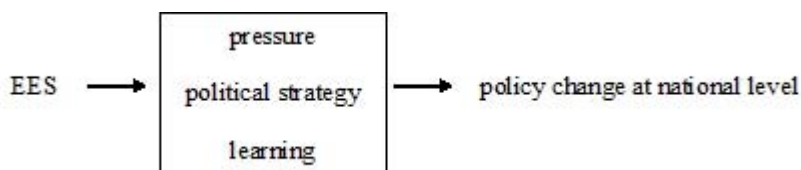
**Figure 1: Alternative explanations for policy change**



**Figure 2: Transfer mechanism: a black box**



**Figure 3: Functionally equivalent transfer mechanisms**









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## EU law 'transformed'? Evaluating accountability and subsidiarity in the 'streamlined' OMC for Social Inclusion and Social Protection\*

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**Abstract:** From initially defining new governance processes as external to “traditional” forms of EU law, a number of academic scholars have begun to argue that methods like the OMC can be seen as indicative of a broader “transformation” of European law-making. The transformation thesis relies on seeing the OMC as an evolving legal mechanism, in which features such as peer review, and the participation of 'new' constitutional actors, can take the place of traditional forms of legal accountability and participation.

At the same time, the transformation thesis remains empirically under-developed. Taking the new streamlined OMC process in social inclusion and social protection as its starting point, this paper will seek to remedy that gap. The paper evaluates the transformation thesis using interview data gained from the recent Commission evaluation of the OMC SPSI (conducted from 2005-2006). While the OMC SPSI displays evidence for a number of its features – it also displays some of the limits of the 'transformation' idea.

While the OMC as it stands indicates elements of a more 'dynamic' form of accountability and subsidiarity in the EU order, its lack of critical review and transparency, and failure to include local or regional actors casts doubt on its suitability as a replacement for traditional legal accountability mechanisms. As much as 'transformation' may offer an attractive future for EU law, its dynamic vision for open coordination remains largely unrealised.

**Keywords:** accountability; European law; governance; legitimacy; open coordination; rule of law; social policy; subsidiarity; political science

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### 1. Introduction

While political scientists have divided their attention to the Open Method of Coordination (OMC) between issues of legitimacy on the one hand and effectiveness on the other, lawyers have tended to approach the question of the OMC from the first legitimacy-based perspective.

Given the extensive challenges the method poses to “traditional” forms of EU law (to be spelled-out in this paper), is the move to open coordination in employment, social inclusion and other fields a legitimate one? It is easy to answer this question in the negative. Lacking proper mechanisms of judicial review, and severing the links between publicly-elected Parliaments and the execution of public policy (at EU *and* national levels), the OMC can easily be conceptualised as a threat to the legitimacy and place of EU law-making (Joerges 2007; Hatzopoulos 2007). The method seems to represent a trade-off between legitimacy and effectiveness; a means of driving the integration process forward in the social field, precisely through leaving traditional legal safeguards – “the rule of law” in Europe – behind.

At the same time, recent years have seen the development of an alternative body of literature (Gerstenberg and Sabel 2002; Sabel and Simon; 2006; Scott and Sturm 2007; Sabel and Zeitlin 2008). This literature posits methods like the OMC not as a second-best alternative to more robust forms of law-making, but as part of a “transformative moment” in our very understanding of European law. Under the transformative view, the method’s seeming sacrifice of values of uniformity and stability in law-making is not seen as imperilling a European understanding of legality, but instead as representing a renewal of two features – accountability and subsidiarity – central to the legitimacy of all forms of European law-making. In promoting a more dynamic and de-centralised form of rule, methods like the OMC may not only contest concepts like legality and legitimacy, but also point towards a significant re-formulation of their meaning.

While this literature may offer an exhilarating glance towards the future of EU law in a broader sense, it also leaves significant questions unanswered. The most significant – to be addressed in this paper – is the lack of examples indicating a genuine effort to apply the core tenets of “transformation” to the practice of EU governance. This paper will attempt to carry-out this task through an assessment of the everyday operation of a particular OMC process – the OMC in Social Protection and Social Inclusion (OMC SPSI). This process was created in 2006 through the “streamlining” of a more long-standing process for the coordination of social inclusion policies (operating from 2000), and two separate open coordination strands – for pension (from 2001) and for health and long-term care (from 2004)) (Commission 2005).

The main source of information in its assessment will be the evaluation of the OMC carried-out by the Commission from 2005 to 2006 (Commission 2006). The evaluation consisted of an extensive questionnaire sent by the Commission’s DG for Employment and Social Affairs to the labour and social affairs ministries of the participating national governments, as well as selected trans-national NGO’s, Social Partners and Local Authorities (with a track record of involvement in the OMC SPSI through its supporting “Community Action Programme” – PROGRESS). The questionnaire asked its respondents, through a series of closed questions, as well as an open one, to give their opinions about two processes – the OMC processes in social inclusion, and in pensions. Responses were received from all 25 of the governments then participating in the OMC, as well as 11 European “umbrella” organizations of social NGOs, 4 social partner organizations, and 3 organizations representing regional and local authorities. These responses, while not exhaustive, offer a series of insights into the views of the method’s most influential policy actors.

The responses will be evaluated in three steps.

- While the paper’s second part (s2) will outline the transformation thesis,
- the third part (s3) will evaluate the claim that the OMC is forging a “dynamic” vision of accountability in the EU.
- Finally, the paper’s fourth part (s4) will ask whether the OMC SPSI as it stands is capable of respecting, or even radicalising, the principles of “subsidiarity” in the EU order.

The limits and promise of the transformation view will be assessed in the paper’s conclusion (s5).

As this analysis will show, while “transformation” may remain a fascinating account of the legal implications of the rise of “new governance” in the EU, there are significant gaps between its vision of a bottom-up and de-centered form of law-making and the realities of the OMC SPSI. As much as the OMC – in its abstract design – may offer an attractive future for those seeking an alternative to hierarchical legal programmes, it has not yet succeeded in recreating the mechanisms of political accountability and local involvement to which “transformation” literature aspires.

## 2. The Transformation Thesis

The transformation thesis shares much in common with a number of other normative accounts of EU governance. It significantly relies, for example, on a deliberative conception of the EU polity; one in which the processes of new governance have the potential to significantly alter the perceptions of state and non-state actors (Joerges and Neyer 1997; Eriksen and Fossum 2002). It also shares something in common with Fritz Scharpf’s conception of “input” legitimacy i.e. that decisions can be considered legitimate “if and because they reflect ‘the will of the people’ – that is, they can be derived from the authentic preferences of a political community” (Scharpf 1999: 6). It is therefore not completely alien to existing governance literature in the social sciences.

There are two distinct elements, however, that *are* different. Firstly, the transformation thesis carries a different object of analysis – the fate and development of EU law. Secondly, it emerges from a different theoretical background – the debate, in the US, over experimentalist or pragmatist approaches to law (Dorf and Sabel 1998; Simon 2004). While there is little space here to describe these differences in any depth, they constitute the distinct contribution of “transformation” literature to the debate over new governance in the EU.

Experimentalist theory approaches methods like the OMC by highlighting a basic dissatisfaction with existing attempts to conceptualise the relationship between “new governance” and traditional forms of EU law. Perhaps the most popular view of that relation is the idea that the OMC should be seen as an “extra-legal” process (Scott and Trubek 2002; de Burca 2003). This external view of the law-governance relationship suggests that both the strengths and limits of the method rest upon its distance from law traditionally understood. In terms of strengths, this means that the OMC can be a useful instrument in filling legislative “gaps” closed-off by the strict decision-making hurdles of the EC Treaty (Scharpf 2003: 654; Zeitlin 2005). In terms of limits, it suggests that the OMC is a “second-best solution”; comparatively “weak” when contrasted with the EU’s normal legislative instruments (Scharpf 2003: 655; Commission 2001: 22). In both cases, the OMC should be understood as something working at the periphery of legal integration (as either a supplement or threat to ordinary legal methods).

The transformation thesis approaches the law-governance relationship from precisely the opposite direction. Rather than see the relationship between law and governance as antithetical, the transformation thesis argues that processes like the OMC stand as a window onto the future of EU law (Sabel and Zeitlin 2008: 323-327). The development of new governance – so these theorists argue – does not exist as a parallel process of “political” integration (and hence as a transient and less important stage of the integration process), but precisely provides evidence that EU law has reached a new turning point.

Rather than act as a series of static, uniform and hierarchical rules, underlined by a clear distinction between different levels of governance, the transformation literature argues that the EU is developing as an “experimentalist” legal regime, in which legislative power is pooled and shared between legal actors (Sabel & Zeitlin 2008, Gerstenberg & Sabel 2002). Through its emphasis on procedural frameworks, and broad goals to be applied flexibly in different state contexts, the field of new governance is changing our *very understanding* of law and its most basic processes, institutions and values, just as law itself is conditioning how processes like the OMC operate. As de Burca and Scott have put it, “law, as a social phenomena is necessarily

shaped and informed by the practices of new governance, and new governance both generates and operates within the context of a normative order of law” (de Burca & Scott 2006: 16).

The reasons underlying this change concern the evolving nature of the EU’s primary regulatory challenges. Not only is the EU buffeted by forces of globalization and exchange that have made the transfer of people, capital and technology more rapid than ever, but it is also territorially and horizontally divided – in the first case, into a multitude of national legal orders, and in the second, into a series of specialist discourses (in competition policy, energy, telecommunications, fiscal reform, and a host of other areas) (Scheuerman 2001).

This division makes the guiding ideal of EU law – to produce uniform and stable rules, establishing a common regulatory framework across the EU polity in particular areas – difficult, if not impossible, to achieve. To take social policy – as the most relevant example – while a model of common law-making may be the most simple solution to problems of “regulatory competition” between states, any attempt to establish minimum common social standards across the EU faces the hurdle of on the one hand, significant diversity between European welfare regimes, and on the other, frequent changes in national social preferences (Scharpf 2003: 649-652). Given this diversity, achieving agreement on “foundational” norms (often under conditions of unanimity) is likely to prove difficult. There is simply no uniform and stable basis in the field of social policy on which to construct common, balanced or fixed rules.

One response to this new environment is to pre-suppose that it erodes the very basis of the “rule of law” or “proper” law-making. The shift to methods like the OMC challenges a traditional (or “thin”) definition of legality (Möllers 2006: 316-317). In promoting flexible and evolving “standards”, subject to constant review and revision, the OMC undermines the commitment of the EU to prospective legal *rules*, that are to apply equally to all European citizens (regardless of their country of origin). Furthermore, in excluding the supervision by the ECJ, and the input of the European Parliament, the method potentially runs foul of “thicker” definitions of legality too; those that see a role for law in connecting executive conduct to popular decision-making or control (Scheuerman 2004: 110-114, Duina & Raunio 2007). The severing of traditional links of political and legal accountability could thus be seen as a threat to the nature of the EU as a ‘law-bound’ polity (Joerges 2007).

At the same time, one can see the method, and other new governance processes, as re-evaluating the very concepts (of legality and the rule of law) that “new governance” has been said to be making redundant. This applies to two features in particular. The first of these is *accountability*. While traditional, hierarchical forms of accountability are challenged through the method, the transformation thesis argues that new horizontal or “dynamic” forms are emerging in their place. Under the OMC, the iterative nature of structures of national reporting and peer review make holding actors to an *a priori* defined legislative mandate impossible. The very purpose of a reporting cycle is to use “local” practice as an opportunity to re-frame “central” goals and norms. Actors are thus being held accountable for standards that are constantly evolving (e.g. as political preferences, and the coalition of relevant actors involved, change).

At the same time, the nature of peer review holds out the possibility of establishing new accountability relationships. Here, actors are accountable on a “dynamic” basis, to standards and expectations that evolve as national preferences, and social structures, change. Under this model, we are not accountable upwards to an original purposive “mission”, or to an ultimate legislative superior (of which, in the EU, there is none), but accountable side-ways, to other state and non-state actors, who share a mutual interest in ensuring that *all* policy actors takes common procedural and political commitments seriously (Sabel and Simon 2006: 400; Sabel and Zeitlin 2008: 276-277).

This suggests that the OMC SPSI contains a robust and transparent peer review structure. In terms of robustness, it implies that national administrators do not simply use peer review committees or other bodies to “exchange opinions” (although this may in itself be an important

function) but also see these structures as an opportunity to both justify their policy decisions and either contest or demand explanations from others. In terms of transparency, it implies that peer review is not a closed circle, but an institution whose operations are open to external scrutiny. As Mark Bovens has argued, while a transparent form of review is unlikely of itself to be sufficient to satisfy demands for public accountability in EU governance, it is difficult to imagine meeting its requirements without it (Bovens 2007: 107). How can states be held accountable on a “dynamic” basis if their activities are covered in a cloud of secrecy, or if the range of “accounting” actors is an “insiders club”, insulated from external review (Harlow and Rawlings 2007)? In the OMC context, “dynamic accountability” also seems to imply a degree of procedural openness – that actors do not simply *justify* their positions, but that others (e.g. other governments, or participants of organised civil society), have the necessary information to evaluate those justifications. While one can see why such a “dynamic” model may be alluring to such a diverse environment as European social policy, one of the functions of the next section will be to enquire whether the basic pre-conditions of this “dynamic accountability” appear in practice.

The second feature which “transformation” sees new governance and the OMC as reforming concerns *subsidiarity*. As a legal principle, subsidiarity was defined under the Amsterdam Treaty. Traditionally, it means that the Community is able to take action:

“Only if and so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community” (Treaty of Amsterdam 2007: Art. 5).

It represents – at least in its official incantations – the idea that power should be exercised as closely to the lives of EU citizens as possible. Part of the claim of the transformation thesis is that the OMC is capable not only of respecting this principle, but of radicalizing it. Whereas subsidiarity, under its earlier definitions, only refers to the need to hand power back to national governments, the method could go further, both devolving power to local and non-governmental actors, and using their input and political strategies to inform the formulation of goals, indicators and objectives at the “central” or EU level (Sabel and Zeitlin 2008: 273-274).

This also implies particular conditions. Firstly, it suggests that there is, in the method, a *devolution* of legislative power. It would imply, in the concrete case of the OMC SPSI, that those bodies with the competence in the domestic sphere to enact and frame social inclusion policies (often local and regional bodies) actually *have a say* in how “European” objectives are to be re-framed in a more local context (that they are not simply forced to apply rules of which they are in no sense authors). Only in this way can the unique experience and information that they hold inform the choices and preferences of the policy community as a whole.

Secondly, it would imply that local “experiments” “feed-in” to the way in which “central” rules or overall objectives and indicators are formulated. It is important for the model not just that power is shifted downwards, but that local experience is used, and taken seriously as a means of creating a more legitimate, effective and responsible EU-level strategy – that there is what we might call a “reflexive loop” between overall objectives and national efforts to meet them (Gerstenberg and Sabel 2002: 291-292; Sabel and Zeitlin 2008: 274). While these two features do not exhaust the many complex aspects of transformation literature, they may represent two of its most important constitutive elements.

What though are we to make of them? Their advantage is that they potentially explain examples of inter-change or “hybridity” between methods like the OMC and other parts of European law (Trubek, Cottrel and Nance 2006; Trubek and Trubek 2005). “Transformation” sees EU law not in the stylised manner of much literature on new governance – as a fixed, static and uniquely authoritative standard - but as itself a “moving object”. The transformation thesis thus marks a radical effort to re-imagine both law and governance in the EU in light of the distinct conditions of the European polity. It sees new governance not as external to law, but as part of a process where other parts of EU law too (e.g. the development of framework directives, the move to a social dialogue in employment policy) are also changing.

Its disadvantage, however, is that the dominant features of “transformation” have often been assumed, rather than subjected to robust empirical testing or scrutiny. While the transformation thesis has been applied to a plethora of different fields (Sabel and Zeitlin 2008), we have seen little of the “micro-analyses” that (a number of) the papers of this issue have tried to conduct. We have to ask – when we remove “transformation” from the ether of experimentalist theory and apply its dominant features to a particular process – the OMC SPSI – do its radical claims about EU law still stand?

The next sections of this paper will attempt to remedy this deficit through applying the two concepts of accountability and subsidiarity – as they have been developed in experimentalist literature – to the development and practice of social protection and inclusion. As we will see, in this practical realm, while the evidence for a changing role for EU law is very real, the experience of the OMC SPSI to date may undermine some of the basic assumptions – about creating a more flexible, participatory and accountable form of rule – that underlie the transformation model.

### 3. Accountability and Peer Review

One of the outcomes of Wim Kok’s influential review of the Lisbon Strategy (conducted in 2004) was a rejection of a more prescriptive strategy for the OMC’s development. It was agreed that – while Lisbon suffered from a major “implementation gap” – the way to overcome it was through peer review and learning rather than “naming and shaming” (Kok’s initial suggestion), or any other subtly coercive method. The “streamlined” OMC SPSI which Kok bequeathed has thus uniquely relied on peer review as a means of encouraging states to both follow the process and undertake substantive policy changes.

This reliance has been on a divided peer review structure. Peer review is undertaken firstly, on an inter-governmental basis through both the Social Protection Committee (SPC), and the inter-governmental discussions leading to the Commission and Council’s adoption of its annual Joint Reports. In both of these procedures, national plans for social inclusion and protection reform are scrutinised in closed meetings of national representatives as well as selected Commission officials.

Secondly, peer review is conducted through the OMC SPSI’s official *Peer Review and Assessment* programme. This programme is sponsored through the Community Action Programme for Social Solidarity – “PROGRESS”, and is designed to allow ‘concrete’ examples of best practice found in particular member states to be reviewed and disseminated in a more in depth manner (through around 6 to 8 thematic meetings per year). Country peer reviews represent, in effect, the OMC’s official “day out”, with national representatives (and select invited NGO participants) visiting a country experimenting with a policy solution deemed to be innovative or exportable to other national contexts (in 2008, examples included active inclusion, social impact assessment, and the return of women to the labour market).

The “dynamic” hope for these peer review institutions is that they can foster a new (horizontal) accountability relation. While internally, they can encourage member states to consider or internalise the expectations and demands of other states (Dawson 2009); externally, they may force states to justify policy failures, or their inability to meet common European objectives. Some of the existing empirical literature bears out this optimism (Horvath 2007: 64-65; Jacobsson 2003: 15-17). As Kerstin Jacobsson (analysing Nordic cases) has described it:

“Externally, the OMC does exert a certain pressure on the Member States. As a minimum, governments have to actively defend their positions if they are not willing to conform to the common norms and they have to ‘think twice’ before introducing measures that go against [these] norms.” (Jacobsson 2005: 133)

One wonders, however, whether, in the case of the OMC SPSI, this conclusion still holds. The responses commonly re-conceptualise the role of peer review in the OMC. Most states, rather

than view peer review seminars as opportunities to critically evaluate the plans of other countries, see their “central goal” as mutual learning, or the exchange of policy information (e.g. Latvia 2005: 8 (1); Netherlands 2005: 6; Slovenia 2005: 5; Slovakia 2005: 5). While on the one hand, the country peer reviews are viewed as opportunities to learn from, or adapt, foreign practices, on the other, the primary benefit of the SPC is considered in terms of the informal administrative networks between officials that it has created (Austria 2005: 6; Finland 2005: 8. See also, Horvath 2007: 56). The goal is not “dynamic accountability” – or indeed any other form of accountability relation – but either mutual learning, or the creation of informal contacts between officials. As the government of the Netherlands put it:

“The Netherlands view is that peer reviews, seminars and conferences help to promote mutual learning and discuss the operation of the OMC. However, a peer review is only successful if Member States are allowed to critically assess each others plans.” (Netherlands 2005: 6)

The objectives of the peer review process, set out in its “operational guide”, reflect this:

“It is important to note that the Peer Review programme is not based on competition, but should be regarded as an invitation to discover and exchange the wealth of experiences and good practices available at member state level, and to explore their applicability in other contexts.” (Commission 2008: 8)

Similarly, the founding statute of the SPC (revised in 2004) clearly set-out its role as being one of facilitating mutual learning, rather than encouraging critical scrutiny or review of Member State practice (Council Decision 2004/689/EC: Art. 2). As a result, countries like Italy and the Netherlands see peer review as “watered down” (Italy 2005: 11), or successful “only when member states dare to be open, honest and critical to one another” (Netherlands 2005: 6). The practice of peer review in both structures to date reflects little of the “open exchange” of critical opinions that the dynamic model suggests.

Instead, peer review often carries a different function. Following Kok’s message of “simplification”, national and joint reporting was significantly reformed from 2005 on. Under the 2007 “National Strategy Reports” (the now re-named National Action Plans, NAPs), member states were asked to identify particular areas of strategic priority for social protection and inclusion. These priority areas were then to be reported on in the next cycle, with thematic issues raised providing an agenda for later peer reviews and studies (for 2008, on child poverty, inequalities in health and longer working lives). An example of this cyclical process is the issue of “active inclusion” – a policy agenda identified as common to a number of member states in the 2006 Joint Report, leading firstly to a public consultation (conducted in 2007), secondly to a stakeholders conference (on minimum income schemes, in June 2007) and finally to a formal Commission Communication on the subject (Commission 2007). Peer review and national reporting was used in this example firstly, to establish a policy consensus among the member states, and secondly, to push the issue firmly onto the European agenda.

This example is indicative of how peer review and reporting function in a broader sense. Peer reviews rarely “review”. They do not aim – in the words of democratic experimentalism – to contest, demand justifications from, or “de-stabilise” settled policy decisions (Sabel and Zeitlin 2008: 46-49). Instead they aim towards precisely the opposite – the identification of common approaches among different national contexts; approaches which can be “generalised” at the EU level, or exported to other countries (potentially providing a basis for common policy-making in the future). While this process of policy formation or exchange could itself be useful, it falls significantly short of the demand for accountability and critical evaluation that the transformation literature suggests.

Finally, the responses indicate two further factors that inhibit the possibility for a “dynamic” form of accountability. The first is enlargement. The need for a Constitutional Treaty in 2003 was often justified by governments on the basis that new institutional rules were needed to avoid decision-making paralysis in an enlarged Union. The responses indicate a concern that a similar problem could occur in the case of the OMC SPSI. Enlargement is seen by some



respondents as making the reaching of consensus opinions within committees, and the pace of deliberative exchanges within peer reviews, more difficult. For the Finnish government, for example, “with the increased number of Member States, the [peer review] process has become heavier, and this limits the handling and capacity to make use of, information” (Finland 2005: 5). For Denmark, enlargement makes the present process “unsustainable... it is more difficult to go into depth when so many countries meet at one time” (Denmark 2005: 7). Paradoxically, while enlargement may be one of the reasons behind the move to a more “flexible” form of policy-making in the first place, it may also stand precisely in the way of making “dynamic” forms of accountability, based on peer review, a useful exercise (see also, on this point, Horvath 2007: 63-66).

Lastly, dynamic accountability depends not only on actors who are willing to question and demand explanations from each other, but on a degree of transparency in the process. This basic level of transparency (e.g. one where the essential rules and participants of the process are clearly defined) also, however, seems to be lacking (see also, Kröger 2007: 576-579). Firstly, peer review procedures are seen by the respondents as closed and intransparent. Even states who *are* included in the process complain about the apparent contradiction between the EU’s commitment to transparency and open access to documents contained in Article 255 of the Treaty establishing the EC, and the secretive and inaccessible nature of meetings of the SPC (UK 2005: 18; Finland 2005: 10; Lithuania 2005: 10-11; Czech Republic 2005: 10). While one could defend this intransparency i.e. by arguing that it allows governments to admit to things that they would otherwise prefer to keep from public exposure, such a position is neither defended in the responses, nor is it broadly consistent with “transformation’s” commitment to a more open, and less technocratic, form of rule.

Second of all, the “reviewing” actors (in both the SPC, and the official peer assessment programme) tend to be national administrators and little else (Kröger 2006). This is a particular complaint among the social NGO respondents, all of whom raise complaints regarding their effective exclusion from peer review procedures (European Disability Forum, EDF 2005: 7; AGE 2005: 12-13; Eurochild 2005: 5; European Council of Municipalities and Regions, CEMR 2005: 4). As Eurocities put it in their response, there may be a need, under peer review, for “more transparency regarding who is invited, how and why” (Eurocities 2005: 13). The case is put best by the Belgian authorities:

“More than being an engine, the OMC is sometimes felt by some actors as an administrative burden, and is not yet sufficiently anchored in practice on the ground. It remains too limited to a restrictive circle of responsible political and administrative ‘Europeanised’ officials, rather than those directly in charge of putting the OMC into practice at the national level.” (Belgium: 12 Author’s translation).

Rather than forge a broader “dynamic” accountability, the method has relied too frequently on those *already within* the ‘inner circle’ of “Europeanised” participants (pan-European networks, national executives, and Commission officials). Given these limits, the method as it stands seems to have little to contribute to better realizing a more “dynamic” form of accountability in EU governance.

#### 4. Subsidiarity

While we traditionally think of EU integration, and the agreement of EU laws, as a matter for bi-lateral negotiation between the European institutions and national federal governments, social inclusion and protection policy is an area where an unprecedented degree of legislative and political power is held at local or regional levels. Of the 25 then member states consulted by the Commission in its 2005 review, considerable legislative competence in formulating and implementing social inclusion and protection policy was held at local or regional levels in each and every state (CEMR 2005). To take social assistance policies as an example i.e. to define social inclusion only in “minimal” rather than “multi-dimensional” terms, this area is a *primary* competence for local or regional authorities in 15 member states. In the others,

competence in this area is shared with the federal government or between federal, regional and municipal levels. It is thus little more than stating the obvious to say that this field is a particularly pressing area for the principle of subsidiarity to apply. A failure to properly involve local authorities (who have precisely the capacity to implement social inclusion's most significant objectives) could not only impair the OMC's legitimacy, but deprive it of the input of the very actors who can remedy the EU's primary social challenges (Büchs and Friedrich 2005: 259).

In addressing the question of local participation, the responses to the Commission evaluation offer some initial optimism (see also, Zeitlin 2005: 466-468). Each and every national respondent reports some level of local involvement, ranging from the ubiquitous model of a working group, coordinated by a national labour or social affairs ministry, and including non-governmental and local organisations in the drawing-up of national plans (used by 13 respondents) to more direct efforts to delegate responsibility downwards. As an example of the latter, the Spanish government, in its response, draws attention to three different levels of actor participation (Spain 2005: 7-8). At the federal level, cross-departmental coordination is facilitated by an inter-ministerial Commission, while at the local level, the Commission for social services within the Spanish Federation of Municipalities and Regions has been given specific responsibility to monitor, review and report upon regional and local policy. A further body – the “Working Group for Social Inclusion and Employment” – is entrusted with fostering civil society involvement.

Opportunities for local and regional participation in national reporting have particularly emerged under certain conditions. While in “older” EU members, procedures for legislative consultation are often well established, or based on corporatism, the Joint Inclusion Memorandum, signed by the accession states in 2004 indicates a different picture in newer member states. There is a recognition that many states have emerged from a heavily “top-down” tradition in managing government policy. Local and non-governmental involvement “had tended to be limited or haphazard” (Commission 2004: 36). The OMC was thus introduced in these countries at a time of transition for their political and decision-making culture.

While this transition period presents the method with significant challenges, it may also have provided a window of opportunity for the method to influence policy-making practice (for an extension of this idea in the Belgian context, see Vanhercke this issue). For two NGO organisations, ATD 4<sup>th</sup> World and AGE, the process had succeeded in “creating a whole new dynamic, bringing different people and groups together both horizontally and vertically” (ATD 4<sup>th</sup> World 2005: 2-3). Similarly, a number of national respondents in the newer member states indicate that the further development of the OMC SPSI has incentivised them to develop new participatory structures (Hungary 2005: 6; Czech Republic 2005: 5-6). Here, the method can be seen as something of an “opportunity structure” for the local level; a chance to forge new relationships in an environment where the domestic constitutional space is unsettled. This opportunity may not only arise in the post-Communist East, but also in states undergoing a period of contestation between federal and regional authorities (Belgium 2005: 2-3; Italy 2005: 5).

Such optimism, however, is far from ubiquitous. The most common view from the respondents is that the lack of extensive local and regional participation is one of the primary obstacles to both the method's effectiveness and its legitimacy. 12 respondents voice this complaint. To give one example, CEMR reports that:

“The experience from the first rounds of the NAPs on social inclusion have revealed that, while central governments have stepped-up their efforts to consult with the regional level, in most cases, this consultation process has not been formalised and rarely allows genuine consultations from regions to the design and delivery of anti-poverty measures.” (CEMR 2005: 10)

The lack of a proper formalisation of the process – in so much as it has allowed for a “flexible”

institutional design – has had a significant further effect. It has also left national executives as the “gatekeepers” of local participation (and indeed of NGO involvement as well). While the objectives and indicators of the process are agreed inter-governmentally (elaborated through committees in which local representatives and actors from civil society have no voice), the action undertaken to meet them is guided through national reports, which remain the prerogative of the federal government.

In this context, rather than “transform” the bilateralism of traditional forms of agreeing European law, the method has simply extended that bilateralism into areas of policy where local authorities had often been the main drivers of social reform. While national governments are free to meet EU level objectives “as they see fit”, such a move – the ability to “frame” national social inclusion policy, or make strategic decisions – in an environment where competences are held *below* the federal level, can *centralise*, rather than devolve, decision-making power. At the same time, as a ‘non-binding’ procedure, local and regional governments lack the legal remedies necessary to contest their exclusion. In a first and important sense, local and regional authorities remain, under the OMC SPSI, “voluntarily consulted” actors, reliant on the good-will of their governments to both organise structures of local and non-governmental participation, and decide whether or not the contributions offered there are valuable enough to “feed-in” to national reports.

Secondly, the responses indicate that the OMC SPSI’s participatory potential may have been limited by the very need to forge a more adaptive form of rule. One of the core features of the transformation approach is that it seeks to address the rapidly changing nature of regulatory challenges in the EU through encouraging *flexibility* in law-making. The embodiment of this feature in the OMC is the constant adaptation and iteration of national reports (the presence of a relatively short (one year) time-frame in which to draft, consult-upon and adopt National Action Plans).

There may, however, be costs to this flexibility. While this time-frame may be an advantage for governments intent on “speeding-up” the legislative process, a vocal minority within the responses argue that the OMC has given-up on participation requirements precisely in order to guarantee greater ‘flexibility’ in its approach to regulatory reform (CEMR 2005: 5; Solidar 2005: 4; Eurocities 2005: 5). Eurocities gives the example of the city of Copenhagen, which was given only 5 days to respond to the Danish NAP. Furthermore, numerous respondents indicate that the short time-frame for consultation has effectively foreclosed possibilities for scrutiny by national parliaments (AGE 2005: 11; Austria 2005: 5; European Anti-Poverty Network (EAPN) 2005: 6; Hungary 2005: 7; UK 2005: 17). Both of these exclusions can do little but contribute to the feeling that the procedure is dominated by executive actors, with little possibility for external influence.

Where there is not exclusion, participation often comes at a point where its practical effect is limited. One of the most common complaints offered is that – where the consultation of key NGOs, and local authorities, is common practice – this has often occurred relatively late in the reporting process (EPSP 2005: 10; Malta 2005: 6; Hungary 2005: 7-8). In these cases, consultation only occurs *after* the strategic objectives and priorities of each plan have already been set. In these circumstances, the dilemma of a more “flexible” form of policy-making becomes clear. Whereas on the one hand, “flexibility” is sought as a means of allowing access to new forms of knowledge, on the other, the constant drive for renewal may make public involvement more difficult (or alternatively, more selective).

Lastly, the presence of significant local involvement is inhibited by the lack of reflexive links between local practice and the OMC SPSI’s “European dimension” (Preunkert and Zirra 2009: 196-197). There is little indication, in the responses that local “practice” feeds-in to larger indicators and objectives (e.g. ATD 4<sup>th</sup> World 2005: 7; Solidar 2005: 5; EAPN 2005: 9). To take an example, the annual roundtables on Social Exclusion coinciding with the Spring European Council often includes local (e.g. the Committee of the Regions) and non-governmental opinion normally excluded from EU-level processes. These events, and other seminars, expert studies, and trans-national exchanges, sponsored through “PROGRESS”, are

mentioned by a number of respondents as providing both financial and informational incentives for local, regional and NGO involvement (Czech Republic 2005: 6; Spain 2005: 9; Finland 2005: 7-8; European Association of Craft, Small and Medium-Sized Enterprises, UEAPME 2005: 5)

Troublingly, the responses indicate that – while such institutions may have an important deliberative function – they often fail to produce any reflexive link between “local” and “European” priorities. The UK response notes that – while the roundtable has seen “a community of actors emerging” – “[it] has not been a consistently effective means of driving the process forward, or assisting the transition from process to outcome” (UK 2005: 18. See also CEMR 2005: 5). While “transformation” relies on the ability of local experience to foster a more responsive and more legitimate legal order, there is neither evidence of consistent local involvement, nor (where there is participation) of local input “feeding-up” into the process of framing “central” or EU objectives.

To this extent, the promise of the transformation thesis – that new modes of governance like the OMC could empower a form of EU law that takes subsidiarity seriously – remains unfulfilled. The process – in the field of the OMC SPSI – remains one dominated by the bilateral negotiations of national and European executives, rather than influenced by a wider set of local or “bottom-up” participation.

## 5. Conclusion

While the aspiration of transformation literature for the OMC is that it can bequeath not only a more effective, but also a more legitimate, model for European law, there is little evidence in the method’s practice to support this conclusion. While “transformation” relies on a number of legal values that new modes of governance like the OMC are said to be reforming, the practice of the OMC SPSI displays a quite different type of reform. This is represented not through a more accountable and participatory form of rule, but either a perverted or under-developed version of these principles.

To take accountability as a first example, the method does indeed contain structures of horizontal review and scrutiny. Yet these structures are both designed, and used by administrative actors, as learning opportunities, rather than as a means to call other states “dynamically” to account. While this function may itself be important, the effectiveness of peer review has been further constricted by its confinement to a select group of explicitly “Europeanised” policy actors. Not only are traditional, hierarchical forms of accountability diluted under the method, but there is little evidence of the multiplication or “broadening” of accountable actors upon which the transformation thesis relies. While we may therefore have a more “dynamic” form of rule, this dynamism could precisely inhibit the necessary procedural frameworks, and temporal space, within which adequate accountability relationships can arise.

To take subsidiarity as a second example, here too, few of the normative aspirations of the transformation literature have been realised. While new structures of participation have arisen in certain contexts, these structures are manned by procedural “gatekeepers” at the national level. Local and regional governments – as the main “implementers” of EU level targets – have no automatic right of “structural entry” into strategic discussions of social inclusion and protection policy, either at national or European levels (see, for a different view vis-a-vis the European Employment Strategy, López-Santana this issue). Furthermore, where local input *is* evident, its capacity to feed back into, or “re-frame”, central practice is limited. The second great hope of “transformation” – that it could use the diversity of the European polity, and the presence of local involvement, as a spring-board to a more legitimate European order – also seems unfounded.

Some would argue that these conclusions need not lead us to abandon the idea of “transformation” altogether. Perhaps – as Jonathan Zeitlin has suggested – a reflexive reform strategy for the OMC could remedy a number of these challenges (Zeitlin 2005; Zeitlin 2007).

This strategy would involve a greater commitment on the part of the Commission to monitor and enforce participation requirements (as well as a greater commitment on the part of the Member States to acquiesce in such monitoring). It would also involve demands for greater transparency, and integration between, different peer review bodies like the SPC and EMCO. Such reforms – some of them tentatively suggested by a recent Commission Communication (Commission 2008) – could help supply some of the surrounding infra-structure to make transformation feasible again.

A second objection may be that – while problems of political accountability and local participation may exist in the OMC SPSI – one cannot automatically generalise these findings from one field to another. Perhaps the main tenets of the transformation thesis are stronger, for example, in employment (where the EES, and its successor, the Integrated Guidelines for Jobs and Growth, carry a general Treaty basis) than in the highly under-prescriptive domain of social protection and inclusion policy.

At the same time, important doubts remain. Even if greater participation rights e.g. a commitment to local involvement, and a more robust peer review system, were available to the OMC, important disparities of power between the various actors involved could lead to distorted outcomes (Kröger 2006: 12-13; Büchs 2008). With no firm procedural basis for the method within the European Treaties, nor any indication of a political willingness on the part of the Commission to interfere in domestic constitutional structures, who could enforce or monitor participation requirements effectively? And would the Member States even agree to such a move? The constant clarion call of the Commission to deepen and broaden national reporting has been ongoing now for several OMC cycles, yet each call remains bound to the willingness of national governments to listen; and to take the commitment to a “reflexive OMC” seriously.

The second objection may be more pressing. While the lack of legal competences for the EU in social inclusion and protection policy may leave few alternatives to the types of soft law and horizontal coordination that a process like the OMC SPSI embodies, the specific factors of other policy fields (in terms of the level of institutionalization of OMC procedures, and constellation of actors involved at national and EU levels) demands further empirical work. This paper should in this sense be seen as a beginning rather than end for such analysis.

At the very least, it may be necessary to tone down the hyperbole with which both the OMC more broadly, and this particular section of its literature, has been greeted. The “lesson” of the OMC should not only be as an inspiration for reform of European law in a broader sense, but as a warning against the dangers of executive dominance and political alienation that lay dormant within the larger debate over “new governance” in the European Union. EU lawyers and policy-makers should take heed.

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## Endnotes

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(1) Where country names or abbreviations are included, these represent questionnaire respondents. The numbers attached represent page numbers in the relevant responses.







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## The double voluntarism in EU social dialogue and employment policy\*

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**Abstract:** In this article, we analyse the development of new modes of governance in EU employment and social policy over the past two decades. In this field, a number of innovations can be observed. First, with the Maastricht Treaty, the right to draw up legislation was given to European social partners. Second, with the European Employment Strategy and the Open Method of Coordination, new instruments of coordinating national policies were introduced to EU policy-making. Recently, the latter instrument was incorporated into the social dialogue. Hence, we contend that a double voluntarism takes places that not only delegates responsibility for social policy to the social partners but also relies on soft rather than on hard law.

**Keywords:** corporatism; governance; social dialogue; open coordination; employment policy; political science

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## 1. Introduction

The integration of national economies has no legitimacy in its own right. People do not fall in

love with the Common Market as Jacques Delors once commented. This insight motivated the European Union's efforts to involve civil society actors in political processes. Social partners were of particular importance here (1). The involvement of trade unions and employer organisations in both the formulation and implementation of policy became a blueprint for good governance. This is indicated in both the White Paper on "European Governance" (CEC 2001) and by the promotion of social dialogue in new member states. According to the Commission, social dialogue is a "key to better governance" (CEC 2002: 4).

Recent years have seen the emergence of modes of governance that correspond to this approach to European policy-making, especially in social and employment policy. With the Maastricht Treaty organised labour and employers became co-legislators of EU social policy. In the European Employment Strategy (EES), they are called upon to contribute to national action plans and to the implementation of EU guidelines. More recently, however, this positive reevaluation of social partners has been associated with the proliferation of less binding decision-making methods. For example, there has been an increase in the number of autonomously implemented agreements among the EU social partners that are binding for the member organisations but not for all employees (depending on the reach of collective agreements). Furthermore, soft law instruments have been extended to social dialogue that now also operates with non-binding targets and mutual monitoring rather than giving rise to legislation. Consequently, a "double voluntarism" relating to both the content of policy and to its procedural aspects can be observed in European social dialogue and employment policy (2).

The aim of this article is to examine the emergence and limitations of those new modes of governance that have been adopted in the EU since the beginning of the nineties, namely EU social dialogue and the Open Method of Coordination (OMC). The next section discusses the literature on new modes of governance. We argue that too little attention has been paid to the relationship between government and governance (but see Héritier and Lehmkuhl 2008) leading to a rather benign view of this research on the problem-solving capacity of policy-making in the European Union (see Büchs this issue). Our analysis seeks to contrast this view. In the third section, we describe how new modes of governance have developed in employment and social policy. According to our argument, they were a reaction to a lack of consensus about what kind of labour market and social policy should accompany Economic and Monetary Union (EMU). Only an agreement to non-binding procedures was possible in the face of substantial disagreement among the member states and employers' opposition. Putting new modes of governance into the context of other forms of policy-making, section four discusses some of their limitations. The final section summarises the findings.

## 2. Decentralised polity, centralised society? ↑

In his famous study of the "semisovereign" (West-)German state, Katzenstein (1985) demonstrated that a weak, decentralised state does not prevent successful policies – if complemented by centralised society. In the German case, the dispersion of state power among competing institutions was counterbalanced by the concentration of private power in large social groups, among others by powerful employer associations and trade unions. Paradoxically, under these circumstances state weakness – at least until the late 1980s – turned out to be a strength (Streeck 2005). Compared to Germany at that time, the European Union is but an extreme example of a decentralised polity. Even though it has constantly been gaining competences and many of its decisions affect the member states, the ability of the centre to act autonomously of the federal units is limited. This holds true in particular for social policy and industrial relations, where governments, management and labour cautiously defend their prerogative to act. Hence, by the late 1980s the lesson had been learned that the EU would not replicate the path of a nation state and acquire ever more competences in social policy. In this area, the Union was bound to remain a weak, highly decentralised state. As a result, the Commission reinvigorated its attempts to centralize society (3). Through financial aid and institutional incentives, the Commission wanted to nourish interest representation as well as corporatist policy-making (see the contributions in Eising and Kohler-Koch 2005) at the European level hoping that society-building could overcome the weakness of the political

centre. Since the EU will for the foreseeable future stay “semisovereign” the road ahead may lie in further centralizing society.

The “governance turn” in EU studies (Kohler-Koch and Rittberger 2006) mirrored the political turn towards “civil society.” (4) As hierarchical government or hard law was not available in important fields of EU policy, attention shifted to other actors who could possibly fill the void. This new orientation was facilitated by the fact that a focus on governance can be fruitfully combined with other theories in three respects. First, reference to a decision-making mode specific to the EU supports the idea of a political system *sui generis*. Non-hierarchical modes of governance are not considered deficient but rather a logical consequence of the multi-level nature of the polity. Soft coordination, from this point of view, is a superior mode of governance as it promotes flexibility and learning (see Kohler-Koch 1996; Trubek and Trubek 2005). Second, rather than stressing conflict, EU policy-making has often been characterised as a problem-solving exercise. Procedures that build on cooperation and argumentation comply well with this image (Eberlein and Kerwer 2002; Radaelli 2003). Finally, turning from government to governance opens a point of contact to deliberative and participatory democracy, such as that promoted for example by Cohen and Sabel (1997) (5).

Arguably this view of European governance was in part due to the selectivity of the chosen perspective. The debate has primarily been developed on the basis of those policy areas in which new modes of governance were applied. It has less frequently been asked under which circumstances new modes are chosen and which restrictions follow from the existing body of hard law, ECJ case law, or non-decisions. Taking these restrictions into account shows that the boundaries in which for example the European Employment Strategy can search for solutions are rather narrow (Scharpf 2002: 655). Neither monetary, fiscal nor industrial policy can be enlisted to ease unemployment; it is virtually impossible to justify exceptions to the four freedoms before the Commission and the European Court of Justice for the sake of social policy objectives as the recent Laval, Viking, and Ruffert decisions demonstrate; ambitious programmes that follow the model of the New Deal could not be introduced without a radical redefinition of the nature of the EU Treaties and a new mandate for supranational actors – yet, such changes are highly unlikely (Bartolini 2006: 46).

What is more, quite frequently governance depends on government to work effectively (Héritier and Lehmkuhl 2008) and, more specifically, European social dialogue depends on the “shadow of hierarchy” (Smismans 2008). In particular employers engage in negotiations with trade unions at the EU level only if they have to fear that their unwillingness to act will trigger a political response of the Commission and the Council. However, the theoretical challenge is to define under what circumstances those actors (principals) are willing and able to coerce agents to act. We suggest that the shading of the shadow of hierarchy depends not least on the party-political complexion of the Council of Ministers. While the end of the 1990s saw an unprecedented wave of social democratic governments in the member states this wave has ebbed away since then. By now, a majority of member states are governed by centre-right parties, there is a centre-right majority in the European Parliament and the Commission President is a conservative. The supporters of the “project of regulated capitalism” (Hooghe and Marks 1999) – who mainly pushed for European social dialogue and the EES – are much weaker than a decade ago. At the same time, EU member states have grown highly diverse in terms of their welfare states and production regimes, which makes it more challenging to find uniform social standards.

### **3. The emergence of new modes of governance in social dialogue and employment policy**

For methodological reasons (Zeitlin 2009: 214-215; Kröger this issue) evaluating top-down Europeanisation effects of new EU modes of governance on national labour-market and social policy is a difficult task that is not pursued in this article. Looking at reasons for the emergence of these new governance procedures (see this section) as well as at principal limitations of the governance modes, arising among other things from a strong interrelation of governance and

government as well as “hard” and “soft” governance mechanisms (see section [four](#)), should, however, contribute to our understanding of how these new modes of governance may or may not affect policy-making in the European Union. In this section we argue that the creation of flexible modes of governance in labour market and social policy that do not strive for uniform solutions at several stages has helped to overcome political stalemate in the Council. Non-binding decision-making procedures and the delegation of authority to social partners alleviated the pressure to come to an agreement.

At the end of the 1990s, the Open Method of Coordination provided the EU with a new “soft” coordination process ([6](#)), which initially appeared to be a prime example of what the governance approach postulated for the change of policy-making in Europe: Governance takes place without the classical instruments of hierarchical control. At the same time, there was an increase – at least in discourse and regarding the formal rules – in the importance of networks and civil society actors such as the social partners. However, it is not only in the OMC that social partners have gained weight in shaping European policy over the last 20 years. Social dialogue is no longer a purely national phenomenon since management and labour have become potential co-legislators of EU social policy with the Maastricht Treaty (e.g. Falkner 1998). And yet, following a heyday in the 1990s, there are signs that social dialogue is – in the absence of political backing – currently softening in order to overcome the non-committed position of the employers. Instruments that were first used with the OMC have by now been picked up by the social partners – pushing EU governance towards a twofold voluntarism. Rather than moving from a weak state to strong society, we observe weak social partners and a weak political decision-making centre. In the following we describe these developments in detail by distinguishing four (partly overlapping) phases: The period prior to Maastricht characterised by a precedence of negative integration; the period from Maastricht to the end of the 1990s, where we observe a heyday of social dialogue and social policy directives; the turn to non-binding coordination in employment and social policy since the end of the 1990s; finally, with the new century the turn to non-binding coordination also in the realm of social dialogue that we call the double voluntarism.

### 3.1. The precedence of negative integration [↑](#)

In the phase prior to Maastricht, EU social policy was characterised above all by what Scharpf (1988) termed the “joint decision trap” and what Streeck (1995b) went on to describe as the “corporatist decision-making gap.” The demand for consensus in the Council repeatedly led to a blockage of the Commission’s social policy initiatives. Consequently, attempts to advance social policy in Europe often failed. An exception is the equal treatment of women and men, which had already been regulated in the Treaty of Rome. Especially the European Court of Justice has been actively pushing for a broad implementation of this principle (cf. Ostner and Lewis 1998). In the mid 1980s, the Single European Act led to the introduction of qualified majority decision-making in the area of workplace health and safety. This also resulted in an appreciable body of regulations and a high level of protection in this area (Falkner et al. 2005: ch. 3).

In contrast, cross-industry social dialogue between management and labour on the European level offered a reserved picture at that point in time. In fact, Art. 193-198 of the Treaties of Rome included provisions for creation of the Economic and Social Committee (ESC) ([7](#)), which, however, did not develop into an effective channel of influence for the social partners (Streeck and Schmitter 1991: 138). The committee was supposed to mirror the French Comité Économique et Social. Its members were selected by governments rather than by the associations themselves, and the ESC made only non-binding statements, which have not been very influential. Also the tripartite conciliation process that came into life in the 1970s failed due to employer opposition. The same happened to the Val Duchesse dialogue starting in the mid-1980s between representatives of the European Commission and the three largest European social partner organisations (at that time UNICE ([8](#)), CEEP and ETUC) ([9](#)). Even then, though, the Commission hoped that deadlock in the Council would be overcome with the assistance of social dialogue (Falkner 2000: 14). And yet, it was not possible to evade the

uncommitted position of the social partners since European employers had no interest in establishing EU regulation in addition to existing national regulations. Because at government level European social policy was firmly caught in the “joint decision trap”, employers hardly had to concern themselves about regulation by the Council at that time. Hence they did not make themselves available as a negotiating partner. In spite of strenuous attempts of several member states and the European Commission, the development of European social policy and social dialogue was only rudimentary in the pre-Maastricht phase.

### 3.2. Functional Subsidiarity

The Maastricht Treaty and the annexed Social Protocol ushered in a new phase of EU policy-making as the social partners were authorised to draft legislation (e.g. Dølvik 1997: 189-240; Falkner 1998: 78-96; Keller and Sörries 1999). Four institutional innovations were introduced in social policy:

1. New competences were created,
2. the scope of qualified majority voting was expanded,
3. the European Parliament was strengthened, and
4. European social partners were accorded much more significance.

These changes introduced a new mode of governance to the EU: Complementing the Community Method, the “social partner procedure” allows management and labour to negotiate Framework Agreements. At their request, these agreements can be transformed into a Directive by a Council decision on a proposal from the Commission. In this case the only available option of the Council is to either accept or reject it in its entirety. The Maastricht Treaty also sought to strengthen national social partners. It introduced the possibility to entrust management and labour with the implementation of Directives, if they requested to do so.

Through the social partner procedure, organised labour and employer associations have been given the authority to participate directly in the creation of EU social policy. In some instances, this authority even exceeds that of national associations, although collective agreements are customary in most EU countries. However, the negotiation of social policy or labour law standards with an erga omnes effect by the state (in this case, by the Council of Ministers), beyond the issues of wages and working time, was known above all from Belgium (10). Thus, while the Union’s social policy competencies have remained limited, the social partner procedure nonetheless represents an innovation in European policy-making. This new mode of governance can be seen as the first step in a series of procedural answers to intergovernmental blockades to EU social policy. Shifting decision-making to management and labour is a case of “functional subsidiarity” (Streeck 1998: 410), which frees the Council from the obligation to act. At the same time, the threat to use qualified majority in the Council – the “shadow of hierarchy” – puts pressure on the employers to engage in negotiations with trade unions as they can no longer be sure that social policy initiatives will be blocked in the Council.

Indeed, during the 1990s, cross-industry social dialogue resulted in three agreements implemented by Council Directive, on parental leave (1995), part-time work (1997) and fixed-term contracts (1999). In contrast, the social partners failed to agree (on negotiations) concerning four other initiatives – the European works councils, the burden of proof in cases of discrimination, sexual harassment in the workplace and the information and consultation of employees – by the end of the 1990s. As a consequence, the respective Directives were passed via the normal EU legislative procedure instead (11). In sum, the 1990s not only saw the establishment of a new mode of governance – cross-industry social dialogue – but also a number of social policy Directives (Falkner et al. 2005). However, it is worth noting that these developments took place under favourable political circumstances. In the second half of the 1990s, social democratic parties governed in three out of four member states. Despite differences between Third Way- and more traditional Social Democrats, these governments were generally sympathetic to EU social policy (Manow, Schäfer and Zorn 2004; see section

four).

### 3.3. Non-binding Coordination

In the phase following Maastricht, the willingness to strengthen the European profile in the fight against unemployment increased. While the Maastricht Treaty had been strongly influenced by Christian Democratic and Liberal Parties (Johansson 2002), the party-political centre of gravity began moving leftwards during the 1990s. Consequently, the call to more actively tackle unemployment grew stronger, also because after Maastricht governments felt in need to counterbalance economic and monetary integration by a social dimension of Europe. Governments agreed to make the fight against unemployment a priority of EU activities at the Essen Summit in December 1994. Core elements of the OMC – common objectives, national implementation, monitoring by the Commission and other member states – were put in place already then (Goetschy 1999).

Although the Essen procedure remained largely inconsequential, it nonetheless served as a template for the European Employment Strategy, which was introduced with the Treaty of Amsterdam in 1997. At the Luxembourg summit later the same year, governments drew not only on the Essen procedure but also on the multilateral surveillance process that had become known as the Broad Economic Policy Guidelines. They transferred this sanction-free coordination of national policies to employment policy. The Commission proposed more rigorous a set of employment guidelines and urged member states to accept clearly specified quantitative targets but failed to overcome their resistance. Reducing employment policies to a voluntary opportunity for learning without obligatory targets facilitated support for it. In sum, the turn towards soft law in employment policy ensured that the negotiations were not deadlocked over substantive disagreements (Kohler-Koch and Rittberger 2006: 36; Schäfer 2006b).

In Lisbon, this procedure was dubbed the OMC and it was simultaneously bound to a new strategic goal, which was intended to turn “the union into the most competitive and dynamic knowledge-based economic region in the world” and to create the necessary conditions for “full employment” (European Council 2000). With the OMC, it seems that a template for political coordination was found that above all serves the interests of participating governments. Visser (2005) sees the OMC as a “selective amplifier” that matters only if governments want to act in any case. Soft coordination sidelines the European Court of Justice and the Commission and marginalises the influence of the European Parliament. Ironically, the OMC seems to be more firmly intergovernmental than traditional modes of governance such as the Community method. The Commission therefore seeks to limit the OMC to those areas that have no basis in the Treaties (CEC 2003: 9).

In the aftermath of the Lisbon summit, the OMC proliferated in a number of (social) policy fields, such as e.g. pensions, health care, social inclusion, and elderly care (Hodson and Maher 2001: 726). As these processes were not well integrated and the “flow of work [was] somewhat haphazard” (CEC 2003: 8), first the EES and in subsequent years diverse OMC procedures were streamlined. Most importantly, in 2003 the EES was organisationally merged with the Broad Economic Policy Guidelines and put on a three year schedule. Rather than drawing up new guidelines each year, they should remain stable for an extended period of time. In addition to the reorganisation of the process, the mid-term review of the Lisbon Strategy’s effects was sobering. An expert group led by former Dutch Prime Minister Wim Kok concluded that “much needs to be done in order to prevent Lisbon from becoming a synonym for missed objectives and failed promises” (High Level Group 2004: 10). To prevent this from happening, the Lisbon Strategy was relaunched in 2005. One of the main goals was to ensure delivery that had not been forthcoming until then. The new Lisbon Action Programme focuses on the completion of the internal market and builds on three overarching aims:

1. Making Europe a more attractive place to invest and work;

2. knowledge and innovation for growth; and
3. creating more and better jobs (CEC 2005: 15).

However, as the deadline of 2010 approaches in the midst of an economic crisis, it seems clear that the EU will miss most, if not all of the goals announced at the Lisbon summit in 2000 (see Pochet, Boulin and Dufour 2009).

### 3.4. Double Voluntarism

The Laeken Summit at the end of 2001 can be seen as another important turning point in the governance of EU social policy. On the occasion of the summit, social partners presented a common statement with a previously unknown emphasis on bipartite social dialogue. This heralded developments towards an increasingly independent and autonomous European social dialogue, which incorporates elements of the OMC (Leiber and Falkner 2006; Smismans 2008: 171-172). While this does not mean that legally binding instruments have become irrelevant (Falkner et al. 2005: ch. 3), voluntary instruments were nonetheless gaining in significance. OMC procedures have become part of the social dialogue of management and labour. While their negotiations resulted in a number of Framework Agreements during the 1990s, the so-called “new generation joint texts” no longer aim at binding EU regulation. According to the Commission, there are now two social partner strategies: „Autonomous agreements and process-oriented texts which make recommendations of various kinds (frameworks of action, guidelines, codes of conduct, and policy orientations). The essential difference is that agreements are to be implemented and monitored by a given date, whereas the second kind entails a more process-oriented approach” (CEC 2004: 7). In particular the latter approach resembles the OMC.

The Framework Agreement on fixed-term contracts in 1999 marks the last time that EU social partners achieved a successful cross-sector agreement that was subsequently turned into an EU Directive (12). Since then, autonomous agreements on telework (2002), work-related stress (2004), and harassment and violence at work (2007) have been signed. Cross-industry social dialogue also led to “frameworks for action”, on the lifelong development of competencies and qualifications (2002), gender equality (2005) and a host of “process oriented texts” such as Guidelines and Policy Orientations – all of which are not legally enforceable and rely on mutual monitoring, learning and good will (see CEC 2008 for an encompassing overview). Most of these measures are laid down in the social partners’ second “Work Programme” (2006-2008) (13). Interestingly, this document does not make any reference to the possibility of negotiating Framework Agreements.

In recent years, social dialogue has also shifted from the cross-industry to the sectoral level (Dufresne, Degryse and Pochet 2006). At present, it takes place in 36 different sectors dealing mainly with industry-specific questions at a European level. Sectoral social dialogue committees regularly focus on training, working time and conditions, health and safety, sustainable development, and free movement of workers. These committees have adopted several hundred joint texts including Joint Opinions and Agreements, Guidelines and Codes of Conduct. Pochet (2007) analyses 281 texts adopted between 1997 and 2006. While the sectoral social partner committees are very active, a mere 2 percent of all documents contain binding agreements. Most other documents do not commit the social partners to take action or remain, as the Commission criticises, excessively vague (CEC 2004: 14). Other authors conclude that the softening and the sectoralisation of European social dialogue turn it into “an alternative channel for lobbying” rather than resembling corporatist patterns of decision-making (de Boer, Benedictus and Meer 2005: 62).

The autonomisation of the social dialogue is a consequence of the same kind of problems the Council faces when it seeks consensus on employment and social policy. After a period when social partner Framework Agreements were given legal effect by a Council decision and were transposed into the legislation of the member states, negotiations on other topics stalemated. In particular since the beginning of 2000, little progress has been made towards new legislation



as the social partners failed to reach an agreement. Especially the employers are also less pressed to cooperate since the shadow of hierarchy is rather light – given the interest heterogeneity of national governments and the shift away from social democratic dominance, as one employer representative admits:

“(…) the only motivation for employers’ organizations to take up negotiations is the threat of even more restrictive regulation, if it is left to the Commission and the EP. However, this negative motivation is rather weak and becomes less and less credible as a basis for the development of the negotiating practice at EU-level from the employers’ perspective” (Hornung-Draus 2002: 218-219).

As a result, there has been an increase in the conclusion of agreements that are autonomously implemented by the social partners and that no longer bind all employers and employees but only those covered by national collective agreements.

In addition, even on the unions’ side, in countries with strong social partnership traditions such as Denmark, social partners were much in favour of turning towards autonomous social dialogue because this better reflects their national model (Leiber and Falkner 2006: 176-177, see also section 4). Thus, not only different welfare state models but also different national conceptions of social partnership/ industrial relations paved the way for soft governance tools in European social policy and social dialogue.

Monitoring and implementation of these autonomous agreements differs significantly from those of negotiated legislation since there are no legally binding infringement procedures or sanctions through the EU Commission, the European Court of Justice or national enforcement authorities, but merely voluntary reporting (if any) (14). What is more, the reach of these agreements differs substantially across member states since the coverage of collective bargaining varies significantly. On average 62 percent of the employees in EU member states are covered by collective agreements, ranging from 12 percent in Lithuania to 100 percent in Slovenia (Figure 1). Hence, in many countries only a minority of workers will be covered if there is no legislative backing. As a result, autonomous agreements lead to a patchwork of regulation (15).

#### Figure 1

Following a heyday in the course of the 1990s, European social dialogue did not quite fall back to its former insignificance of the 1970s and 1980s. It continued to gain importance in terms of discourse and the volume of activity. However, it is also moving in the direction of being non-obligatory.

## **4. The limits of new forms of governance in employment and social policy** ↑

### **4.1. New and old modes of governance interact**

As previous sections have shown, new modes of governance have been an attempt to free EU social policy from gridlock. However, it is less clear whether these new modes are an effective way to advance social issues in Europe. To answer this question, we have to put the OMC and Social Dialogue into the broader context of different modes of governance prevalent in the EU. Scharpf (2001) distinguishes four types of governance that differ in the degree of institutionalisation:

1. Mutual Adjustment,
2. Intergovernmental Negotiations,
3. Joint Decisions, and
4. Hierarchical Direction.

Table 1 lists various examples of these modes of governance and indicates whether their effect tends to be market-making or market-correcting.

Table 1

Hierarchical Direction takes place where supranational actors act autonomously. In monetary policy, this is the European Central Bank and in competition policy the European Commission. But also the European Court of Justice not only interprets the law but has also become a legislating instance itself (Weiler 1991; Alter 1998). In the field of social policy, “hierarchy” is found above all in ECJ decisions on gender equality, which is anchored in EU primary law. In all of these cases, supranational actors do not depend on member states’ consent. In contrast, EU secondary law is only created when the Council passes Regulations or Directives submitted by the Commission. In many instances, the European Parliament also has to agree to the proposal. Hence, the Community Method is the prime example of Joint Decisions. EU legislation on the completion of the internal market – such as the Services Directive – or Regulation 883/2004 (formerly: 1408/71), which regulates social security for transnational workers but also minimum labour standards and Directives on gender equality are the result of such negotiation processes. Social partner Framework Agreements also conform to this mode of governance. In general, positive integration – whether it is market-making or market-correcting – requires Joint Decisions. Once an agreement has been reached, Joint Decisions lead to binding legislation, monitored either by the Commission, the ECJ or national courts. In contrast, Intergovernmental Negotiations do not necessarily lead to legislation. While national policies are coordinated or standardised by unanimous agreements at the EU level, national governments remain in full control of the decision process, cannot be bound without consenting and also control the transposition of agreements into national law and their implementation (Scharpf 2001: 8). We contend that multilateral surveillance exemplifies this mode of governance. Although a host of European objectives is defined, member states remain exclusively responsible for their realisation. There are no sanctions available should they fail to stick to their promises other than naming and shaming (16). Finally, Mutual Adjustment prevails in policy areas that are subject to increased competition through the internal market, such as wages or corporate taxes.

Any assessment of the potential and the limits of EU social dialogue and employment policy needs to be done in conjunction with a synopsis of these different modes of governance since they are not independent of each other. For example, monetary policy is highly effective in fighting inflation but it also puts pressure on wages and national labour market policies because neither exchange rate adjustments nor fiscal policies can counterbalance asymmetric shocks. EMU puts a premium on micro-economic strategies to fight unemployment. Clearly, the EES conforms to this supply-side approach. Similarly, ECJ rulings intensify tax competition (Ganghof and Genschel 2008) and expand mobility rights of workers and, lately, of EU citizens. In these cases, member states are forced to adjust national policies. In sum, there are a number of cross-cutting effects between different modes of governance.

## **4.2. European Social Dialogue and national corporatism** ↑

Ever since the 1980s the European Commission has promoted social dialogue. Both cooperation on the European level and coordination of national associations are supported by the EU. Each year the Commission accords approximately Euro 40 million to European social partners (17). However, empirical research on the effect of European social dialogue in the member states offers mixed results (Leiber 2005). In most countries, “soft” Europeanization impulses promoted a somewhat stronger integration of the social partners. However, there are also unforeseen consequences pointing in an entirely different direction. In Denmark, management and labour were – in line with the provisions of the Maastricht Treaty – responsible for implementing EU social partner Directives. Yet, because Danish collective agreements do not cover the entire workforce and no *erga omnes* clause was in place, this implementation route was not compatible with earlier ECJ decisions. Paradoxically, in this case, EU social policy weakened social partner autonomy. As a consequence, Danish social

partners were in favour of softening EU social dialogue and supported the move from negotiated legislation to voluntary guidelines (Leiber and Falkner 2006: 176-177). Of course, the trade unions in Scandinavia are much less in need of EU support than other unions. Especially in many new member states social partnership takes place only under government supervision, if at all. The degree to which workers and above all of employers are organised is – in spite of Commission efforts – very limited (Kohl and Platzer 2003; Iankowa 2006). In these cases, a well-functioning European social dialogue could underpin national social partnership – but, as we have argued, it has by now lost momentum.

The OMC was meant as another avenue for social partner involvement. Right from the inception of the EES social partners were asked to take part in the drafting of national action plans. Some guidelines specifically addressed them. Much of the early literature put forward the view that this would create more open and inclusive a way of decision-making. However, empirical research finds the reality of the OMC less promising:

“The picture of social partner participation in the EES is shaky, despite the efforts made over time to improve their involvement. This is due not only to the financial resources and agenda mismatch, but also the lack of institutional rootedness of the EES within the national policy process” (de la Porte and Pochet 2005: 371) (18).

While the Commission’s capacity building efforts have had ambiguous effects, recent ECJ decisions on Viking, Laval, and Ruffert clearly curtail the right of trade unions to defend national standards (Joerges and Rödl 2009). In fact, the ECJ keeps pushing negative integration ahead. In its decisions, the ECJ confirmed the unions’ right to engage in collective action in principle but at the same time held that any limitation of the four freedoms must be under the restriction of commensurability and can only be justified by overriding reason of public interest. In Laval and Viking the ECJ found these principles violated since trade union actions aimed at obtaining standards which went beyond the minimum established by law. The Court argued that industrial action discouraged companies to carry out business in other member state and therefore constituted a restriction on the freedom to provide services (19). In Ruffert the ECJ argued that Article 49 EC precludes national or sub-national authorities from adopting measures that oblige companies to pay the remuneration defined by a collective agreement. The combined effect of these rulings is to impose limitations on any matters, including strikes, which could limit the rights under Articles 43 and 49 EC – even though the right to strike is a constitutional right in some member states. Accordingly, Bercusson (2007: 308) concludes: “(...) the future of the trade union movement, but also of the EU, may depend on whether on judgment day the ECJ decides that the EU legal order upholds the right of trade unions to take transnational collective action”.

Apart from these direct effects, indirect effects can be observed. For some years during the run-up to EMU it seemed that European integration reinvigorated national corporatism. Faced with the accession criteria, the likely effect of a uniform monetary policy and increased competition, several member states saw either the creation or the renewal of Social Pacts (Hassel 2003; Enderlein 2006). This kind of supply-side corporatism took place even in countries without a corporatist tradition such as Ireland. However, in contrast to the 1970s, social pacts today result from labour’s weakness (Pochet and Fajertag 2000; Visser 2006). While national corporatism apparently staged a comeback, the terms were entirely different from those of neo-corporatism’s heyday (Schäfer and Streeck 2008).

In sum, the impact of European integration on the social partners – and especially on trade unions – is mixed at best. Even though genuinely new opportunities to influence policy were created, a number of countervailing forces exist, too. Thus, in the light of double voluntarism, the Commission’s aim to compensate for a weak state at the European level by strong social partners has only been achieved to a limited degree.

### 4.3. The shadow of hierarchy and double voluntarism

In addition, both the OMC and European social dialogue can easily fall prey to uncommitted actors. Since the party-political composition of most EU institutions and also the European Council has recently shifted away from the left ([Figure 2](#)), political support for the social dimension of the EU might no longer be forthcoming. To be sure, even during the phase of centre-left dominance this support was guarded and there was a fair amount of disagreement within the social democratic/socialist party family. Nonetheless, most observers agree that the electoral shift towards the left just prior to the finalisation of the Amsterdam Treaty helped to put employment and social policy more firmly back on the EU's agenda (e.g. Johansson 1999; Pollack 2000).

#### Figure 2

Quite clearly, Lionel Jospin and Tony Blair differed in their enthusiasm for European social policy, yet, both of them (and their parties) were more supportive of some progress than Margaret Thatcher or John Major had been – as the incorporation of the Maastricht Social Protocol into the main body of the Amsterdam Treaty showed. Hence, a shift of the party-political centre of gravity matters for the support of the social dimension in Europe. The Amsterdam Treaty, the Luxembourg Employment Summit, the Nice Treaty, and the Lisbon Summit were all influenced by centre-left parties. However, while these parties did support a higher EU profile in the struggle against unemployment and social exclusion, they differed in their national approaches; while it was easier to agree on certain ends, they nonetheless favour different means to achieve those. Hence, as we have argued above, they were ready to install non-binding coordination to improve cooperation in employment and social policy while, at the same time, preserving national autonomy.

What is more, the party-political complexion and the degree of heterogeneity of the Council arguably influence how the social partners perceive the shadow of hierarchy. Given the rising tide of social democratic governments in the second half of the 1990s, employers might well have considered it advantageous to enter into negotiations with the trade unions ([20](#)). In recent years, however, not only the electoral fortune of the centre-left has changed but also member states have grown enormously heterogeneous with regard to national production regimes, welfare states and industrial relations models after enlargement ([21](#)). Empirical evidence shows that the number of social policy directives per years substantially dropped after 2004: while, on average, three directives were concluded between 1990 and 2004 only five directives came into force in the years 2005-2008 (Pochet and Degryse 2009: 96). It may be too early to tell whether this trend will last. However, the argument of the article would hold even if it did not last. We do not assume that soft law displaces existing hard law but rather that governments since the late 1990s have failed to increase the scope of the latter in primary law. Instead they have relied on soft coordination, peer pressure, learning and monitoring etc. This shift towards voluntarist policy-making has recently been mirrored by the social partners who also supplement solemn declarations for binding agreements. Hence, we speak of a “double voluntarism” in EU social policy.

### 5. Conclusions

In this article we analysed how a number of innovative procedures have emerged in EU employment and social policy over the last two decades. Arguably, these attempts to centralise “society” by strengthening social partnership were a response to political stalemate in the Council. The EU is an extremely decentralised polity in which decisions require the support of many diverse actors in different arenas. Accordingly, progress in the social dimension of European integration was limited prior to the Treaty of Maastricht, which increasingly frustrated those who favoured regulated capitalism. Hence, first Commission president Jacques Delors and later a number of social democratic governments sought alternative ways to place

the fight against unemployment and social exclusion on the Union's agenda. The push for new modes of governance was an attempt to find middle ground between uncoordinated national action and a transfer of competencies to the European level.

Multilateral surveillance – based on common targets, national implementation, peer review, and regular stock taking – turned out to be an ingenious solution to the need to cooperate and the desire to stay in control of highly salient policies. As a result, the Open Method of Coordination mushroomed in such diverse fields as social inclusion, pensions, research & development, or innovation policies. National governments are quite ready to assent to procedures that do not necessitate action and that circumscribe supranational actors' ability to interfere with national decisions. In the meantime, soft coordination has also spread to European social dialogue, substituting non-binding declarations of intent for "social partner Directives." In the past decade, cross-industry social dialogue has no longer lead to EU legislation. Instead, management and labour also increasingly rely on voluntary agreements, monitoring, and the exchange of information. Therefore, we speak of a "double voluntarism" that not only delegates the responsibility for social policy to the social partners but also favours soft law over binding legislation. Since not only the member states but also national social partners have grown more diverse with enlargement, the EU is a decentralised polity facing a highly fragmented society and therefore lacking the benign features of a semisovereign state. Thus, building strong social partners to compensate for a weak state in order to overcome deadlock and to compensate for the dispersion of state power seems unavailable for the European Union.

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## Endnotes

(\*) For numerous helpful comments we would like to thank Adrienne Héritier, two reviewers and, in particular, Sandra Kröger.

(1) The article concentrates on social partners as an important part of organised civil society. For a broader analysis of civil society conceptions in the European Commission see e.g. Michel (2008). The term “social partners” is used here in the same way as the European Commission does. It refers to the umbrella organisations of unions and employer associations in individual EU member states and on the EU level.

(2) On the concept of voluntarism, see Streeck (1995a).

(3) Yet, one can ask whether top-down attempts of society-building are promising and, in fact, desirable. Despite Fligstein’s (2008) claim to the contrary, it is one of the problems of the European polity that most associations still are firmly embedded in their national context. As section 4 indicates, EU society-building may well have unintended (unforeseen and unwelcomed) consequences.

(4) For an encompassing literature review see Kröger (in this issue).

(5) Sabel and Zeitlin (2008) detect forms of experimentation and learning in a wide range of areas and hence speak of a new governance architecture in the EU.

(6) For the application of similar procedures in the OECD and the International Monetary Fund, see Schäfer (2006a).

(7) This is made up of employer representatives, unions and various associations from agriculture, the trades, small and middle sized companies, freelance professions and science together and must be heard on all commission suggestions.

(8) Today *Busines Europe*.

(9) The European social dialogue received formal recognition by the Single European Act’s insertion into the EC Treaty of a new Article 118B EC.

(10) The reason for this parallelism is that the Belgian delegation to the Maastricht Intergovernmental Conference successfully managed to present its own national model as a blueprint for the EU (for further details see Falkner 1998: 89-96).

(11) For an encompassing overview of the activities of the cross-industry social dialogue following Maastricht within the context of Articles 138-139 of the EUT, cf. Leiber and Falkner (2006); European Commission (2008).

(12) On 18 June 2009, however, the European social partners made progress in adopting an agreement revising their 1995 Framework Agreement on parental leave. The next step will be for the European Commission to propose implementation of the revised agreement through a new Council Directive, but this process is not yet concluded.

(13) See: [http://www.etuc.org/IMG/pdf/Depliant\\_EN\\_HD2006-2008.pdf](http://www.etuc.org/IMG/pdf/Depliant_EN_HD2006-2008.pdf) (accessed on October 21, 2009).

(14) If the autonomous agreement is related to a EU proposal, the Commission may verify the implementation and make a new proposal if the implementation is not considered to be properly fulfilled.

(15) For the implementation of the telework agreement see Martín and Visser (2008).

(16) Soft procedures can have the effect of creating markets as well as correcting markets. The labour market policy recommendations of EES and BEPG primarily aim at the former. However, in the area of social security the effect is less clear. Goals such as “sustainable finances” – geared towards cost containment for pensions or health care – coexist with provisions to enhance the quality of social security, such as the “adequacy of pension levels” or access to “high quality health care.”

(17) The Commission spent Euro 13.1 million for the promotion of social dialogue in 2008. A further 14.4 million Euro was spent on “Information and training measures for workers’ organisations” and another 7.3 million Euro for the “information, consultation and participation of representatives of undertakings”. Finally, trade unions received 400,000 Euro for preparatory consultation meeting. All details are taken from the overall budget for 2008: [http://eur-lex.europa.eu/budget/data/D2008\\_VOL4/EN/index.html](http://eur-lex.europa.eu/budget/data/D2008_VOL4/EN/index.html) (accessed on April 6, 2009).

(18) See also Natali and de la Porte (2009).

(19) However, no legal minimum wages exist in Denmark or Sweden, as they are implemented via collective agreement. This prerogative of the social partners is an essential feature of the Nordic social model.

(20) Although we lack direct empirical evidence that this was the case, the developments described in section three lend support to this interpretation and invite further research on this question.

(21) What is more, many centre-left parties to date endorse market-making policies. For an in-depth analysis of the failure of Social Democrats to foster “Social Europe” see Bailey (2009).

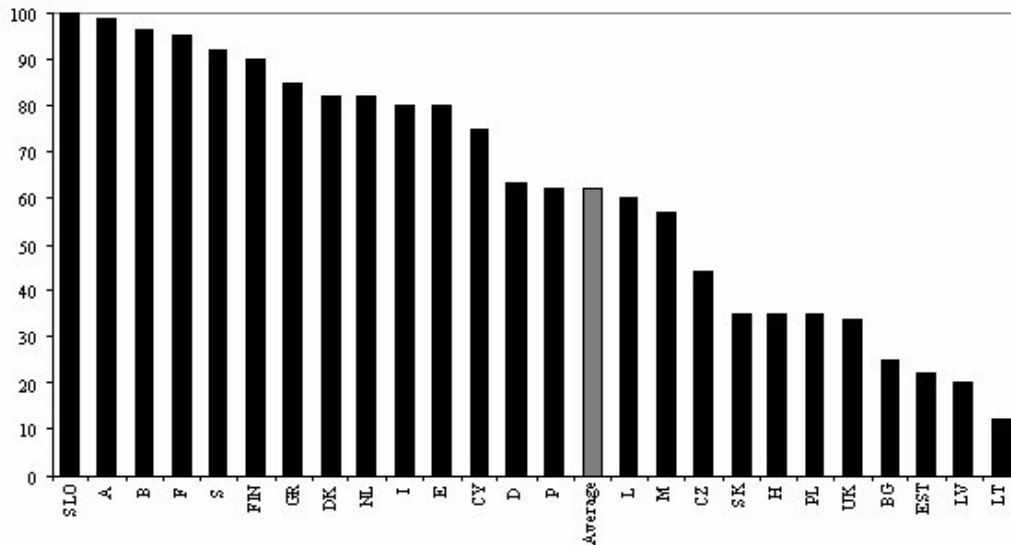
**List of Tables and Figures**

**Table 1: Mode of Governance in the EU Economic and Social Policy**

	Effect	
Mode of Governance	market-making	market-correcting
Hierarchical Direction	Monetary policy; Competition policy (merger and state aid control);	Gender Equality (TEC)
Joint Decisions (Community Method)	Common Market Directives (e.g. Services Directive) Social protection for mobile workers who cross national borders	Gender Equality (Guidelines) Labour legislation, conditions and protection (Incl. social partnership guidelines) European Social Fund
Intergovernmental Negotiations (governments remain in control of the decision)	Labour Market Policies* (Broad Economic Policy Guidelines; European Employment Strategy)	Social security* and social inclusion* (Open Method of Coordination)
Mutual adjustment (Competition through non-decisions)	Wages; Corporate Taxes	Product regulation

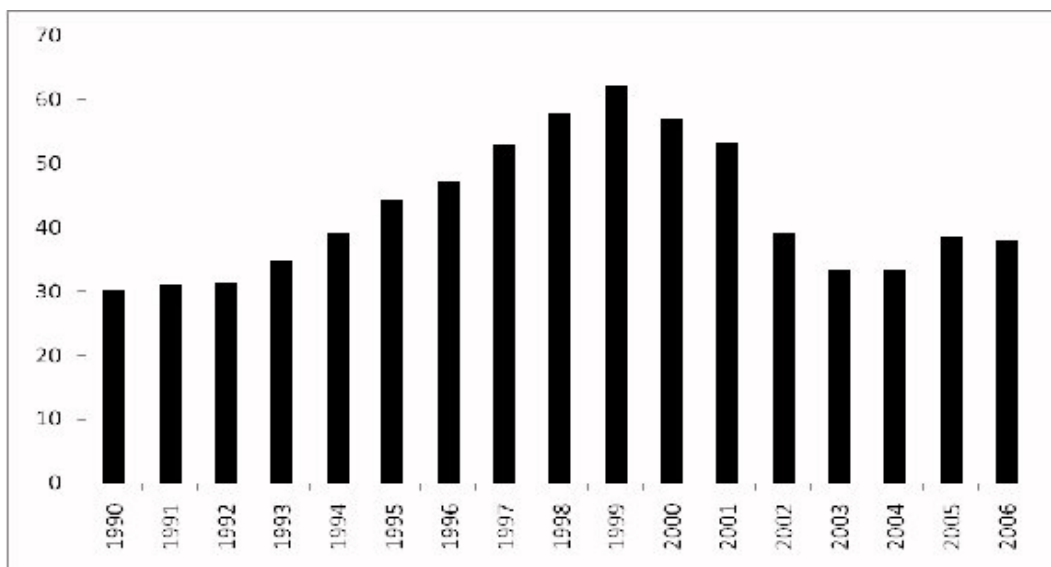
\* Effect is less clear

**Figure 1: Collective Bargaining Coverage in EU member states, 2006**



Source: ICTWSS: Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 countries between 1960 and 2007. <http://www.uva-aias.net/207> Greece & Hungary: 2005; Slovenia: 2003.

**Figure 2: Centre-left parties in percentage of total cabinet posts in all EU member states**



Data: Armingeon et al. (2008): Comparative Political Data Set III 1990-2006.





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## Does supranational coordination erode its national basis? The case of European labour market policy and German industrial relations\*

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**Abstract:** During recent decades improved supply chain management, innovation in information technology, new financial instruments, etc. have changed the economic environment for production in the EU significantly. This led to and was accompanied by increased coordination of economic policy and the use of a new mode of governance, the Open Method of Co-ordination. Simultaneously, at the national level tendencies of fragmentation in industrial relations appeared. Is this mere congruence, or is it possible to establish causal relationships? For the case of Germany the impact of coordinated European policies on industrial relations at national level is assessed. Potential consequences for supranational economic governability are discussed.

**Keywords:** economic policy; policy coordination; open coordination; collective bargaining; industrial relations; Germany; political science

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### 1. Introduction

During the last decades the international economic environment has significantly changed, especially in the European Union (EU). Transaction costs have decreased not least because of rapid innovation in information and communication technology as well as improvements in transnational supply chain management. New competitors struggle for market shares. The creation of new financial instruments on the one hand opens different forms of access to capital, but it also raises costs when financial actors demand higher returns. At the same time the international division of labour has increased as a consequence of systematically reducing barriers to international trade and investment.

These developments were taken up and speeded up by policies of the EU and its member states.

European integration has been pushed ahead by the intentional liberalisation and expansion of financial markets, the introduction of a common currency for most of the EU citizens, and a further removal of barriers to the free trade of goods, services and labour within and through the single market. These processes were accompanied and executed by several modes and means of governance, ranging from hard to soft governance. With the Euro monetary policy is nowadays centralised in one hand, the quasi-autonomous European Central Bank (ECB), and is effective for all members of the European Monetary Union (EMU). It was accompanied by monitoring of the public budgets in the Stability and Growth Pact (SGP), which as governance mode is much less strict than monetary policy. Although sanctions are possible in principle, only mild forms of binding policy coordination take place between European and national levels in the field of fiscal policy. All other fields of economic policy – employment, wage and general economic policies – are subject to the Open Method of Coordination (OMC), a formally non-binding kind of policy coordination. Through procedures between both levels, EU and national, all actors try to agree on best practices and effective policy measures. Except for the Macroeconomic Dialogue, guidelines for the member states result from these procedures, namely the Employment Guidelines (EG) and the Broad Economic Policy Guidelines (BEPG), which were pooled in the Integrated Guidelines (IG) in 2005.

Contrary to optimistic expectations, however, these policy measures and procedures have not led to economic prosperity. Although the EU offers a broad range of guidelines, best practices and implementation processes – since 2000 reshaped and concentrated in the Lisbon agenda and its focus on competitiveness, growth, and to a lesser extent social cohesion –, the economic situation for the EU as a whole is still characterised by sluggish growth, stagnant employment and persistent unemployment. Furthermore, in the field of industrial relations the experience with the outcomes of the new soft and open forms of governance is mixed (Schäfer and Leiber this issue). While supranational economic coordination is indeed emerging in the fields of monetary and fiscal policy, we still observe a broad range of institutional settings at national level in other policy fields, and especially in industrial relations.. In some member states formerly consensual models of social partnership between management and employees are on the retreat and seem to be replaced by more conflictual forms of social exchange at both industry as well as company level. Concession bargaining between management and labour at the company level, undercutting collective wage and employment standards set in labour contracts at the industry or national level, are spreading in a number of EU member countries (Sisson and Artiles 2000).

In this contribution, the interdependencies between EU economic policies and national industrial relations are addressed. This means that we must examine the scope and the impact of EU governance on the national level, in order to shed some light on both the impact of the EU on the national level and potential repercussions of national developments in industrial relations on EU coordination. EU guidelines or rules might alter the rules for national bargaining in two ways. Directly through changes in legislation or hard governance and more indirectly through the outcomes of economic policy, which may cause an increase or a decrease in economic growth and employment that in turn affects the social actors' bargaining power at the national, sectoral as well as the firm level. Therefore, the question is addressed which policies – hard or soft, monetary, fiscal or wage policies – have changed the conditions for the national level and to what extent national factors played a role for developments in industrial relations.

Due to the different cultures, social models and stages of development within the EU, especially after the EU Eastern enlargement, a comprehensive assessment of interdependencies would have to include all member states and sound evaluation of national developments. Here, another approach is chosen. By using the case of Germany to illustrate this relationship between EU and member states we do not argue that the example of Germany can be generalised for all member states or that Germany is per se an institutional or political role model that other countries have to adapt to. On the contrary, the German Rhineland model of a coordinated market economy seems to lose coherence. What is claimed is that Germany, being the largest economy of the EU, necessarily has an impact on the future evolution of the EU because of the size of its gross domestic product (GDP) and its relevance for intra-EU trade and wage differentials. Therefore, the case of Germany is of special interest and might also shed some light on future prospects of a coordinated and coherent EU economic policy.

To highlight causal mechanisms and potential feedbacks, the paper is organized as follows: In the [second section](#), I identify the modes of governance of the current EU economic policy, and in [section 3](#) I analyse their influence on the national wage bargaining systems. For Germany, I investigate the substantive and institutional outcomes of the recent labour market policies and reforms ([section 4](#)). Then, potential consequences of these ongoing changes in national industrial relations for the European Union are discussed in [section 5](#). The last section concludes.

## 2. Maastricht and beyond: The economic policy framework of the EU

After the single market, enacted in 1987, the Maastricht Treaty – ratified in 1993 – set the basic framework for European economic policy and the regulation of production and exchange (Dyson 1999). It deepened integration and prepared the EU for the monetary union of 1999, and the establishment of the ECB as an autonomous body, created by intergovernmental treaty in charge of price stability. Price stability is interpreted by the Central Bank as an inflation rate target nearby and below two per cent (European Central Bank 2003). The ECB can take, and also implement, the relevant decisions single-handedly, which is a direct or hard mode of governance.

As an essential element to support monetary policy, fiscal discipline was seen necessary (Dyson 1999). The national budget, however, is a principal competence of the parliaments; its limitation is always met with resistance. Therefore, national fiscal policies are not concentrated at the European level, but only coordinated through the SGP. The aim of the pact is to compel the EU countries to keep their national budgets balanced in the medium term, by a 3 per cent current deficit target, and to limit their level of indebtedness (to 60 per cent of their GDP). In case countries deviate from these targets, an excessive deficit procedure can be started, and eventually legally binding financial sanctions can take place, although sanctions have not been applied as of now, and there has been more room for discretion and for country-specific situations since 2003 (EcoFin Council 2005).

Additionally, a framework of best practice procedures and common guidelines was established. Since 1993, the BEPG have comprised economic policy recommendations addressed to the member states. It was highly disputed to what extent these guidelines should be compulsory (Dyson and Featherstone 1999). Finally, a procedure was established that is based on a common agreement of guidelines and implementation without sanctions. Similar in procedure, the summit of Amsterdam triggered the creation of the EG to improve the quality and quantity of employment at the national labour markets (Goetschy 1999). As a result of the streamlining process of the newly arranged Lisbon Strategy (CEC 2005) both guidelines, the BEPG since 2003 and the EG since 2005, are valid for a three year period; moreover, the focus has shifted to implementation, and they were united in one paper in 2005, the so called Integrated Guidelines (Integrated Guidelines 2005).

Together with further procedures dealing with poverty and social cohesion these guidelines employ a type of governance coined ‘Open Method of Coordination’, officially introduced with the Lisbon Strategy, but having its forerunners in the EU since the 1970s and in coordination procedures of other international organisations (Schäfer 2006; Kröger this issue). Contrary to the community method and to autonomous supranational actors like the ECB, the OMC is a softer mode of governance, where policy decisions are the result of a mutual coordination process, and are laid down only in outline. Convergence is achieved by means of best practice and peer pressure. It is open with respect to output, and it includes a broader range of actors compared to the community method, including employer associations and trade unions in particular. Ideally, coordination creates policy learning and adoption of best practices (Hodson and Maher 2001). On the other hand, the choice of soft governance over hard forms indicates, as Schäfer (2004) argues, that the European Council, at that time dominated by social democratic governments, established the OMC essentially not to trigger policy learning but to maintain leeway for national programmes in the policy fields of the OMC.

Partly, this mode of governance is also used in the Macroeconomic Dialogue, an outcome of the



Cologne summit of 1999 (European Council 1999) bringing together representatives of the Council of Ministers, the Commission, the ECB, trade unions and employers to coordinate fiscal, monetary, wage and labour market policies (Heise 2002; Niechoj 2005b). This dialogue, however, is purely a forum for information exchange, and it issues neither reports nor guidelines.

The essential element of SGP and OMC is the preservation of the member state's sovereignty concerning the structure of budgets and policy measures, not transferred to the EU level. This indicates that (neo-)functionalist arguments of an ongoing integration and supranationalisation of the EU have their limits. Hard governance or supranational institutions are not an option for labour markets, social security and state budgets by now. Here, the institutional and cultural differences, as well as the interest of the state in retaining its autonomy and authority are enormous (Moravcsik 1993); the potential gains, if there are any, cannot overcompensate for this. OMC, however, offers a way out. Aiming at policy learning and focusing on best practices, differences in interpretation can be overcome and, effective measures can be identified and hence implemented. This strategy of smoothing the differences preventing further policy integration through the backdoor of policy learning is contingent on the governments' willingness to accept and implement recommendations of the OMC. If the OMC is not fully integrated in national discourses and decision processes the, existing conflicts of interest preventing a deepening of integration are hard to overcome. Moreover, OMC procedures do not act in a vacuum. They are accompanied by harder forms of governance that also shape policy concepts, measures and outcomes.

Having sketched the modes of governance seminal for economic policy, now their substantive output, i.e. the economic policy concept emanating from these governance efforts is analysed. For this purpose, the IG can serve as a pars pro toto (Integrated Guidelines 2005; Niechoj 2005a). They contain recommendations for all policy areas related to the economy, and they are consistent with the Lisbon Strategy and all other coordination processes. As considered necessary to regain economic strength and competitiveness, the IG propose structural reforms on the commodity and labour markets – privatisation, decentralisation and flexibilisation – which seek to promote potential growth through intensified competition, increased division of labour, and reduced transaction costs. A so called 'sound' macroeconomic framework should ensure a situation of stability and certainty for structural reforms and competition. This includes balanced national budgets to consolidate government finances in the medium term, a monetary policy focusing primarily on the stability of price levels, and a wage policy that keeps wage increases at moderate levels, i.e. equal or less the sum of productivity gains and inflation.

The concept behind the guidelines has remained more or less unchanged since the beginning; the streamlining process as a reaction to the ongoing debate on the Lisbon Strategy of the 2000 summit confirmed the validity of the guidelines by extending the period of the application of the guidelines and by focusing on implementation and not revision of the guidelines (CEC 2005). Nevertheless, it can be disputed whether better implementation is indeed what is needed. Some authors doubt this and identify the policy concept itself as the reason of the poor performance of the EU. In their view, deregulation of labour markets accompanied by restrictive monetary and fiscal policy was the root of, rather than the solution to the economic recession, because it destabilised and lowered effective demand (Allsopp and Artis 2003; Arestis and Sawyer 2003).

### **3. Hard and soft forms of governance: What it means for national industrial relations** ↑

This section presents an overview of studies, in order to identify which part (or combination of parts) of the EU economic policy framework – soft or hard modes of governance, monetary, fiscal and wage policies – had an impact on the national level, or to be more precise: on national industrial relations. The case study in the following section then deals with the substantive and institutional changes as they manifest themselves in Germany. Here, channels of influence from the European level to national-level industrial relations are sketched.

The EU and its policy framework is only part of the story. Changes at the national level are part of a broader phenomenon, the internationalisation of trade and production, comprising innovations in information and communication technology as well as financial products and improvements in transnational supply chain management or the emergence of new competing economies outside the EU. Internationalisation was first and foremost a driver of slow but thorough restructuring of inter-firm competition. It created new cost, finance and sales conditions for companies within Europe, and globally. Nowadays, for companies it is possible to raise their global sourcing options, to use international production locations and to credibly threaten to relocate plants. This again puts pressure on wages and employment standards, as the social partners at company level try to increase corporate efficiency by lowering wages and extending working times (Traxler 2003; Grahl and Teague 2003). The EU did not cause all this, but it fostered the development by creating the single market and the monetary union, while at the same time trying to control and use this trend of internationalisation. The means were increased coordination of economic policy and common political initiatives, thus, the Lisbon Strategy, to become the most competitive economy in the world.

This also holds for the financial system. Traditionally, in most of the Continental-European countries the financial markets were underdeveloped, or, to be more precise: they were largely unnecessary because of the bank-oriented financial system, where banks fostered long-term relationships with their clientele and supervised management decisions. With the liberalisation and expansion of financial markets in Europe, the conditions for investment financing changed enormously from the bank-oriented system in most of the EU-countries toward a market-oriented system – even in Germany with its long tradition of bank-financed investments (Höpner 2001; Frangakis 2009). As a consequence, we can observe a shift from growth to profit-rate orientation in most countries, caused by the growing influence of shareholders, mostly large funds, with short-term interests and much looser integration in management (Stockhammer 2004).

The same Janus-faced impression of economic integration appears with respect to the most recent Eastward enlargements, by which twelve new member states, which generally have low levels of coordination in their industrial relations systems and significantly lower wage levels, joined the EU (Weiss 2004; Dauderstädt 2003). Enlargement offers great advantages for the EU as a whole. It creates new markets, fosters catch-up in the new member states, and intensifies the international division of labour. Nevertheless, it will also lead to new cross-border supply and production chains, and it is frequently used by management to exert pressure on wages and working conditions by playing plants off against each other.

Looking at wages in EMU, we observe a moderate development of wages after Maastricht and likewise a significantly reduced inflation rate. As a result of the monetary union, wages are directly comparable, and currency devaluations are no longer possible. As an effect of the low wage increases, no inflationary pressure emanated from wage increases (Hein 2002; Schulten 2008). The EU supports this moderation of wages. The Lisbon Strategy and its procedures try to push ahead the flexibilisation of labour markets and moderate wage increases. The EU countries receive recommendations as to how they should improve training for the labour force and make the labour market more adaptable to economic change. The guidelines and recommendations are aimed primarily at structural changes in the labour market, seeking not only to boost training, but also to make labour more flexible and to strengthen the incentives to take up work (Goetschy 1999; Watt 2004). The current policies promote wage diffusion, flexibilisation of working times, decentralisation of wage bargaining and moderate wages (Hein and Schulten 2004; Hein and Niechoj 2007). They therefore follow a neo-classical approach to the labour market, whereby rigidities should be reduced as far as possible. Measures that promote social cohesion and protection are an issue in the guidelines and recommendations of the EU, when it comes to implementation, the member states prefer deregulation and market enforcing policies (Rubery et al. 2008).

However, the impact of all these recommendations and procedures on national level is disputable. Although labour market reforms are often in line with the recommendations of the IG, a direct causal link of EU and national policies is hard to establish; national labour market policy normally refers not to the European recommendations (Linsenmann 2007). As the

introduction of only soft modes of governance in the field of employment policy at the Amsterdam summit has shown reasons might be that states were not interested in too strict guidelines; that apart from some ministerial units, national actors are involved in the establishment of recommendations only to a limited extent; and that participatory aspects and the inclusion of the national level, in theory an essential part of the OMC, lack practical implementation (Smismans 2006). Moreover, establishing a culture of common knowledge and mutual learning is a long-term project (Pfister this issue).

Regardless of whether or not the employment strategy of the EU was reasonable, it can be shown that fiscal and monetary policies were not tied in with the employment strategy very well. It is precisely these policy fields, however, that the impact of the EU is more obvious.

The creation of both the ECB and the SGP stem from the fear of governments, especially the German government, that after monetary union member states might tend to exert loose fiscal policies and push the central bank towards a loose monetary policy too (Dyson and Featherstone 1999). In order to bind the states and prevent such policies, the status of the ECB was enshrined as an autonomous actor solely responsible for interest rate policy for all member states of the eurozone. Agreement was relatively easy to achieve, first because the Euro and the monetary union was a high-valued good for all countries; and secondly, to agree was a prerequisite for the whole exercise. The Germans, the country with the strongest currency, were both interested in a stable currency union and in a position to set rules ensuring this. Thus, monetary policy was accompanied by a set of rules for fiscal policies, still a responsibility of the member states (Stark 2001). Tentatively institutionalised in the Maastricht treaty and later extended at Amsterdam, deficit procedures for states deviating from balanced budgets were established in the form of a pact, the SGP. Since the pact cannot directly intervene in national budgets, but can compel the EMU member countries to adopt adjustment measures, and can enforce these by means of legally binding sanctions, this mode of governance is not as hard (and binding) as monetary policy but harder as the OMC. The pact has been put to the test several times so far by long lasting deficits above the 3 per cent criteria; countries were never sanctioned, however. This was both due to political and economic reasons. On the one hand it became clear that the shadow of sanctions was not enough to ensure balanced budgets, on the other hand more leeway for automatic stabilisers and the necessity to take into account country specific conditions were recognised as economically reasonable (Niechoj 2005a). For most of the EMU countries it holds that the discussion on the relaxation of the pact remained within the government and the ministries. Sometimes, as in Germany, factions within the government and the political parties referred to the EU pact as an external pressure to push for stricter fiscal rules within the country. As the example of Germany recently showed, this helped to introduce a so called debt brake, i.e. a fiscal corset to guarantee (nearly) balanced budgets in the medium term (Föderalismusreformkommission II 2009). But as the example of Switzerland, the first European country that introduced a debt brake, indicates, the SGP cannot solely be held responsible for stricter fiscal rules within the member states – Switzerland is not a member state of the EU.

Concerning the outcomes of SGP and ECB policies, fiscal and monetary stimuli were insufficient or sometimes even counterproductive. Since the beginning of the convergence process to the monetary union in 1994, growth remained unsatisfactory or even declined between 1994 and 2003, and unemployment was still high. At the same time that inflation rates fell and converged, growth and employment were not positively affected (Hein and Niechoj 2007).

Since the start of EMU, the common inflation rate has been very close to the ECB target rate of 2 per cent. Nevertheless, monetary policy has been more or less restrictive (Bibow 2002). The ECB keeps the inflation rate low but sometimes does so at the expense of high nominal and real interest rates. A constellation, however, in which the real interest rate is higher than the real growth rate, causes the danger of excessive debts for debtors because they are not able to pay the debts alone by their growth, which in turn limits investment by firms.

As in the case of monetary policy, fiscal policy did not support growth in the EMU either (Bibow 2004). Quite often fiscal policy acted pro-cyclically, which means, it lowered

expenditures in an economic downturn and raised it in an upswing. That way fiscal policy intensifies economic crisis and provokes overheating in an upswing. In addition, public investment – which serves as a basis for private investment and promotes future growth – declined (Hein and Niechoj 2007).

In contrast to the Lisbon targets, European economic policy could not succeed in raising the growth rate and correspondingly contributed nothing to reducing unemployment in the desired way. Especially Germany, which represents roughly 30 per cent of the EU 12 (1) GDP, has not performed very well (Hein et al. 2004). Both monetary policy and the SGP set strict limits for a growth and employment promoting national policy. Much softer limits were set by the recommendations of the OMC. Here, the member states have a lot more leeway to act.

Against this background, three related reasons why sluggish growth and decentralisation alter power relations among the social actors can be identified.

1. Competition has intensified on the national labour market, mostly independently of the EU, but also due to EU-influence or due to non-acting of the EU. Not least because of the employers' associations' resistance against supranational social rules and bargaining procedures, there is still no European system of industrial relations which could serve as a barrier against wage competition among states and regions (Hyman 2001). So the European level has not promoted procedures that would shelter national bargaining systems. In addition, it has created some pressures at the national level by establishing guidelines and recommendations favouring decentralisation, deregulation and privatisation.
2. Without a European coordination system for wage policy, companies are able to use the threat of international plant relocation as a tactical tool to achieve cost cutting at the company level (Peters 2001). The availability and economic attractiveness of outside alternatives cause a shift in the relative distribution of bargaining power between management and labour in favour of the party that possesses the most attractive exit option (Emerson 1962; Bacharach and Lawler 1981).
3. None of the policies have been able to counter sluggish growth and still high unemployment in the EU. In such a constellation of job shortage and a low rate of new investment, it is very difficult for trade unions to negotiate wage settlements which guarantee distribution-neutral wage increases (Hein et al. 2004). In the face of high unemployment, employees and trade unions lack attractive exit options, which weakens their negotiation position. All they can do is focus on the prevention of dismissals. In order to reach this aim, they have to agree to moderate wage increases or even freezes or cutbacks and further concessions such as working time extension.

Whether this potential pressure on industrial relations translates into institutional changes and/or distributive changes at the national level is exemplified by means of a case study in the next section.

#### **4. Collective bargaining decentralisation in Germany ↑**

The interest in Germany can be traced back to its former role as a quasi ideal type of a 'coordinated market economy' (Soskice 1999; Hall and Soskice 2001), i.e. an economy characterised by a complementary set of institutions including stable and cooperative relations among companies, the state, banks and trade unions. In the past, Germany's system of industrial relations proved to be resistant to procedural changes and shifts in power relations. Now elements of Anglo-Saxon-type regulation enter the German institutional setting. If the German institutional system is undergoing severe changes, this could point to a situation in flux for other EU member states of a corporatist-coordinated type; they might be undergoing similar changes. A prerequisite for this would either be that EU policies have an impact on the German situation or that – independently of the influence of the EU – the restructured German industrial relations system affects other EU member states. In order to clarify to what extent EU macroeconomic policies and coordination procedures contributed to changes at the national level, and to what extent national labour market reforms were inspired by the EU or national

factors, the development of industrial relations in Germany in the last years is depicted.

The late 1990s mark a turning point for labour market reforms in Germany. Reunification did not only lead to enormous fiscal transfers within Germany and – after a short unification boom – to tendencies of stagnation; it also caused politically hard times for the trade unions under a long period of conservative governments. Therefore, in 1995 the chairman of the Metalworkers' union, Klaus Zwickel, launched an initiative for more macroeconomic coordination, addressed to chancellor Kohl (Zwickel 1999). But it was not only until 1998, when the first Red-Green German government led by Social Democrat Gerhard Schröder, was elected, that this idea was picked up and a so called 'Alliance for Jobs' was established. Although this corporatist attempt to commit government, trade unions and employers' associations to a common economic strategy was not very successful (Niechoj 2002), it paved the way for local alliances at company level. Contrary to Zwickel's original intentions, these local alliances introduced concession bargaining in the following years, that is, they pushed through reductions in wage increases, longer and more flexible working hours in exchange for – usually formal – employment guarantees. As their main instrument, they helped establish opening clauses allowing individual companies to deviate from sector-wide union contracts (Massa-Wirth 2007). Data based on the 2005 WSI Works Council Survey indicate that 75 per cent of all companies with a works council used an opening clause, predominately in the area of working time policy (Bispinck 2005). The renegotiation of industry-wide wage and employment standards by utilising opening clauses has rapidly spread (Berthold et al. 2003; Rehder 2003). This spread of concession bargaining at the company level had a significant impact on the creeping erosion of industry-wide employment and compensation standards: By sometimes violating the industry-level labour contract, unions and works councils felt (and still feel) impelled to negotiate ever more drastic concessions in exchange for a few (if any) company give-backs. With the monetary union, wages are now directly comparable within the EU. Collective wage and working time provisions are now becoming maximum rather than minimum standards in Germany (Schmidt 2001).

This trend was supported and intensified by policy measures of the Red-Green government. In 2003, the economic situation was characterised by an economic downturn after the internet bubble as well as high and persistent unemployment. Furthermore, these times were not only economically but also politically difficult ones. The Red-Green government was in a severe crisis that triggered Chancellor Schröder to propose and, from 2003 on, implement what was called the 'Agenda 2010', a policy framework for labour market reforms. The following implementation laws, the Hartz laws I–IV, were named after Peter Hartz, a trade-union related advisor to Gerhard Schröder, who developed most of the specific tools of the laws. The concept itself was explicitly inspired by UK's New Labour policy; other best practices within the EU or their guidelines gave no (visible) impulses to the development of the Agenda 2010 (Levy 2004).

The laws aimed at flexibilisation of the labour market and establishment of a low-paid sector, which were seen as specifically German problems before the Hartz reforms (see e.g. Streeck and Trampusch 2005). For this purpose, temporary and fixed-term employment was fostered, new types of low paid part-time jobs with reduced social security entitlements were introduced ('midi jobs', 'mini jobs'), the incentives to work were intensified by reduced transfer benefits, tougher controls and the rule that occupational attainment gives long-term unemployed no right to refuse any kind of jobs offered to them by their placement officers. The duration of (income-related) unemployment insurance benefits was reduced to one year, after that unemployment assistance benefits lose their character as wage replacement and are paid independently of the unemployed person's last income (and contributions); these assistance benefits (Hartz IV-benefits, or ALG II) are contingent on the recipient's willingness to be available for the labour market. In certain non-profit sectors, low-paid (publicly-subsidized) work outside the regular labour market (the so-called '1-Euro jobs') were made available. Moreover, self-employment for low income tasks was fostered (the 'Ich AG'). These reforms were actually a success in extending wage dispersion and atypical and low paid jobs (Bosch and Kalina 2007). Together with an economic upturn and reduced numbers of people looking for jobs, these policy measures explain the lowered unemployment rate before the financial market crisis (Horn et al. 2008b).

Both local alliances for jobs and the Hartz reforms led to severe changes of the industrial relations system in Germany. Institutionally, a gradual erosion of the industry-wide labour contract has taken place. Industry-wide collective bargaining coverage has been steadily declining, while at the same time company-level union contracts have become more important, especially so in East Germany (Kohaut and Schnabel 2003; Schmidt et al. 2003). The degree of bargaining centralisation is further diminished because of the opening clauses in industry-wide union contracts, which have increased the options for local management and works councils to deviate from existing wage and working time standards that had previously been fixed at the industry level (Bosch 2004; Bispinck and WSI-Tarifarchiv 2004). A trend towards aggregate income stagnation has been the result of wage moderation at the industry level, the spread of secondary bargaining rounds at the company level, and the establishment of a low-paid sector by the Hartz reforms. In most of the years since the mid-1990s, collectively agreed wages stayed well below the sum of inflation and productivity growth. Furthermore, effective wage development fell short of even these modest collectively agreed wage increases, and declined more and more (Schulten 2008).

Macroeconomically, the result of this wage restraint was weak domestic demand and an increase in export dependence (Horn et al. 2008a). Such a strategy of low wage increases promoting exports might work for a small country, where the competitive advantages can outweigh the losses due to restricted domestic demand; in the case of Germany's large economy deflationary pressure on wages spread to all EU countries, and weak EU demand was the result.

Most of these policies were in line with the recommendations of the EU's Integrated Guidelines, although several measures, such as the cuts in unemployment benefits, explicitly did not foster social cohesion. Contrary to the debate on fiscal deficits in the context of the 2003 excessive deficit procedure of the Stability and Growth pact, from 2003 onwards (Niechoj 2005a), the recommendations of the guidelines did not enter public discourse, and there was little information beyond the catch phrase of the EU's becoming the most competitive economic area in the world. Therefore, no direct link between public opinion and support for changes in policies can be established. National factors – political constellations and German unification – seem to be more important for the concrete evolution of labour market (de-)regulation in Germany and for the increasing fragmentation of its coordinated market economy than European recommendations and soft governance of the OMC. It has to be noted that although changes caused by internationalisation might affect other European corporatist countries in a similar way, the German case cannot be taken as an indication of a general tendency toward fragmentation among the coordinated market economies. The reasons for the erosion of industrial relations in Germany are due to a specific national constellation after the unification. Nevertheless, these developments might lead to repercussions for the European level and other member states.

## 5. Repercussions for the European Union? ↑

Although Germany is still viewed as a quasi ideal-type of a coordinated market economy by most scholars in the field of comparative political economy, the developments of recent years demonstrate that the German industrial relations system is undergoing profound changes towards fragmentation and uncontrolled decentralisation. Germany switches from a strategy of high wages, compensated by high productivity, within a framework of coordinated bargaining (Streeck 1991) to a model of low-paid jobs with low productivity and more and more company-based wage bargaining.

The effects of these developments are not restricted to Germany. As Germany is the largest economy in the EU, all performance indicators of the EU as a whole depend a lot on Germany's development. Moreover, in a common monetary union wage developments in one country have to be taken into account by other member states, in order to prevent losses in wage competitiveness. The argumentation runs as follows. The rising significance of secondary bargaining at the company level in Germany is seriously threatening the (national) coordination function that was hitherto provided by industry-wide labour contracts – local pacts increase the heterogeneity of wages and employment standards in the German economy. Additionally, the

labour market reforms raised the pressure on workers to accept lower wages significantly. As a result, unit labour costs were much lower compared to other member states of the EWU (see [Figure 1](#)). This fostered exports, but it also weakened private consumption (see [Figure 2](#) and [Figure 3](#)) and increased and still increases pressure on other member states: In order not to lose competitiveness all other countries have to keep their unit labour costs close to the German level. How and whether this is realised within the states, depends on their political constellations and institutions. Decentralisation and wage restraint via opening clauses or company-level alliances for jobs is only one possibility. It is, however, not restricted to the Germany case, but can be observed in the whole EU (Sisson and Artiles 2000; European Foundation 2008). Moreover, in most of the recently integrated Eastern European countries, collective agreements are not the predominant form of wage bargaining (EIRO 2005). Consequently, a European-wide trend towards a system of uncoordinated bargaining is a possible option. German wage restraint and export orientation has a share in this, nevertheless the presumption of a parallel development might better suit as a description of the ongoing changes.

[Figure 1](#)

[Figure 2](#)

[Figure 3](#)

A second repercussion might affect the European level of governance itself. In the face of a shift from industry to company bargaining, the remaining torso of the sectoral collective bargaining system can no longer guarantee a common wage level, it cannot restrict wage competition among companies, and it cannot hedge against disinflation in recessions. Weakening the ability of the trade unions to set wages together with the employers' associations at the industry level diminishes the balancing effect of collective agreements over the business cycle and among companies. Trade unions have seen this and tried to establish a common and cooperative wage policy in the EU (European Trade Union Confederation 1999; Gollbach and Schulten 2000). The trade unions' coordination strategy, however, has serious shortcomings. A necessary prerequisite for such a coordinated system of collective bargaining and interest-mediation is the existence of encompassing associations that are able to homogenise their members' interests and provide for effective local implementation of bargaining results. However, neither interest homogeneity nor reliable implementation channels exist for the eurozone, let alone the EU 27. Studies on the nascent European industrial relations system demonstrate substantial interest heterogeneity among the relevant national peak level trade union organisations (Marginson and Sisson 1998; Schulten 2003). Especially trade unions from small countries have strong incentives to free-ride by defecting from international coordination and moderating wage demands as they experience net employment gains in the current system of wage regime competition. So, even if some kind of wage coordination might be established at European level, the actors of this coordination might lack interest and steering capacity to do so.

This again has significant impacts on monetary policy at the European Union level. If wage coordination is not on the agenda, and reliable forecasts for wage developments are difficult to establish, this will lock in the current and partly insufficient form of interplay between wage bargaining and the ECB for a long time (Franzese 2003). After its last policy revision in 2003, inflation forecasts are based largely on wage forecasts (European Central Bank 2003). Without some form of coordinated wage policy both nationally as well as EU-wide, employers and trade unions are ex ante not able to reliably signal their positions and planned wage outcomes. Interest rates ex post set by the ECB to match the numerous and sometimes inconsistent wage settlements necessarily have a tentative character and frictional losses can therefore not be prevented.

But not only monetary policy, also the OMC processes have to face new challenges. All soft governance hinges on the commitment and cooperation of the corporative actors involved (Commission, national governments, employers' associations, and trade unions) and on their ability to implement what was agreed on. Policy learning alone does not lead to anything

without proper implementation. Implementation, however, is undermined when the willingness to cooperate and the capacity of actors to act decreases. In Germany a part of the spectrum of actors, trade unions and employers' organisations, have lost much of their capacity to act. A possible scenario is that the trade unions begin to ask themselves what they can gain by participating in European coordination procedures, when the OMC does not support corporatist structures within the member states. A corporatist coordination strategy depends on corporatist actors.

## 6. Conclusion

The Maastricht framework combines hard and soft modes of governance. As a whole, it modified the economic situation for firms within the EU. Not surprisingly, the improvements of the single market, the establishment of the eurozone and deregulation of financial markets, as well as the monetary policy of the independent ECB and to a lesser degree fiscal coordination had a deep impact on economic activity. The impact of softer forms of governance, namely the OMC and its IG, is harder to verify. As demonstrated for the case of Germany, national labour market policy was more or less in line with the EU recommendations. National political actors, however, did not really rely on the EU in shifting the labour market towards flexibilised labour contracts and decentralised bargaining. As the case of German labour market reforms suggests, the implementation of policies is still dependent on national developments and interest constellations. Hence, mostly the harder forms of supranational coordination promoted the fragmentation of industrial relations.

Independently of the question whether recommendations of the EU were only congruent or causally linked, the results of the policy concept of competitiveness and sound macroeconomic policies were unsatisfactory in the case of Germany. Increased wage differentials and real wage losses could not guarantee high employment and growth, but instead fuelled wage competitiveness in Europe. A loss in control over wage negotiations aggravated monetary policy and simultaneously shifted responsibility to the Central Bank, which gains in importance. It also diminished the capacities of trade unions and employers' organisations to participate in coordination processes, may it be OMC or other procedures of coordination. Therefore, the EU level is affected by changes in industrial relations at national level as well.

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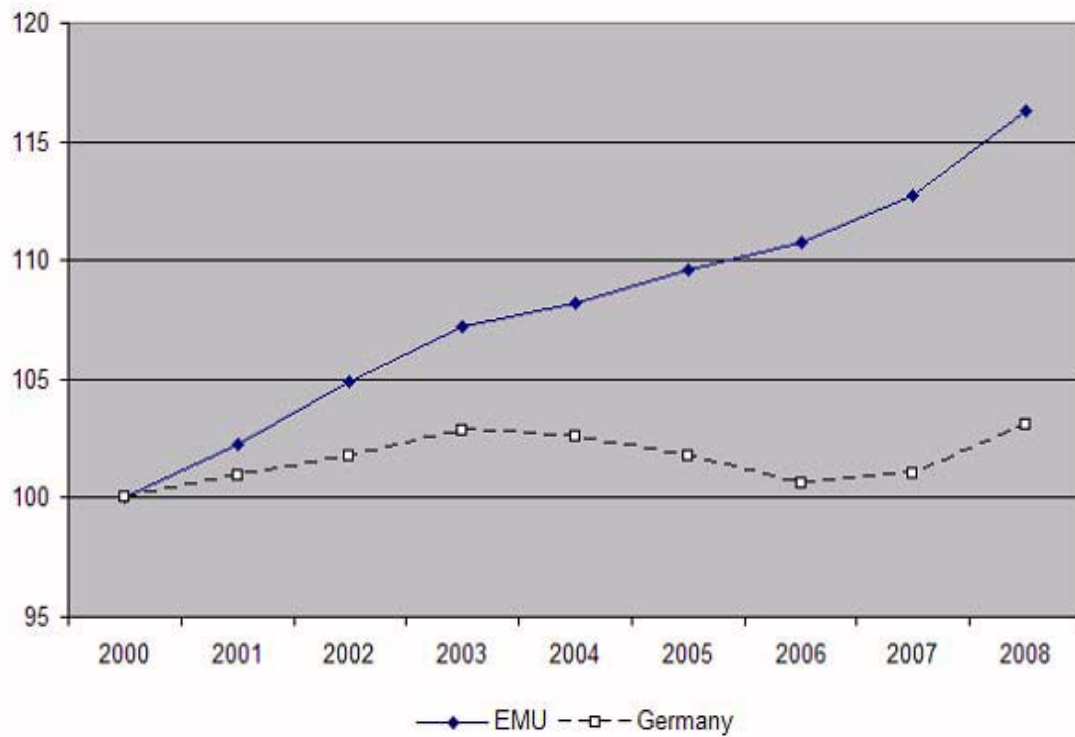
## Endnotes

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(1) EU 12 covers Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain and United Kingdom.

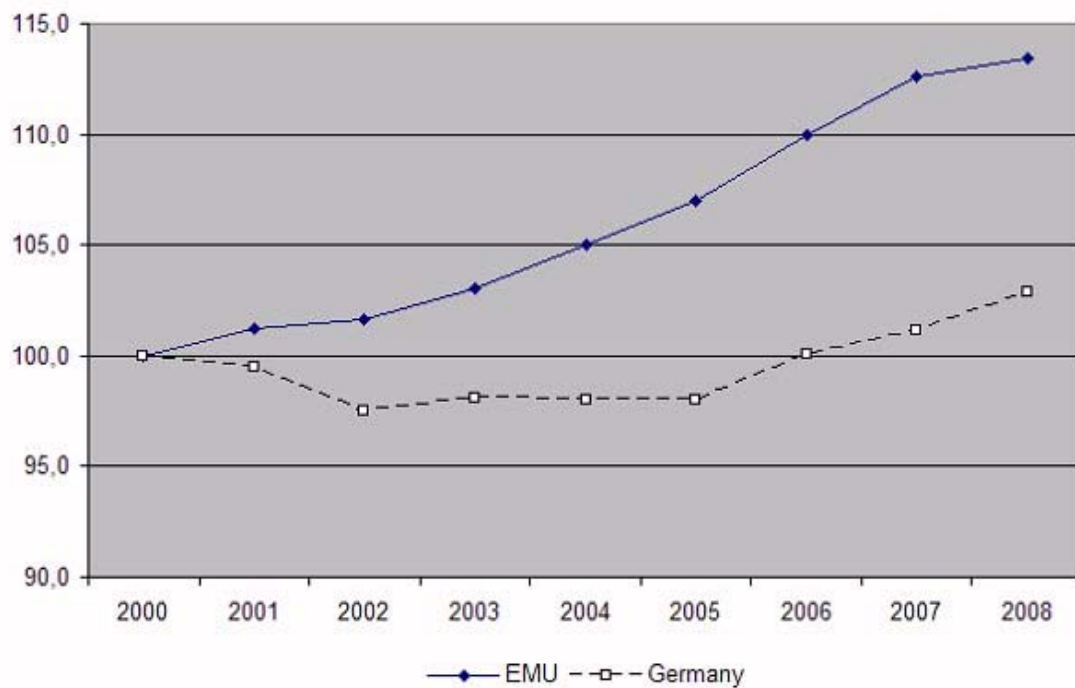
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**Figure 1: Unit labour costs 2000-2008 in Germany and EMU (Index: 2000=100)**



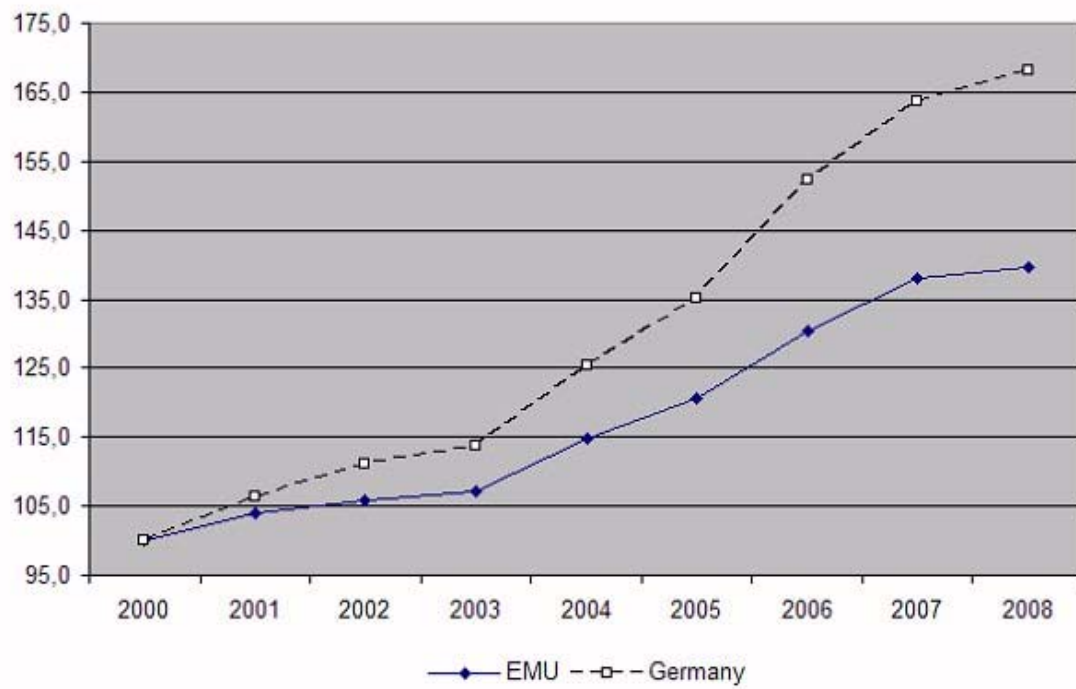
Source: AMECO database April 2009

**Figure 2: Private consumption 2000-2008 in EMU and Germany (Index: 2000=100)**



Source: AMECO database April 2009

**Figure 3: Foreign demand 2000-2008 in EMU and Germany (Index: 2000=100)**



Source: AMECO database April 2009





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## The Open Method of Coordination - Effectively preventing welfare state retrenchment?\*

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**Abstract:** This article re-examines the division between “optimists” and “pessimists” within the literature on the Open Method of Coordination’s (OMC) effectiveness. Each of those “camps” tends to focus on a different question. “Optimists” are more concerned with the question of whether the OMC exerts an influence on the national level and through which mechanisms, whilst “pessimists” concentrate on the question of whether the OMC can “strengthen” EU social policy and therefore European welfare states. This article combines these two perspectives and argues that the OMC is indeed capable of influencing national policies through the dissemination of ideas and “learning” as the “optimists” stress. However, policy “learning” at the member state level is shaped and constrained by a variety of internal and external pressures. Against the hopes of most of the OMC “optimists”, this makes the OMC largely ineffective in preventing welfare state retrenchment.

**Keywords:** soft law; Europeanisation; single market; stability and growth pact; welfare state; positive integration; negative integration; political science

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### 1. Introduction

This article argues that the debate about the Open Method of Coordination’s (OMC) effectiveness is somewhat confounded because “optimists” and “pessimists” tend to focus on different questions. For a better understanding of how the OMC operates and what it can achieve, it is important to make these underlying questions more explicit. In short, “optimists”



focus on the question of whether the OMC can exert an influence on the national level and if so, through which mechanisms. Here, they focus on the OMC's role for the dissemination of ideas, deliberation and "policy learning", all of which are seen as new and potentially powerful mechanisms of supranational influence on member states (Jacobsson 2004; Trubek and Trubek 2005; Visser 2009; Zeitlin 2009; see Kröger, this issue, for a critical account). In contrast, "pessimists" are, even though sometimes implicitly, more interested in the question of whether the OMC can "strengthen" EU social policy and, consequently, help to prevent European welfare state retrenchment. They regard the introduction of the OMC as a political compromise that aims to strengthen EU social policy against the EU's economic objectives but has to rely on soft coordination due to a range of barriers to the adoption of legally binding social policy frameworks at the EU level. To them, the OMC is only a second best solution which is too weak to influence national social policies as market integration is still prevalent at the EU level, exerting pressures on national welfare states (e.g. Chalmers and Lodge 2003; Kröger 2008; Scharpf 2002).

This article will argue that both sides within this debate make valuable points which can potentially be combined. Essentially, it can be argued that the OMC is indeed capable of influencing national policies through the dissemination of ideas and legitimacy discourses whilst the ways in which these ideas are interpreted and implemented at the national level are shaped and limited by a range of internal and external pressures on welfare states. This makes the OMC largely ineffective in preventing welfare state retrenchment; in fact, it may even contribute to it – particularly in the more developed and generous welfare states within the EU. This article understands welfare state retrenchment as a cut in social expenditure, decreasing generosity of provision, limitation of social rights or a deterioration of outcomes that the welfare state aims to improve such as poverty and social inequality (1). In contrast, "strengthening" "social Europe" is a more comprehensive term used by the European Union itself (European Council 2000). It can be broadly understood as a combination of a stronger focus on social policy (against economic objectives) at the EU level with a subsequent improvement of social outcomes at member state level, in particular in relation to poverty reduction and social inclusion (European Council 1997; European Council 2000) (2). "Strengthening" can therefore refer to either the EU or the member state level, or both in combination. I will distinguish these different meanings by using "strengthening" "the social dimension" for the EU level, "welfare states" for the national level and "social Europe" for both in combination.

To re-examine the debate between OMC "optimists" and "pessimists", this article will proceed as follows. Section two will compare the arguments of OMC "optimists" and "pessimists". This comprises their views on, first, whether – and if so through which mechanisms – the OMC can exert an influence at the national level and, second, the OMC's potential to strengthen "social Europe".

Sections three and four seek to assemble empirical evidence for the argument that the OMC is unlikely to effectively prevent welfare state retrenchment. Section three will focus on an analysis of the OMC's policy content in order to establish whether it is more likely to strengthen social Europe or promote welfare state retrenchment. Section four will analyse social policy outcomes of the last 15 years within the EU-15, using OECD and Eurostat data, to review the question of whether Europe's welfare states have been strengthened during this time.

Critical readers might question the appropriateness of this approach in analysing the OMC's potential role in preventing or promoting welfare state retrenchment. They will argue that several steps lie between the promotion of ideas and eventual policy outcomes such as social spending, poverty and inequality. Indeed, to reconstruct how the OMC is operating, one needs to analyse how national policy actors interpret the ideas promoted through the OMC, how these ideas are then translated into concrete national policies and how those policies influence policy outcomes, dependent on a variety of other factors such as political situation and institutions, policy implementation "on the ground" (including behavioural choices of potential benefit or service recipients), economic growth and employment, demographic trends, etc.

Whilst such a micro-level qualitative approach is a necessary and useful tool to provide insights into the ways in which the OMC operates, it has not been chosen in this article for several reasons. First, a range of in-depth studies has already been undertaken examining the ways in which the OMC is used by national policy actors and how it might have influenced concrete policies (e.g. Büchs 2007; De la Porte 2008; Heidenreich and Zeitlin 2009; Kröger 2008; Zeitlin, Pochet, and Magnusson 2005). The main insight arising from those studies is that if the OMC plays a role for national policy making, it mainly exerts an influence on policy frameworks and justifications (e.g. Büchs 2007; De la Porte 2008; Heidenreich and Zeitlin 2009; Zeitlin 2009). Some authors also observed an impact on governance processes or even, in a few cases, on concrete policies (ibid.). In addition, empirical evidence on welfare state development in Europe demonstrates that there has been a shift during the last decade towards a greater emphasis on activation, particularly in labour market and social assistance policy, but also in other areas of the welfare state (e.g. Barbier and Ludwig-Mayerhofer 2004; Serrano Pascual and Magnusson 2007; Van Berkel and Nornemann Møller 2002). Several authors within the activation literature assume that whilst a variety of factors has influenced this development, the OMC may have played a role in disseminating the activation concept (ibid.). This article can build upon the insights of the OMC and activation literatures instead of re-examining these processes in detail. Second, as these in-depth examinations of micro-processes are very time-consuming, they are usually confined to a few case studies the results of which cannot easily be generalised to the whole EU. In addition, micro- and macro processes simply focus on different questions: Qualitative case studies examine the ways in which the OMC operates whilst the macro-approach chosen here is interested in potential links between the OMC and policy outcomes which cannot be examined at the micro-level. Finally, this article does not claim that it can prove the existence of a link between the OMC and policy outcomes on the basis of the chosen macro-perspective. This article merely maintains that if we can assume that the OMC has the potential to influence national policy frameworks – a conclusion that results from twelve years of previous research on the OMC – then there is the possibility that the OMC further translated into policies and policy outcomes. In other words, if poverty rates and levels of inequality declined, the OMC might have contributed to strengthening social Europe. However, if policy outcomes deteriorated, we can conclude that the OMC either did not have the capacity to prevent welfare state retrenchment, i.e. other factors must have been more powerful, limiting any opposite influence by the OMC, or the OMC might even have contributed to these outcomes, for example by providing justifications for benefit cuts, greater benefit conditionality, etc. The word “might” needs to be emphasised here, this article does not claim that it can demonstrate these links; in addition, it always assumes that a range of other factors play a role within the “black boxes” between ideas, policy formulation, policy implementation and outcomes. Rather, the empirical evidence serves as thought-provoking impetus to review the arguments provided by OMC “optimists” and “pessimists” and consider ways in which these arguments could fruitfully be re-assembled.

## 2. OMC effectiveness: “optimists” and “pessimists” ↑

This section compares the positions of OMC “optimists” and “pessimists”, in relation to, first, the ways in which the OMC operates and, second, possible links between the OMC, EU social policy and national welfare states. These two aspects need to be more clearly distinguished as they are sometimes confounded in debates about the OMC’s effectiveness.

### 2.1. The “optimists” ↑

#### 2.1.1. Operation of the OMC

The conceptualisation of the ways in which the OMC operates is at the heart of OMC “optimists” interest. Important aspects within this area are the debates about “soft law” and “policy learning”.

As OMC instruments such as objectives, guidelines and targets are not legally binding, they

can be regarded as “soft law”, defined as non-legally binding rules “which nevertheless may have practical effects” (Snyder 1993: 198). OMC “optimists” have argued that “soft law” may be effective despite its non-bindingness because it allows for policy experimentation and better problem definition on the ground as it facilitates decentralised policy-making and the involvement of a range of policy actors in policy-making (Cohen and Sabel 1997; Dorf and Sabel 1998; Trubek and Trubek 2005). “Optimists” therefore regard soft law as more suitable than hard law for operating within a context of diversity in which different policy solutions are required in different member states. In addition, OMC optimists have argued that soft law may be more effective than hard law and induce long-lasting policy learning (instead of just superficial behaviour change) because it has the potential to influence deep-seated values and attitudes (Jacobsson 2004; Trubek and Trubek 2005).

“Policy learning” has been identified by OMC “optimists” as one of the main mechanisms through which the OMC operates and gains influence at the national level. “Policy learning” refers to the cognitive basis of policy-change. According to Hall (1993), policy change is most thorough if it includes a change of underlying paradigms (third order change) (ibid.: 279). Such paradigm change occurs through policy learning, based on voluntary and rational assessment of past experience and new information (ibid.: 278). “Optimists” believe that the OMC facilitates “policy learning” through the regular exchange of ideas, deliberation, peer reviews, diffusion of discourses, “socialisation”, and bottom-up experimentation (Eberlein and Kerwer 2004; Heidenreich 2009; Jacobsson 2004; Trubek and Trubek 2005; Visser 2009; Zeitlin 2009; but also Kröger and Hartlapp, this issue, for an overview of critical accounts of learning).

### **2.1.2. The OMC and social Europe** ↑

Even though “optimists” focus less on this question, they generally believe that the OMC can strengthen “social Europe”. This refers both to the status of social policy at the EU level as well as the performance of national welfare states. For example, authors such as Ferrera and Rhodes stated that “(t)he European Union, acting as a ‘semi-sovereign’ policy system, seems slowly but surely to be carving out a distinct ‘policy space’ regarding social policy – a space which may gradually work to rebalance ‘softly’ and ‘from below’ the current structural asymmetry between negative and positive integration” (Ferrera and Rhodes 2000: 278). In addition, OMC “optimists” believe that the OMC can strengthen national welfare states and their performance by promoting their necessary “modernisation” or “recalibration”. For example, de la Porte and Pochet (2002a) regarded the OMC as a potential means to “building social Europe” and Trubek and Trubek (2005: 353) state that the OMC can help member states to “fend off any ‘race to the bottom’ pressures without the need for a centralised straightjacket” (also see Heidenreich 2009: 32).

## **2.2. The “pessimists”** ↑

### **2.2.1. Operation of the OMC**

“Pessimists” criticise the assumption that the OMC is able to influence national policy-making through the diffusion and exchange of ideas. Here, they mainly stress the fact that the OMC objectives and guidelines are not legally binding and that there are no “hard” sanctions if member state governments do not follow the EU’s advice (e.g. Chalmers and Lodge 2003; Idema and Kelemen 2006; Kröger 2009; Scharpf 2002; see also Kröger, this issue, for further points of criticism). In addition, “pessimists” sometimes refer to the importance of national institutions and path dependency, stressing that OMC recommendations and targets are unlikely to have a significant influence on national policies if large “misfits” exist between them and national institutions (e.g. Chalmers and Lodge 2003; Kröger 2009: 206).

### **2.2.2. The OMC and social Europe** ↑

The “pessimists”’ sceptical response to the “optimists”’ “policy learning” approach is mainly

due to their different stance regarding the question of whether the OMC can “strengthen social Europe”. “Pessimists” doubt that the OMC is powerful enough to balance “negative” and “positive integration” (Scharpf 2002) and improve national welfare state performance. Here, they stress that the OMC is subordinated to the legally binding framework of negative integration, the Economic and Monetary Union and economic policy coordination (Büchs 2007; Chalmers and Lodge 2003; Kröger 2008; Offe 2003; Scharpf 2002; Kröger this issue; Schäfer and Leiber this issue). “Pessimists” therefore assume that European integration continues to be a potential challenge for national welfare states because the creation of the single market increases competitive pressures that might lead to a downward adjustment of social standards. Furthermore, through the creation of the European Monetary Union, governments within the Eurozone lost the power to set exchange and interest rates as instruments of economic policy which may put additional direct pressure on welfare systems. Prices, including wages and social security contributions, also became more transparent. Critics therefore fear that this increases competition among economic sectors across Europe, including wage levels. Furthermore, the limits for overall and annual state deficits defined by the Stability and Growth Pact potentially restrict government expenditure and discourage anti-cyclical government spending (Martin and Ross 2004; see Niechoj this issue) (3).

However, the “pessimistic” literature on the OMC and social Europe so far does not refer to the wider literature on welfare state retrenchment (Castles 2007; Green-Pedersen 2004; Korpi 2003; Scruggs 2006; Starke 2006; Swank 2005). Many authors within the welfare state retrenchment debate emphasise that globalisation and Europeanisation are not the only, and perhaps not the most important, factors that exert pressures on welfare states but that post-industrialism and demographic and family change may present equally significant challenges (e.g. Pierson 2001b). In my view, it is important to take these arguments into account to gain a more comprehensive understanding of the context within which the OMC is operating. Structural economic change is regarded as additional pressure because the expansion of the services sector decelerates economic growth as this sector provides less scope for increasing productivity. Declining economic growth implies less employment growth and potentially increasing unemployment which subsequently adds to budgetary pressures (ibid.; Bonoli 2005; Esping-Andersen et al. 2002; Tayler-Gooby 2004).

In addition, demographic change or “ageing societies”, due to declining population growth in developed countries and higher life expectancy, are thought to exert further pressure on welfare states because the size of the working age population that contributes to state revenues and social security funds is decreasing whilst the demand and need for pension, health and long-term care expenditure is continually increasing (Esping-Andersen et al. 2002; Pierson 2001a; Pierson 2001b).

Overall, the debate between “optimists” and “pessimists” appears to be clear-cut – even though they tend to concentrate on different aspects of OMC effectiveness. Why should this orderly configuration be challenged? If national welfare state performance is improving/deteriorating should we not simply assume that the “optimists”/“pessimists” are right respectively? There are two reasons why this article seeks to question this view. First, we need to establish what types of policies the OMC promotes. If its policy contents are open enough to be interpreted and used by national policy actors in order to legitimise welfare state retrenchment, it is possible that it exerts an influence through “policy learning” as suggested by the “optimists”. However, this may happen in ways that are shaped and limited by existing pressures on welfare states so that the OMC fails to prevent retrenchment as feared by the pessimists. Second, a range of empirical, in-depth studies has already been published demonstrating an influence of the OMC on national policy frames or even concrete policies (e.g. Büchs 2007; De la Porte 2008; Heidenreich and Zeitlin 2009; Zeitlin, Pochet, and Magnusson 2005). In some of these cases, national governments have used the OMC to legitimise unpopular welfare state reforms that had considerable retrenching effects. For example, the radical labour market policy reform in Germany (commonly called “Hartz” reform) that resulted in a cut of benefits for long-term unemployed, greater conditionality and generally decreasing passive and active labour market policy spending per unemployed population has been justified by the government with references to the European Employment Strategy and examples from other member states that had already introduced similar reforms (Büchs 2007; Seeleib-Kaiser and

Fleckenstein 2007). If an evaluation of welfare state performance of the last 15 years demonstrates a deterioration of welfare state performance it is not impossible that the OMC has facilitated retrenching policy reforms by providing necessary legitimacy discourses. However, before evaluating welfare state performance across the whole EU-15, we need to analyse the OMC's policy content to establish whether it has the potential to promote "strengthening" or "retrenchment" of social policy frameworks.

### 3. What welfare state does the OMC promote? ↑

The first question that needs to be discussed when analysing the OMC's policy orientation is whether the OMC has been designed to be a subordinated tool that helps the EU becoming the most competitive economy in the world or an instrument to balance positive and negative integration. A first indication can be derived from the ways in which the OMC, the European Employment Strategy (EES) and the EU's strategy to coordinate economic policies relate to each other. Here it can be argued that the EU's economic objectives and policies still take priority over the EES and particularly the OMC on Social Protection and Social Inclusion (SPSI) (De la Porte and Pochet 2002b; Dieckhoff and Gallie 2007; Radaelli 2003). For example, the EES is required to be 'consistent with the broad guidelines of the economic policies of the Member States and of the Community' (Art. 126, Treaty of the European Communities) through which the member states are generally obliged to pursue economic policies coherent with "the principle of an open market economy with free competition (...), stable prices, sound public finances and monetary conditions and a sustainable balance of payments" (Art. 4, Treaty of the European Communities). The mechanism for economic policy coordination and the EES have been linked even more closely to each other as the set of guidelines for both mechanisms is now published in just one document, the "Integrated Guidelines". This integration was adopted through the Lisbon Strategy revision in 2005 which put a new emphasis on growth and jobs, de-emphasising the OMC SPSI. The strategy for economic policy coordination focuses on the promotion of "sustainable" growth and finances, a "dynamic and well-functioning European Monetary Union", wage levels that promote growth, investment in research and development, enhanced competitiveness, as well as the completion of the Single Market (CEC 2007).

Whilst several authors have criticised this asymmetry between EU economic and social policies (e.g. Scharpf 2002), it is arguable to what extent the OMC SPSI was ever meant to be a counter-weight to the EU's economic objectives. When it was launched in 2000 as part of the Lisbon Strategy, the OMC SPSI was only part of a package that set the new strategic goal for the EU to become the "most competitive and dynamic knowledge-based economy in the world" (European Council 2000, see Dawson this issue; Flear this issue).

However, a closer scrutiny of the ways in which the EU portrays the OMC is required. Here, two main themes can be identified, the first of which focuses on "strengthening", the second on "modernising" or "adapting" the European Social Model. Whilst these two themes are not necessarily mutually exclusive, they potentially provide different frames of interpretation and expectations as to what the EU should achieve in the area of social policy.

The theme of "strengthening" social Europe relates to two different aspects. The first emphasises the need to "reinforce", "improve" (European Council 2000) and "preserve" (CEC 1994: 7) the "European Social Model". This narrative also stresses that the EES and OMC strengthen the EU's role in social policy, implying that this improves the balance between the EU's economic and social objectives (European Council 2000: paragraph 12). The second refers to improving the outcomes of European social policy, for example in terms of "strengthening social cohesion", "eradicating poverty" (European Council 2000) and strengthening the dialogue between the social partners (European Council 1997: paragraph 18).

The theme of "modernising" European welfare states highlights the need to adapt existing systems of social protection to structural economic changes, globalisation and ageing societies

through an “active” and “sustainable” welfare state.

What concrete approaches does the OMC promote to “modernise” the “European Social Model”? Are those approaches potentially protecting from or contributing to welfare state retrenchment?

The EES and the OMC SPSI seek to tackle the problems of unemployment and social exclusion through the “modernisation of social protection systems” (EES GL 17 2008), elsewhere characterised as “activation” (Barbier and Ludwig-Mayerhofer 2004; Van Berkel and Nornemann Møller 2002). Accordingly, the EES and OMC SPSI aim to increase labour market participation, “make work pay” and thereby prevent unemployment and social exclusion. The philosophy behind this approach is that a job is the best “safeguard” against poverty and social exclusion (European Council 2000) and that only “full employment” can contribute to economic growth (CEC 2007). The EES emphasises that greater work incentives should be created particularly for “disadvantaged people and the inactive” (CEC 2007: GL 19) to enhance social inclusion. In addition, the OMC SPSI emphasises equal opportunities, the fight against discrimination, and “access for all to the resources, rights and services needed for participation in society” (European Council 2006).

In relation to the goal of “full employment”, the EES promotes a “lifecycle approach to work” with a particular focus on increasing employment rates of younger and older people (CEC 2007: GL 17, 18) as well as a better re-conciliation of work and family life, for example through improved parental leave schemes and childcare provision (see Weishaupt this issue). In addition, the EES promotes “flexicurity” (that is more flexible labour markets combined with employment security), wage levels that do not exceed productivity growth and “reflect the labour market situation”, as well as the reduction of non-wage labour costs (CEC 2007: GL 21).

Is this approach able to “strengthen” European welfare states? This very brief review of the key EES and OMC SPSI objectives demonstrates that whilst both eventually aim to strengthen the EU’s competitiveness and growth, there is also a strong emphasis on social inclusion, the fight against poverty and equal opportunities. An additional difficulty in characterising the OMC’s policy content is based on the fact that “activation” policies can be differently interpreted. The academic discussion about activation is divided. First there are those who regard it as a promising approach to “modernise” or “recalibrate” welfare states, helping them to survive the challenges that they are faced with (Esping-Andersen et al. 2002; Ferrera and Rhodes 2000). Indeed, activation has the potential to create better access to labour markets as well as training opportunities for previously long-term unemployed people and “hard to reach” groups, some of which may previously not have been eligible for such measures.

However, and particularly if activation is understood in a wider sense as an “activation of the whole systems of social protection” (Barbier and Ludwig-Mayerhofer 2004), it can, second, also be understood as a means of “re-commodification” and restriction of social citizenship rights (Handler 2003; Serrano Pascual 2007). This is because “activation” is often linked to a transformation of guaranteed social rights into “social contracts” according to which the social right needs to be “earned”, for example through the acceptance of training or work opportunities which do not necessarily have to match the citizen’s previous level of qualification or area of residence (Handler 2003; Serrano Pascual 2007). More generally, activation policies are frequently linked to discourses mentioned above which locate the cause of unemployment or social exclusion within the individual, e.g. based on the deterioration of skills, lack of self-motivation and confidence, “benefit dependency”, or laziness (“deservingness”), rather than economic or structural circumstances (Serrano Pascual 2007: 14f.). Therefore, the policy solutions focus on changing individuals’ attitudes, behaviour and skills rather than fostering demand for labour or a more general redistribution of wealth (ibid.). Whether or not “activation” policies have a retrenching effect therefore also depends on how they are interpreted and designed.

An additional major problem that the OMC identifies is the impact that ageing societies and

decreasing population growth are likely to have on the “financial sustainability” of social protection systems, in particular pension, health and long-term care systems. The OMC SPSI therefore recommends measures designed to achieve pension levels that are both “adequate” and “financially sustainable” (European Council 2006). Also in relation to health care the OMC stresses “access for all to adequate health and long-term care” which shall remain both affordable and financially sustainable (ibid.).

Again, the OMC SPSI seeks to strike a balance between two objectives that bear a tension. The first has potentially “preserving” effects as it recommends “adequate” pension levels “which allow people to maintain, to a reasonable degree, their living standard after retirement” (European Council 2006: d). The second, emphasising the “financial sustainability” of European pension systems, bears more of a retrenchment potential as the looming “cost explosion” of pension systems is likely to be addressed by cutting the generosity of pension payments, expanding the private and occupational pillars of pension systems and prolonging working lives.

Overall, whilst the OMC is structurally sub-ordinated to the EU’s economic goals and policies, its various objectives and guidelines contain different and sometimes conflicting elements, some of which are more likely to be interpreted in ways that promote welfare state “strengthening” whilst others are more likely to support “retrenchment”. Key concepts disseminated through the OMC, for instance activation, are inherently open to interpretation and can be implemented in ways that either lead to an expansion of active labour market policies and greater inclusion or to benefit cuts and stricter eligibility and conditionality. How national policy actors interpret OMC objectives and translate them (implicitly or explicitly) into national policies, will depend on a wide range of factors, including the existing welfare regime, financial capacities, political leadership and power constellations, public opinion, economic situation, etc.

#### 4. Welfare state performance

This section will analyse welfare state performance within the EU-15 since the early or mid-1990s, depending on data availability, to establish whether or not the OMC could have had a strengthening effect on the EU-15 member states. The main criteria examined here are social expenditure, particularly in the areas of labour market and pension policy, as well as developments in relation to poverty and social inequality.

Before analysing social expenditure and welfare state performance it needs to be emphasised that, based on un/employment rates, the labour market performance has on average improved during the last decade within the EU. The employment rate of the working age population in the EU-15 has continually risen from 60.3 per cent in 2006 to 67.3 per cent in 2008. Even more pronounced was the increase of the employment rate of those aged 55-64 as well as the female employment rate both of which rose by more than ten percentage points between 1996 and 2008. Conversely, the unemployment rate decreased from 10.1 per cent in 1996 to 7.1 per cent 2008 whilst the rate of working-age (15-64) economic inactivity also shrank from 32.5 per cent in 1996 to 27.5 per cent in 2008. It is not unlikely that the EES and OMC played a role for these developments as they emphasised “activation” policies and a “life cycle approach to work”. However, it also needs to be born in mind that these developments are highly sensitive to economic growth and that unemployment has considerably risen within the EU-15 from 7.1 per cent in July 2008 to 9 per cent in June 2009 due to the current world-wide recession. In addition, we will see below that increasing employment rates have not contributed to reductions of poverty and social inequality, contrary to the ways in which the EU promoted this policy approach.

Welfare state development is often measured by an examination of social expenditure.

Table 1

Data on overall social expenditure as a proportion of GDP confirm a range of studies on welfare state retrenchment that there have not been any major cutbacks (Castles 2007; Green-Pedersen 2004; Pierson 2001a; Starke 2006) (4). However, social expenditure within the EU-15 has decreased from 27.8 per cent of GDP in 1996 to 26.8 per cent in 2000. Whilst it went up again to 27.5 per cent in 2006, this level is still below that of the mid-1990s. In addition, this general picture conceals that the decrease of social expenditure has been more pronounced with a decline of 3.2 percentage points in Scandinavian countries whilst expenditure has still risen by 2.7 percentage points in Southern Europe (see [Table 1](#)).

In addition, there are interesting differences in different policy fields. Whilst expenditure on sickness and disability benefits has increased from 9.3 per cent of GDP in 1996 to 9.7 per cent in 2006, expenditure on unemployment has decreased from 2.1 per cent of GDP in 1996 to 1.5 per cent in 2006 and on pensions from 12.7 per cent of GDP to 12.1 per cent respectively.

As the EES promotes “activation”, including active labour market policies such as training and job opportunities, it is an interesting question whether the overall decline of labour market policy (LMP) expenditure conceals an increase in active labour market policy (ALMP) expenditure. However, measured in per cent of GDP, ALMP expenditure decreased from 1.06 in 1996 to 0.88 per cent in 2006 (without Greece and Italy due to missing data, source: OECD). In line with the philosophy to minimise “benefit dependency”, the decrease of PLMP expenditure was even more significant, with a fall from 1.95 per cent in 1996 to 1.25 per cent in 2006 (all EU-15 countries).

However, measuring LMP expenditure change in per cent of GDP is problematic because a decrease in spending might simply be due to decreasing unemployment whilst GDP remained stable or rose. It has therefore been suggested by the OECD (2003: 193f.) and authors such as Armingeon (2007: 915f.) that LMP spending data should be controlled for the level of unemployment by dividing the spending figures as per cent of GDP by the respective unemployment rates. As unemployment has continually decreased during the last one and a half decades it might therefore well be that absolute spending figures have actually increased.

However, even if spending on LMP is standardised by unemployment rates, total labour market policy expenditure has not changed between 1996 and 2006 and decreased by 0.09 points or 19 per cent between 1990 and 2006. Again, the decrease has been particularly pronounced in Scandinavian countries with an average decrease of 0.4 points within that period ([Table 2](#)).

Table 2

Standardised ALMP spending has on average increased by 0.03 points between 1996 and 2006, however, it decreased on average in Scandinavian countries by 0.21 points within the same period. Between 1990 and 2006, standardised ALMP expenditure declined within the EU-13 (excluding Italy and Greece due to missing data) by 0.04 points. However, this measure includes placement activities and administration cost. Expenditure on the sub-category of training measures decreased from 0.32 per cent of GDP in 1996 to 0.21 per cent in 2007. Even if standardised by unemployment rates, expenditure on training did not change between 1996 and 2006 and went down by 0.02 points between 1990 and 2006 within the whole EU-15. It went down according to the standardised measure in both periods within Sweden, Denmark, Ireland and the UK.

Standardised expenditure on unemployment benefits and early retirement (PLMP) has decreased in both periods within the EU-15, by 0.02 points between 1996 and 2006 and by 0.05 points between 1990 and 2006. These figures appear to be very small, but this is due to dividing the figure of expenditure in per cent of GDP by the unemployment rate. In actual terms these figures demonstrate that there have been considerable cut backs in the area of unemployment policy, not just as proportion of GDP but also per unemployed population. Whilst the ratio of ALMP to total LMP expenditure has increased by almost 9 percentage points between 1996 and 2006, this is mainly due to cut backs in passive benefits, rather than



to a significant increase in ALMP expenditure. If benefit administration and placement activities are not included, this ratio only increased by almost 4 percentage points between 1996 and 2001 and even decreased slightly by 0.1 percentage point between 1990 and 2006.

Another interesting area of investigation is related to the “flexicurity” approach. As explained above, “flexicurity” aims at rendering labour markets more flexible, for example by making employment protection law less strict, offering more part-time and temporary work and enabling employees to change position through “life long learning” whilst unemployment benefits and ALMP should be in place to (temporarily) help those who lost their job.

There are several indications that labour markets have indeed become more flexible during the last decade. According to the OECD’s indicator for employment protection which measures the strictness of labour market regulation in terms of “hiring and firing” employees, the level of protection has decreased within the EU-15 (excluding Luxembourg due to missing data) from 2.54 in 1996 to 2.08 in 2008. Another sign of increased labour market flexibility is that the share of temporary jobs within the labour market has increased from 12 per cent in 1996 to 14.4 per cent in 2008. In addition, the proportion of part-time work rose from 16.3 per cent in 1996 to 21.0 per cent in 2008, however part of that will also be due to increased female employment. Whilst according to those indicators labour market flexibility has increased, it is less clear whether the levels of “security” have remained the same or even improved as the previous section demonstrated that during the last one and a half decades standardised measures of support for unemployed people in form of ALMP has only slightly increased (but decreased as a proportion of GDP) whilst the provision of “passive” benefits has significantly declined.

Another area that is addressed within the OMC SP is pension policy, promoting “sustainable and adequate” pensions. An analysis of spending figures demonstrates that expenditure on pensions has fallen from 12.7 per cent of GDP in 1996 to 12.1 in 2006. However, these figures do not take into account the proportion of the population aged 65 and over which increased from 15.1 to 16.4 per cent within the same period of time. In other words, if the increasing share of the population on which these pensions are spent is taken into account, the drop in expenditure is even more significant. If pension expenditure is standardised by the proportion of the population aged 65 and over it decreased within the EU-15 by 0.05 points between 2000 and 2006 and by 0.1 point between 1996 and 2006. The drop of expenditure is strongest in the continental member states with a decrease of 0.13 (0.05) between 1996 (2000) and 2006. This decrease in public pension expenditure corresponds to the fact that the ratio of the relative median income of people aged 65+ in comparison to those under 65 years of age has decreased from 0.87 in 1996 to 0.83 in 2006 within the EU-15 and that poverty (60 per cent of median income threshold) amongst those aged 65 and over has increased from 20 to 21 per cent between 1996 and 2006, and even from 17 to 21 per cent between 2000 and 2006.

An examination of more general developments regarding poverty (here measured by the 60 per cent below median income threshold) and social inequality also reveals that the situation has deteriorated rather than improved during the last decade.

### Table 3

The poverty rate has increased from 15 per cent in 2000 when the OMC SPSI was introduced (or 16 per cent in 1996) to 17 per cent in 2007 in the EU-15. The increase has been particularly strong within the Scandinavian countries, Luxembourg and Germany.

Whilst joblessness is indeed a major risk-factor for poverty, the spread of activation policies during recent years has not helped to reduce the proportion of the “working poor” which stood at 8 percent in both 1996 and 2007 within the EU-15.

Income inequality, measured by the gini coefficient, has also risen in the EU-15 from 29 in 1997 to 30 in 2007. Again, inequality is rising particularly strongly in countries with greater income equality in the mid-1990s such as the Scandinavian countries (see Table 4). A similar

picture is emerging when analysing the ratio of the highest income quintile to that of the lowest income quintile. In 1997, the highest income quintile received a total income that was 4.7 times higher than that of the lowest income quintile. This ratio had fallen to 4.5 in 2000 but rose again to 4.9 in 2007.

Table 4

In summary, whilst some of these developments in policy outcomes, particularly the cutbacks of “passive” unemployment benefits and more flexible labour markets, are in line with conservative or neo-liberal interpretations of “activation policies”, other trends such as decreasing levels of ALMP in comparison to the early 1990s as well as increasing poverty and social inequality are not in line with the OMC's ambitions.

## 5. Conclusion

This article aimed to review and combine arguments from OMC “optimists” and “pessimists”, particularly in relation to the question of whether the OMC is able to strengthen European welfare states within a context of rising external and internal pressures such as globalisation, European integration, structural economic and demographic change. The analysis of the EES and OMC SPSI policy content concluded that whilst both strategies are still subordinated to the EU's goal to become the most competitive economy in the world and contain a range of measures that have potentially retrenching effects, the OMC SPSI in particular also emphasises the fight against poverty, social inclusion, skills and equal opportunities which might have consolidating or even expansionary effects if interpreted and applied accordingly.

“Optimists” within the OMC literature have argued that whilst the OMC is less likely to have a direct effect on programmes, there are two ways in which it could have an impact on national policies. The first is an influence on policy frames and discourses through the dissemination of ideas, peer reviews and policy learning which, subsequently, might inform policy-making and translate into policy outcomes. The second is the mobilisation and integration of previously marginalised policy actors into policy-making processes who can then lobby for improved social policies (Heidenreich and Zeitlin 2009; Jacobsson 2004; Visser 2009; Zeitlin 2009).

However, the examination of developments within social spending, passive and active LMP and pension expenditure as well as levels of poverty and inequality demonstrated that on average there are no signs of improvement or even clear trends of retrenchment in those areas, particularly within the Scandinavian and continental European countries. As discussed in the introduction, the approach chosen in this article did not provide an insight into the “black boxes” that lie between different factors for national policy-making (of which the OMC is only one potential factor), policy change at the national level and policy outcomes. However, on the basis of existing qualitative accounts of how the OMC has or has not operated as a catalyst within national policy-making, there is only a relatively small range of possibilities of how these outcomes can be interpreted. As this article sought to re-examine the arguments put forward by OMC “pessimists” and “optimists”, the remainder of the conclusion will elaborate how both camps would interpret these results and propose an alternative interpretation that combines aspects of both perspectives.

1. OMC “pessimists” would regard these results as an indicator that the OMC did not have any influence on the policy developments that led to those outcomes, neither through an influence on policy frames nor the mobilisation of marginalised actors. They would interpret non-growing or even decreasing social expenditure, stagnating poverty and increasing social inequality as a quasi-automatic, un-coordinated response by EU member states to rising external and internal pressures on welfare states. However, this contradicts findings from a range of OMC and “activation” policy scholars claiming that the activation discourse has spread across Europe and that the OMC may have helped promoting this approach (amongst many authors: Barbier and Ludwig-Mayerhofer 2004; De la Porte 2008; Heidenreich and Zeitlin 2009; Serrano Pascual and Magnusson

- 2007; Van Berkel and Nornemann Møller 2002; Zeitlin, Pochet, and Magnusson 2005).
2. OMC “optimists” would still argue that the OMC has influenced policy frames and discourses in ways that promote a “modernisation” or “strengthening” of welfare states and therefore potentially strengthen “social Europe”. However, they would struggle to explain the empirical evidence demonstrating that actual spending patterns and welfare state performance did not improve or even deteriorated during the last decade as they would not concede that these OMC-informed discourses did not subsequently translate into policies and remained “symbolic” politics or “window dressing”, unable to counter-balance pressures arising from “negative integration” as well as other external and internal pressures on welfare states.
  3. This article argues that a combination of some of the arguments put forward by OMC “optimists” and “pessimists” can result in a more fruitful way of interpreting the presented evidence on welfare state performance. From this perspective, it is possible that the OMC has contributed to the promotion of social policy concepts such as “activation” and the “sustainability” of social protection systems whilst the interpretation, policy translation and implementation of these concepts has been shaped and limited by external and internal pressures on welfare states, including not only “negative integration” and globalisation, but also demographic change and the transition to post-industrialism (e.g. Bonoli 2005; Pierson 2001b; Starke 2006; Taylor-Gooby 2009). In other words, whilst “policy learning” may have taken place, it occurred in less voluntary and more confined ways than assumed by the “optimists”. This perspective would stress that whilst the OMC does not openly promote welfare state retrenchment, many of the policy approaches it endorses are contradictory or at least open to interpretations and ways of implementation that are compatible with welfare state retrenchment. The activation discourse is a prime example in this context. The OMC presents “activation” as a “positive” discourse, aiming to strengthen social inclusion by helping more people into work and reducing poverty. However, activation policies are implemented in a context of significant constraints on government budgets, a European single market and competitive pressures from further abroad. Budgetary pressures act as barriers to expanding investments into active labour market and other social inclusion policies. Competitive pressures make more progressive taxation reforms difficult which could help to increase public revenues and have redistributive effects (5). If we can assume in line with various OMC and “activation” policy scholars that the OMC contributed to a consolidation or even spread of the activation concept across Europe, it is therefore likely that “activation” has been implemented in ways that emphasise the need to “end welfare dependency” (leading to benefit cuts and restrictions of social rights) without investing into appropriate alternative ways of increasing social inclusion. The OMC may have provided discourses and justifications rendering policy reforms acceptable to a range of policy actors and the public. If it is true that the OMC encouraged the inclusion of marginalised political actors into policy-making processes (e.g. Zeitlin 2009), this would have contributed to convincing them of these new policy frameworks, thus preventing potential opposition or even transforming it into political support. However, here it must be stressed that the ways in which “activation” and other OMC-supported concepts are translated into concrete policies will depend on a variety of factors related to the concrete political and institutional settings in the different member states. It is therefore not impossible that OMC-supported “activation” led to improvements in welfare state performance in individual countries. However, the empirical data presented in section four suggest that if the OMC played a role in policy-making, and be it just at the level of providing general policy frames, national policy actors seem on average to have interpreted and implemented the OMC and “activation” frameworks in ways that did not improve or even deteriorate welfare state performance. If that interpretation holds, the OMC has not been powerful enough to prevent welfare state retrenchment against a variety of external and internal pressures or may even have contributed to it. However, further comparative qualitative research is required to examine the ways in which the OMC is or is not translated into concrete policies and what other factors have influenced recent policy changes and policy outcomes.

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## Endnotes

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(1) This definition combines elements of competing definitions and measurements of welfare state retrenchment (see amongst many Castles 2007; for quantitative approaches, Scruggs 2006 and Korpi 2003 for the welfare rights/generosity approach and Esping-Andersen 1990 as "father" of the outcome-based approach), because the evaluation in section three includes both spending and outcomes.

(2) In this context, "strengthening" social Europe therefore only partly overlaps with "welfare state expansion". "Strengthening" social Europe relates both to the EU and member state levels whilst "welfare state expansion" only refers to the national level. "Welfare state expansion" also focuses more on an increase in welfare state expenditure and expansion of welfare rights, something that the OMC arguably never explicitly supported whilst it focussed more on improved policy outcomes such as reduced poverty and greater social inclusion.

(3) Public debt within the EU-15 has indeed fallen from 69.9 per cent of GDP in 1997 to 60.4 per cent in 2007.

(4) This might partly be due to methodological problems as, amongst other problems, social expenditure as per cent of GDP is sensitive to economic growth rates (see Castles 2007; Green-Pedersen 2004 and Scruggs 2006 for details).

(5) A recent review of taxation policy in the EU demonstrates that the rates on corporate and high level personal income have decreased considerably during the last decade whilst indirect taxes (e.g. VAT, excise duties) which have regressive effects have increased (see European Commission 2009).

## List of Tables

**Table 1: Total social expenditure, per cent of GDP (changes in italics)**

	1996	2000	2006	2000-2006	1996-2006
Austria	28.9	28.4	28.5	<i>0.1</i>	<i>-0.4</i>
Germany	29.4	29.3	28.7	<i>-0.6</i>	<i>-0.7</i>
France	30.6	29.5	31.1	<i>1.6</i>	<i>0.5</i>
Belgium	28	26.5	30.1	<i>3.6</i>	<i>2.1</i>
Luxembourg	21.2	19.6	20.4	<i>0.8</i>	<i>-0.8</i>
Netherlands	29.6	26.4	29.3	<i>2.9</i>	<i>-0.3</i>
<i>Mean</i>	<i>28</i>	<i>26.6</i>	<i>28</i>	<i>1.4</i>	<i>0</i>
Denmark	31.2	28.9	29.1	<i>0.2</i>	<i>-2.1</i>
Sweden	33.1	30.1	30.7	<i>0.6</i>	<i>-2.4</i>
Finland	31.4	25.1	26.2	<i>1.1</i>	<i>-5.2</i>
<i>Mean</i>	<i>31.9</i>	<i>28</i>	<i>28.7</i>	<i>0.7</i>	<i>-3.2</i>
Italy	24.3	24.7	26.6	<i>1.9</i>	<i>2.3</i>
Spain	21.5	20.3	20.9	<i>0.6</i>	<i>-0.6</i>
Greece	20.5	23.5	24.2	<i>0.7</i>	<i>3.7</i>
Portugal	20.2	21.7	25.4	<i>3.7</i>	<i>5.2</i>
<i>Mean</i>	<i>21.6</i>	<i>22.6</i>	<i>24.3</i>	<i>1.7</i>	<i>2.7</i>
Ireland	17.6	13.9	18.2	<i>4.3</i>	<i>0.6</i>
UK	27.4	26.4	26.4	<i>0</i>	<i>-1</i>
<i>Mean</i>	<i>22.5</i>	<i>20.2</i>	<i>22.3</i>	<i>2.1</i>	<i>-0.2</i>
<b>EU-15</b>	<b>27.8</b>	<b>26.8</b>	<b>27.5</b>	<b><i>0.7</i></b>	<b><i>-0.3</i></b>

Source: Eurostat



**Table 2: Total labour market policy expenditure, per cent of GDP/unemployment rate (changes in italics)**

	1990	1996	2006	1996-2006	1990-2006
Austria	0.41	0.48	0.44	<i>-0.04</i>	<i>0.04</i>
Germany	0.37	0.42	0.28	<i>-0.14</i>	<i>-0.09</i>
France	0.25	0.25	0.25	<i>0.01</i>	<i>0</i>
Belgium	0.41	0.32	0.41	<i>0.09</i>	<i>0.01</i>
Luxembourg	0.65	0.35	0.35	<i>0</i>	<i>-0.3</i>
Netherlands	0.49	0.7	0.74	<i>0.04</i>	<i>0.25</i>
<i>Mean</i>	<i>0.43</i>	<i>0.42</i>	<i>0.41</i>	<i>-0.01</i>	<i>-0.01</i>
Denmark	0.65	0.79	0.82	<i>0.03</i>	<i>0.18</i>
Sweden	1.42	0.44	0.33	<i>-0.11</i>	<i>-1.09</i>
Finland	0.61	0.35	0.33	<i>-0.02</i>	<i>-0.28</i>
<i>Mean</i>	<i>0.89</i>	<i>0.53</i>	<i>0.5</i>	<i>-0.03</i>	<i>-0.4</i>
Spain	0.21	0.11	0.26	<i>0.15</i>	<i>0.05</i>
Portugal	0.18	0.19	0.24	<i>0.05</i>	<i>0.06</i>
<i>Mean</i>	<i>0.19</i>	<i>0.15</i>	<i>0.25</i>	<i>0.1</i>	<i>0.06</i>
Ireland	0.28	0.3	0.33	<i>0.03</i>	<i>0.06</i>
UK	0.18	0.13	0.09	<i>-0.04</i>	<i>-0.09</i>
<i>Mean</i>	<i>0.23</i>	<i>0.22</i>	<i>0.21</i>	<i>0</i>	<i>-0.02</i>
<b>EU-13</b>	<b>0.47</b>	<b>0.37</b>	<b>0.38</b>	<b>0</b>	<b>-0.09</b>

Source: OECD, Dataset Public Expenditure and Participant Stocks in LMP. Italy and Greece have been omitted from this set due to missing data.

**Table 3: Poverty rate, 60 per cent of media income, in per cent (changes in italics)**

	1997	2001	2007	2001-2007	1997-2007
Austria	13.0	12.0	12.0	<i>0.0</i>	<i>-1.0</i>
Germany	12.0	11.0	15.0	<i>4.0</i>	<i>3.0</i>
France	15.0	13.0	13.0	<i>0.0</i>	<i>-2.0</i>
Belguim	14.0	13.0	15.0	<i>2.0</i>	<i>1.0</i>
Luxembourg	11.0	12.0	14.0	<i>2.0</i>	<i>3.0</i>
Netherlands	10.0	11.0	10.0	<i>-1.0</i>	<i>0.0</i>
<i>Mean</i>	<i>12.5</i>	<i>12.0</i>	<i>13.2</i>	<i>1.2</i>	<i>0.7</i>
Denmark	10.0	10.0	12.0	<i>2.0</i>	<i>2.0</i>
Sweden	8.0	9.0	11.0	<i>2.0</i>	<i>3.0</i>
Finland	8.0	11.0	13.0	<i>2.0</i>	<i>5.0</i>
<i>Mean</i>	<i>8.7</i>	<i>10.0</i>	<i>12.0</i>	<i>2.0</i>	<i>3.3</i>
Italy	19.0	19.0	20.0	<i>1.0</i>	<i>1.0</i>
Spain	20.0	19.0	20.0	<i>1.0</i>	<i>0.0</i>
Greece	22.0	20.0	18.0	<i>-2.0</i>	<i>-4.0</i>
Portugal	21.0	20.0	20.0	<i>0.0</i>	<i>-1.0</i>
<i>Mean</i>	<i>20.5</i>	<i>19.5</i>	<i>19.5</i>	<i>0.0</i>	<i>-1.0</i>
Ireland	19.0	21.0	18.0	<i>-3.0</i>	<i>-1.0</i>
UK	18.0	18.0	19.0	<i>1.0</i>	<i>1.0</i>
<i>Mean</i>	<i>18.5</i>	<i>19.5</i>	<i>18.5</i>	<i>-1.0</i>	<i>0.0</i>
<b>EU-15</b>	<b>16.0</b>	<b>15.0</b>	<b>17.0</b>	<b>2.0</b>	<b>1.0</b>

Source: Eurostat

**Table 4: Income inequality, Gini coefficient (changes in italics)**

	1997	2001	2007	<i>2001-2007</i>	<i>1997-2007</i>
Austria	25.0	24.0	26.0	<i>2.0</i>	<i>1.0</i>
Germany	25.0	25.0	30.0	<i>5.0</i>	<i>5.0</i>
France	29.0	27.0	26.0	<i>-1.0</i>	<i>-3.0</i>
Belguim	27.0	28.0	26.0	<i>-2.0</i>	<i>-1.0</i>
Luxembourg	25.0	27.0	27.0	<i>0.0</i>	<i>2.0</i>
Netherlands	26.0	27.0	28.0	<i>1.0</i>	<i>2.0</i>
<i>Mean</i>	<i>26.2</i>	<i>26.3</i>	<i>27.2</i>	<i>0.8</i>	<i>1.0</i>
Denmark	20.0	22.0	25.0	<i>3.0</i>	<i>5.0</i>
Sweden	21.0	24.0	23.0	<i>-1.0</i>	<i>2.0</i>
Finland	22.0	27.0	26.0	<i>-1.0</i>	<i>4.0</i>
<i>Mean</i>	<i>21.0</i>	<i>24.3</i>	<i>24.7</i>	<i>0.3</i>	<i>3.7</i>
Italy	31.0	29.0	32.0	<i>3.0</i>	<i>1.0</i>
Spain	35.0	33.0	31.0	<i>-2.0</i>	<i>-4.0</i>
Greece	35.0	33.0	34.0	<i>1.0</i>	<i>-1.0</i>
Portugal	36.0	37.0	37.0	<i>0.0</i>	<i>1.0</i>
<i>Mean</i>	<i>34.3</i>	<i>33.0</i>	<i>33.5</i>	<i>0.5</i>	<i>-0.8</i>
Ireland	33.0	29.0	31.0	<i>2.0</i>	<i>-2.0</i>
UK	30.0	35.0	33.0	<i>-2.0</i>	<i>3.0</i>
<i>Mean</i>	<i>31.5</i>	<i>32.0</i>	<i>32.0</i>	<i>0.0</i>	<i>0.5</i>
<b>EU-15</b>	<b>29.0</b>	<b>29.0</b>	<b>30.0</b>	<b><i>1.0</i></b>	<b><i>1.0</i></b>

Source: Eurostat





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## The Open Method of Coordination on health care after the Lisbon Strategy II: Towards a neoliberal framing?\*

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**Abstract:** This paper undertakes a content analysis of the discourse on the Open Method of Coordination on health care (OMC/HC) in order to show how equity and solidarity are increasingly linked to optimisation and, as such, how neoliberalism increasingly frames health care. Some of the side-effects of this reframing for politics are highlighted: legitimating and extending European Union governance, reducing the space for oppositional formations and limited citizenship. The analysis begins by interrogating the broader context of the Lisbon Strategy II, after which the techniques of the OMC/HC and its substantive outputs are analysed.

**Keywords:** liberalisation; governance; health policy; power analysis; legitimacy; political science

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### 1. Introduction [↑](#)

As a legal scholar I am interested in how health care is framed, and the way in which it is being *reframed* within a neoliberal mould, by the European Union's (EU's) legal and governance discourses. In the EU health care systems (HCSs) have traditionally been framed as being about ensuring access to health care in a way that fosters equity and solidarity (Flear 2007; Hervey 2007). However, those systems are under pressure from such factors as aging populations, new and more expensive treatments, rising public expectations, intensified fiscal pressures generated by the current global financial and economic crisis, and cross-border patient flows (for a review see: Flear 2006; Hervey 2008). The latter have been promoted by the European Court of Justice's (ECJ's) jurisprudence,<sup>(1)</sup> which conjures patients of HCSs as 'market citizens' (Everson 1995; cf. Lehning 1997 and Kostakopoulou 2005) as it provides

them with a limited right to migrate to another member state of the EU where they pay for and receive healthcare treatments, the cost of which is then reimbursed by their home member state (Hervey 2007).

As I note elsewhere, this jurisprudence is double-edged (Flear 2007). It might *inter alia* actually promote equity where it prompts state action to assist those in most need of treatment, for instance by reducing waiting times and providing everyone with the opportunity to migrate in a structured way that also helps to manage or reduce costs and stimulate innovation. The jurisprudence might also foster solidarity, particularly between patients in different member states, such as when they work together to develop treatments for their conditions. But there are also risks. One risk is that free movement might generate excessive and unpredictable flows of patients, with the consequence of unplanned costs and wastage of increasingly scarce public resources. Another, perhaps more salient, risk is the circumvention of waiting lists by the middle classes. They are most likely and able to travel abroad, because of their greater confidence, their possession of foreign language skills unavailable to those from lower socio-economic groups, and, crucially, their ability to pay for travel and treatment upfront and wait for reimbursement. This “threatens equity and the solidaristic basis of healthcare systems, [by] submersing constitutional (and especially social) values beneath the swirling currents of the market” (Flear 2007: 240; cf. Newdick 2006).

Safeguarding equity and solidarity as the frame for health care by buttressing them against neoliberal jurisprudence and making the best of the opportunities it provides, as well as meeting the other challenges to HCSs, has not proven straightforward. At the time of the Open Method of Coordination on health care’s (OMC/HC) inception in 2004, obtaining an alternative or supporting solution through Community legislation seemed an unrealistic prospect. To some extent this was due to the EU’s famed constitutional asymmetry, which privileges the economic sphere through the internal market but provides limited legal bases for action in the social sphere (Scharpf 2002), for instance, by the prohibition on the harmonisation of differences between HCSs under Article 152 EC Treaty(2) (Flear 2007: 240). New governance seemed to provide the only viable buttress, and the OMC/HC seemed the most plausible appropriate form available to “coordinate, support, monitor and assess the impact of [...] [member state] reforms, promoting universally accessible, high-quality and sustainable health and long-term care for all” (EC 2009b) and maintaining distinct and autonomous HCSs (cf. Hervey and Trubek 2007)(3).

Yet, it is arguable whether the OMC/HC is suitable as a buttress. Some have argued that the Open Method of Coordination (OMC) more generally promotes moves towards the ‘free market’ or the ‘market compatibility’ of national welfare settlements, with the consequence that social welfare settlements of the ‘Continental’ model are pushed towards the ‘Anglo-Saxon’ – a (more) neoliberal – model (Scharpf 2002; Offe 2003; Moreno and Palier 2005; Büchs 2007; Büchs this issue). Alternatively, it has been suggested the OMC/HC in particular does not advance, circulate and disseminate liberalisation, privatisation, competition, and consumer choice – key referents of neoliberalism – in health care provision (Hervey 2008). Whether used implicitly or explicitly, and whether or not it is viewed as operating through the OMC, neoliberalism is commonly viewed as an *economic doctrine* promoting the dominance of a market ideology that seeks to limit the scope and activity of governing (cf. Brown 2005: 37-38; Kröger this issue).

In this paper I trace the operation of neoliberalism as a *political rationality* and governmentality that, as Ong puts it, “results from the infiltration of market-driven truths and calculations into the domain of politics” (Ong 2006: 4). In this contrasting understanding, neoliberalism seeks to optimise societal and individual energies by inducements to self-management, which facilitates governing at a distance by and through freedom. As a consequence of this move the scope and activity of governing expands. Moreover, the space for politics is reconfigured by the erosion of the gap in liberalism between the economy and the social. The development of oppositional formations and claims located outside market rationality is stymied by this move, and citizens are limited as they become rendered in a neoliberal mould as sovereign individuals pursuing their self-interest. In order to trace

neoliberalism's operation I undertake a content analysis of the discourse on the relaunched Lisbon strategy, the Lisbon Strategy II (LSII), and the techniques and substantive outputs of the OMC/HC. The analysis highlights the growing linkage of equity and solidarity with optimisation in the context of 'modernisation', which serves to place health care within a neoliberal frame.

The argument made in this paper – that neoliberalism qua political rationality *is* being advanced, circulated and disseminated at the EU level through the OMC/HC – supplements and reinforces analyses highlighting the neoliberal orientation of the OMC more generally (Haahr 2004)(4) and the national welfare reforms of the member states (an orientation highlighted by the construction of citizen-consumers in the United Kingdom and beyond: Clarke et al. 2007). Other reasons for interrogating neoliberalism's operation by reference to the OMC/HC include the following. As the papers in this collection demonstrate, the OMC is growing in importance. According to some the OMC is now a template for EU soft law mechanisms (Greer and Vanhercke 2010). That the OMC is the preferred method for EU action in sensitive policy areas at the core of national sovereignty, such as health care, affirms this point. Further affirmation, and an added reason for interrogating the OMC/HC, is to be found in moves to reinforce the current OMC/HC and the wider Social Protection and Social Inclusion (SPSI) OMC (OMC/SPSI) (EC 2008a). In essence, the OMC is expanding EU involvement and power, and this necessitates reflection. By shedding light on how we are being governed by and through neoliberalism, this paper seeks to contribute towards to this collection, the wider commentary on the OMC, and the broader subsequent task of critical reflection and imagining alternative ways of governing and being.

In the next chapter I outline neoliberalism and the governmentality perspective adopted for the analysis of the LSII, as well as the techniques and substantive outputs of the OMC/HC in [section 3](#). In [section 4](#) I summarise the paper and discuss the findings.

## 2. Neoliberalism and governmentality

In order to trace neoliberalism's operation I undertake a content analysis of the discourse found in official documents(5) and webpages. The analysis is necessarily non-exhaustive and indicative, and it is divided into the overarching context for the OMC/HC provided by the LSII (see [section 3.1](#)), techniques of the OMC/HC (see [section 3.2](#)) and its outputs (see [section 3.3](#)). Neoliberalism is understood as a political rationality (Foucault 2008, interpreted by Lemke 2001 and especially Brown 2005: 39-44). Rose et al. describe this as “a way of doing things that...[is] oriented to specific objectives and that...[reflects] on itself in characteristic ways” (Rose et al. 2006: 84). The fusion of various modes and techniques of governance with neoliberal political rationality can be understood as governmentality or that which organises the conduct of conduct (Foucault 1998: 2002). In this view power is relational and dispersed across society through a variety of often unrecognised, informal and sometimes contradictory elements, including discourses. Power often operates without intention and it can produce unforeseen consequences.

As a way of doing things neoliberalism seeks to organise policies in the market and non-market spheres by extending and disseminating market rationality from the former to the latter and into all domains. The discursive and practical integration of the economy and the social has as its corollary a narrowing of the gap (and distinction) between them found in liberalism (Brown 2005: 45). The criteria for good social policy are thus limited and conflated with economic optimisation. Governance openly responds to market needs through its various institutions and policies; cost and benefit become the measure of its practices. Entrepreneurialism frames political discourse. The reason for all this is neoliberalism's central objective: The gathering, deployment and optimisation of the energies of individuals and the population as a whole (Brown 2005: 39-44), so-called biopower (Foucault 2008).

Neoliberalism governs at a distance and is operationalised through such ways of doing things as “budgets, audits, standards and benchmarks” (Rose et al. 2006: 91). These give the

impression of devolution, but in fact they govern and seek to optimise performance through the production of self-management. That is, institutions and individuals are treated as autonomous *and* responsible agents. In this way, neoliberalism seeks to extend and enhance the scope and activity of governing.

Governmentality gives access to the broader significance of the powers operating through political phenomena like the OMC. In particular, since state-like organisations like the EU are the singularly accountable sites of power in society, legitimacy becomes a vital concern in understanding the operation and use of neoliberalism through the OMC/HC and the LSII (Brown 2006: Chapter 4, modifying Foucault's account, which ignores legitimacy; cf. Pfister this issue). An emphasis on governmentality brings out the ways of governing and, therefore, the underlying rationalities, and their effects.

### 3. Neoliberal architectures, techniques and outputs

#### 3.1. Architectures

The operation of neoliberalism in the overarching architecture of the LSII reinforces its operation in the OMC/HC as the frame for health care. Analysis of the architecture also exposes neoliberalism's use as a way of legitimising EU power and governance, the way in which that involvement is naturalised and expanded through neoliberalism's depoliticising effect, and its limitation of politics and citizenship (see further, Zeitlin 2008; cf. Hervey 2008, who misses the strategy's framing potential).

To begin with the operation of neoliberalism, by way of essential background, the OMC, and its variants such as the OMC/HC (sketched more fully in [section 3.2](#)), were inaugurated to further the Lisbon Strategy. The latter was launched by the European Council in March 2000, and had the goal of making the EU "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion" by 2010 (CEU 2000). The original 'Lisbon triangle' being concerned with economic, social and employment policies was replaced by a 'quadrangle' with the addition of the environment at the EU's Gothenburg summit on Sustainable Development Strategy in 2001 (Armstrong 2008: 413-414).

However, the Lisbon Strategy was relaunched in 2005 with an explicit focus on growth and jobs – that is, market rationality. This followed a mid-term review in 2003-4 which criticised the strategy's overarching design and the OMC's role within it. In particular, the report of the High Level Group chaired by Wim Kok highlighted benchmarking and peer review within the OMC as ineffective. The Kok Report (2004) recommended that the strategy's key techniques, its objectives, targets and indicators, be refocused on growth and jobs. Further pressure in this direction was provided by the then incoming Barroso Commission (EC 2005b), which essentially reinforced the Kok Report's findings. The consequence of this political and institutional pressure was a focus on growth and jobs.

As Zeitlin explains, the architecture of the LSII fuses "the European Employment Guidelines and the Broad Economic Policy Guidelines into a single set of 24 Integrated Guidelines for Growth and Jobs" (Zeitlin 2008: 437). Social objectives are absent from this new overarching architecture. The importance of this reframing is made acutely apparent by the Commission, which notes how "[m]ost importantly, the relaunch of the Lisbon process in March 2005 has *sharpened the context into which work on social protection and inclusion must fit*. The revised Lisbon strategy concentrates on policies to boost growth and employment and seeks to overcome the implementation gap identified in the review of Lisbon" (EC 2005a: 3, emphasis added). That is, the social fits *into* the economy – the market and economy frame the social and, therefore, the OMC/SPSI, which streamlined the pre-existing social OMCs, including the OMC/HC (infra [section 3.2](#)). This framing of the social further indicates the extension and dissemination of market rationality into formally non-market domains, which are thereby



subordinated.

Nevertheless, the European Council has, in its 2005-2009 spring meetings, repeatedly reaffirmed the importance of creating greater social cohesion and reducing social exclusion as core objectives (CEU 2005, 2006, 2007, 2008, 2009). This is supposed to be achieved through interaction between the streamlined OMC/SPSI and the Integrated Guidelines (Zeitlin 2008: 438). Yet, there is little evidence of such a relationship. For instance, the political commitment of the European Council to the social dimension of the Lisbon Strategy – now II – is not found in the Integrated Guidelines used by member states in the preparation of their National Reform Programmes (NRPs, produced under the LSII), nor in the assessment of the NRPs by the Commission (Zeitlin 2008: 441). In the 2006 NRPs just ten member states included social cohesion/inclusion objectives (including gender equality) in their national priorities or referred to them extensively. Of the other member states, nine briefly cross-referenced the NSRs (from the OMC/SPSI) submitted the previous month, four referred exclusively to labour market inclusion, and the remaining four omitted any mention of social cohesion altogether (ibid.: 439).

Linking forward to the principle of subsidiarity (infra [section 3.2](#)), although national ownership of the OMC is stressed there is a structural bias towards finance and economics ministries i.e. those most likely, given their remit, to privilege market rationality in their work (Zeitlin 2008: 439-440). This bias generates difficulties for the social partners and health ministries since they have little history of contact with the ministries. The place of these national actors, and the apparent lack of integration with social and health ministries, further demonstrates the primacy of market rationality in the LSII.

In summary, it appears member state social policies are to be coordinated in pursuit of financial sustainability and employment promotion, which the OMC/SPSI was “developed to overcome” (Zeitlin 2008: 442). In support of this Zeitlin uses the example of the 2007 joint recommendations. These note eight member states who received formal recommendations to accelerate the reform of their HCSs in order to ensure the sustainability of public finances. Moreover, another three member states were exhorted to accelerate implementation of overdue health care reforms. The subordination of the social to the economy is made clearer in a statement on the Commission’s webpage for ‘Growth and Jobs’: “[w]e need to make Europe an attractive place to invest and to work” and “[t]hat means *budgetary sustainability*, better regulation and the right tax and benefit systems” (EC 2009a: emphasis added). Benefits systems, which can be assumed to include HCSs, are more explicitly placed in the service of the economy.

Overall, the LSII marks an overt response to market needs. Social progress is not just conflated with, but is subordinated to and framed by the economy. The policy areas governed by the OMC, such as health care, are enfolded, infiltrated and animated by neoliberalism through the LSII. The architecture reinforces the ‘modernisation’ agenda of the OMC/HC and the reframing of health care as being about optimisation. Ensuring sustainable public finances, promoting and facilitating economic optimisation, and the index of cost and benefit, become the key measures of successful health care policy. This framing reinforces the linkage of equity and solidarity with optimisation in the OMC/HC. Consequently, the visibility and autonomy of EU and national social policy is undermined.

The EU is not just concerned with governing the market. Through the LSII and the OMC/HC, the EU reveals and projects itself as thinking and behaving like a market actor right across its spheres of activity (cf. Brown 2005: 42). The prominence of market rationality reveals the deeper rationale and use of neoliberalism. It is a way of legitimating *and* extending EU power and governance into sensitive policy areas at the core of national sovereignty. This process is abetted by the effect of depoliticisation: Neoliberal discourses give the impression of being natural, putting a gloss over their historical and political production. Neoliberalism is thereby installed as commonsense. This process is given further assistance by the formal emphasis on the maintenance of differences between HCSs, a shell within which neoliberalism’s operation is concealed, and which risks limiting reflection on neoliberalism’s use and consequences.

Neoliberalism's legitimating and empowering function can be brought into sharper focus by reference to just a few examples. For instance, the Lisbon Strategy sees the EU taking explicit responsibility for the economy even as it does so by governing at a distance, by and through the freedom of responsabilised autonomous agents. The Kok Report (2004) was produced with the advice of political appointees, business people and academic economists. The market-oriented expertise of the last two was used to provide authority and legitimacy in the absence of significant empirical evidence (Zeitlin 2008), which highlights the importance and operation of neoliberal rationality as a way of producing results that might legitimate and extend EU governance. The importance of producing output legitimacy, i.e. producing results that legitimise EU governance (Scharpf 1999), is highlighted by Commission President Barroso. The President figures prominently on the EU's LSII 'Growth and Jobs' webpage, and is quoted as saying: "Europeans have told us that they want results, not divisive ideological battles. The Lisbon Growth and Jobs Strategy is the way we can deliver those *results*" (EC 2009a: emphasis added).

As a further consequence for politics, the subordination of the social to the economy erodes the discursive space available for the development of oppositional formations and claims is that are "located outside capitalist rationality yet inside liberal democratic society, that is, the erosion of institutions, venues, and values organized by nonmarket rationalities in democracies" (Brown 2005: 45). This limits citizenship to the pursuit of self-interest and renders more clearly the sovereign, neoliberal citizen.

### 3.2. Techniques

Having outlined the context and programmatic level provided by the architecture of the LSII, I turn to examine the operationalisation of neoliberalism through the techniques of the OMC/HC. The latter was launched in October 2004, but with the LSII it joined the OMC's on social inclusion and pensions to become a strand of the OMC/SPSI (Greer and Vanhercke 2010; Dawson this issue). The Social Protection Committee (SPC) (a high level group of officials) provides advice on and manages the OMC/SPSI. The OMC/HC comprises three main stages. As I explain, these entail various techniques which serve as repositories and sites for the operation of neoliberalism, an analysis which contrasts with extant contributions, such as Hervey's (2008: 110-113).

1. The first stage involves the setting of objectives at the EU level, some held in common with the other strands of the OMC/SPSI, three so-called common objectives, and others that are specific to the health care sector. A set of indicators are then used in the third stage to assess member state performance.
2. In the second stage, member states submit their National Report on Strategies for Social Protection and Social Inclusion (National Strategic Reports or NSRs) every three years. The reports include a section on health care, which is used to explain member state progress on meeting the common and sector specific objectives. Various national and sub-national actors are supposed to participate in the drafting process (Kröger 2007). This drafting process provides the first main opportunity for peer review (the second occurs in the third stage).
3. The third and final stage is where member state performance is evaluated by the European Commission (Commission) (in the guise of the Directorate General on Employment and Social Affairs). The Commission undertakes an analysis and assessment of the NSRs in order to determine member state progress towards the common and sector specific objectives established in the first stage of the OMC/HC. This process is assisted by the indicators adopted in June 2006, fully agreed by the SPC in May 2008. The Commission's assessment – the substantive outputs discussed [infra section 3.3](#) – is published in a joint report. This provides the second main opportunity for peer review. This report is adopted by the Commission and the Council. They then submit the report to the spring European Council, which is thereby informed of progress in the area of the OMC/SPSI.

It will be apparent from the foregoing that the OMC/HC renders national health care policies legible and open to discussion and development at the EU level by deploying various techniques: the involvement of various actors, information gathering, peer review, indicators, and consequent learning. The techniques operate together and with cumulative effect to gather and enhance the energies in society by inducements to institutional and individual self-management (cf. Haahr 2004: 217) and to prepare the ground for reframing the understanding and organisation of health care ([section 3.3](#)). The techniques are *steering* tools (cf. Hartlapp this issue) that promote governance by and through information or knowledge (cf. Pfister this issue). As Foucault observes “power and knowledge directly imply one another [...] there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations” (1998: 27). It is in discourse, here that on the OMC/HC and the LSII, that “power and knowledge are joined together” (ibid.: 100).

In this vein the techniques permit, as Rouse explains, a “more extensive and finer-grained knowledge”, and this, “enables a more continuous and pervasive control of what people do, which in turn offers further possibilities for more intrusive inquiry and disclosure” (Rouse 2003: 99). Individually and collectively the techniques open up patterns of thought on health care (cf. Hartlapp this issue) by penetrating “the knowledge domains and national *frame of reference* of member state bureaucracies” (Haahr 2004: 219, emphasis added). It is noted that given the supposed successes of using the techniques on the economic side under the LSII “[i]t seems [...] logical to progressively adopt some of the methods and the approaches [such as targets, see *infra*] [...] for the Social OMC [...] It would [...] ensure optimal interaction between jobs, growth and social policy” (EC 2008a: 4). Optimisation as a reason for sharing information in the context of the LSII is made clear by the Commission, which stresses how the relaunch provides “more room for the learning, exchange and policy dissemination which participants value” (EC 2005a: 10). This renders health care susceptible to *reframing* as a neoliberal – market-oriented – issue rather than as being about equity and solidarity, which is of course the objective of the techniques. The effect of depoliticisation assists reframing in that it helps to make the extension of EU involvement in the governance of health care appear *natural*.

To focus on the involvement of various national, sub-national and civil society actors in the second stage report drafting process and the first instance of peer review at the second stage, this underlines the formal importance of the principle of subsidiarity to the OMC in general and the OMC/HC in particular (Armstrong 2008: 420-421). Subsidiarity, institutionalised in Article 5(2) EC Treaty, [\(6\)](#) emphasises the importance of ensuring governance is undertaken at the lowest possible level. The formal importance of involvement from various actors across society was reinforced after the revision of the Lisbon Agenda in 2005 (ibid.; [supra section 3.1](#)) and is emphasised in moves to reinforce the OMC/HC by “enhancing ownership” (EC 2008a: 2) “through peer reviews, mutual learning and involvement of all relevant actors” (ibid.: 7), to include “[e]nsuring greater involvement in peer reviews of officials at local and regional levels” (ibid.: 5). As Haahr puts it, in the OMC, society is seen as a “pool of resources, the energies of which can be released through the use of partnerships” (Haahr 2004: 215) and ‘contractualism’ (ibid.: 217). Peer review at the second stage augments the emphasis on subsidiarity since it involves asking member state officials and outsiders from civil society to “participate in structured and contextualised exchange of information” (Greer and Vanhercke 2010). Subsidiarity therefore valorises market rationality through its figuration of the agency and responsibility of included individual and institutional actors, who are deemed capable of self-management and participation in the deliberative process of information gathering and drafting. It appears “real exchanges of practical knowledge” are promoted by the inclusion of line officials rather than the international division of health ministries (ibid.). Participation positions and co-opts the actors for the reframing of health care whilst *also* reframing them in a neoliberal mould.

Turning to the objectives of the OMC/HC, these serve as guidelines for national policy and they are established in the first stage through reflexive evaluation and targeted inducement to generate information on progress (cf. Hartlapp this issue). The objectives valorise market rationality and begin the reframing exercise by defining what is to be achieved. Examples of

common objectives include the promotion of “social cohesion, equality between men and women and equal opportunities for all *through* adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies” (EC 2007: 83, emphasis added). Whilst social values pertaining to equity and solidarity are stressed these are to be achieved *through* optimised social protection systems. Similarly, the sector specific objectives highlight ensuring “access for all to adequate health and long-term care [...] and that inequities in access to care and in health outcomes are addressed”, but they must also be read with what appears to frame and support them: “financial sustainability” and optimisation (EC 2007: 83). Both sets of objectives not only extend market rationality and facilitate governing at a distance by inducements to self-management. They also promote moves away from equity and solidarity as the frame for health care, which are limited by their subordination to, and not just conflation with, optimisation.

Information gathering and exchange, particularly in the first stage report drafting, the first instance of peer review and third stage production of joint reports (infra [section 3.3](#)), is undertaken by those in the ‘partnership’. This facilitates governing at a distance by involving those who provide the information, making them complicit in the work of assessing whether objectives are met. Such work is vital for reframing health care since it constitutes the field of power/knowledge. The field is augmented by the PROGRESS programme,<sup>(7)</sup> which:

“[W]ill support the enhancement of statistical capacity and data collection [...] For example [...] on life expectancy by socio-economic status [...] *Greater involvement of the scientific community and stronger links with other ongoing research activities* [...] will further contribute to developing knowledge- and evidence-based policies” (EC 2008a: 7, original emphasis).

This social data would enhance optimisation. Indeed, the programme also “offers support for the testing of new tools for mutual learning and exchange of best practices [...] [such as] the development of ‘social experimentation’ as a way to test innovative ideas [...] for example in the field of [...] long-term care” (ibid.: 7-8).

Peer review at the second and third stages can “encourage poor performers to rethink their strategy” (Trubek and Trubek 2005: 94, cited also in Hartlapp this issue). In the review of the OMC/SPSI peer reviews, including the OMC/HC, it is noted “context information, a stronger analytical base and broader dissemination of the results would contribute to the identification of good practices and facilitate policy transfer” (EC 2008a: 2). The information gathered and exchanged promotes rethinking and reframing through the assessment of performance and the generation of peer pressure for change (infra [section 3.3](#)). Peer reviewers are coopted into taking responsibility. At the second stage the involvement of actors from the national context creates and positions them as peer reviewers. They are deemed to possess equal capacity to review performance, creating the impression of equality of position and ability, and ‘partnership’. The actors are made responsible for the reframing of national policy when they determine whether national policy meets the objectives set at the first stage, and by providing further information towards the development of indicators, for use in the third stage. Review at the third stage by the Commission places member states on an equal footing in terms of the formality of review. The member states are to be assessed and, therefore, placed in a hierarchy of progress or performance through the use of the common and sector specific objectives established in the first stage of the OMC/HC as well as indicators. The Commission takes “advantage of its ability to muster expert views and its position as a hub of the OMC process” (Greer and Vanhercke 2010).

Moving to indicators, they were not agreed until after the Lisbon-Strategy II and not fully until 2008. Indicators are developed by the Indicators Subgroup of the SPC and are to be used “by Member States to assess their progress towards reaching the common objectives” (Greer and Vanhercke 2010). The indicators operate with the common and sector specific objectives as a technique aimed at making member states take responsibility for their autonomy during peer review. The 14 overarching indicators (including 11 context indicators) are “meant to reflect the newly adopted overarching objectives (a) ‘social cohesion’ and (b) ‘interaction with the

Lisbon strategy” (EC 2009c). These indicators are used to assess whether common objectives are met. They include life expectancy and per capita health expenditure.

There are three main groups of sector specific indicators focused on different core objectives (EC 2006: 40-50; EC 2008b: 40-64) as follows:

1. Access to care (including inequity in access to care) and inequalities in outcomes: Including the proportion of the population covered by health insurance, life expectancy, self-perceived general health and infant mortality.
2. Quality of care (effectiveness, safety and patient centredness): Including various cancer survival rates, vaccination against influenza, length of hospital stay, patient satisfaction, numbers of doctors and nurses and coverage of public and private insurance.
3. Long-term sustainability of systems (expenditure and efficiency): Including total per capita health expenditure and percentage of public/private health care expenditure.

1. and 2. clearly focus on equity and solidarity, and since they must be sustainable, the focus of 3. can be said to be the same. However, irrespective of whether they are more about equity and solidarity than the market or economy, the indicators seek to optimise performance by providing the means to assess whether the objectives are met. This focus on optimisation ensures equity and solidarity are subordinated within a neoliberal frame.

Data corresponding to the new set of indicators is also produced (SPC 2008), and this further constitutes the field of power/knowledge. The data lists Member States (not always comprehensively given limitations in available data) in relation to each indicator. For instance, in 2006, life expectancy was 79.5, 71.1 and 80 in Belgium, Lithuania and the Netherlands respectively. This data can be used by actors to highlight differences in performance, but the indicators and data have yet to be used as the basis for target setting or benchmarking. However, it is noted there is a need to “make a better use of the commonly agreed indicators” (EC 2008a: 3). Indeed, the indicators are “sufficiently robust as a basis for the introduction of quantitative targets [...] [which] would introduce a new dynamism” (ibid.: 5), in particular by supporting the implementation of the objectives. Examples of targets include “health-status related targets, for example on increasing life expectancy [...] and healthy life years, and reducing infant mortality”, but they are directed at optimisation: “Health status is decisive for active participation in the labour market, longer working lives and for reducing poverty” (ibid.). Even without an overt reference to the market, the indicators, perhaps to be enhanced by targets, place equity and solidarity within a neoliberal frame because they seek to optimise performance. In any case, optimisation is reinforced by the explicit overarching objective of interaction with the LSII. Thus, the indicators provide a “more or less technical means of locking the shaping of conduct into the optimization of performance” (Haahr 2004: 218).

To summarise, although traces of equity and solidarity are apparent, the techniques are about producing self-management in order to optimise performance. This reinforces the neoliberal framing of health care provided by the LSII.

### 3.3. Substantive outputs

Regard to substantive outputs, principally in the form of joint reports and SPC opinions and documents reviewing the NSRs, reveals more about how equity and solidarity are linked to and subordinated by optimisation, which then increasingly frames health care (cf. Hervey 2008: 110-113). Pre-LSII and OMC/HC health care seemed more clearly framed by equity and solidarity, for instance in references to equality of access to health care as a way of producing social inclusion (EC 2004). Some linkage was made to optimisation by making health care “more affordable and accessible” (ibid.: 64). Yet, with the inauguration of the OMC/HC around the time of the LSII, the linkage was made more explicit. This is demonstrated by the SPC’s valorisation of market rationality as it highlights the use of exchanging information on best practices:

“[S]uch as new types of organisations, different management structures, new budgeting and financial procedures (e.g. prospective budgets, activity based financing...fix-level payment schemes e.g. for medicines), hospital collaboration structures, payment systems to staff and fee negotiation *may be of interest to the OMC work*” (SPC 2005: 31-32, emphasis added).

Other useful information includes that on:

“[E]vidence-based prescriptions and *cost-saving* distribution of pharmaceuticals, regulation, *supervised competition* and *privatisation*, and *contractual* relationships between purchasers and providers can contribute to a more rational and cost effective use of care systems *may also be useful in helping Member States develop their own policies*” (ibid.: 32, emphasis added).

The SPC emphasises ways of optimising performance by reducing state expenditure and governing by and through techniques of self-management such as competition, privatisation and contracts. In these ways market rationality and rational economic behaviour are extended and disseminated to the formerly non-market policy area of health care, which they increasingly frame.

Post-LSII traces of equity and solidarity are again present, for instance in the 2008 joint report’s focus on inequalities (CEU 2008). However, bearing in mind the LSII’s architecture, these values are perhaps more clearly linked with and framed by optimisation, particularly in the current financial and economic crisis. For example, the SPC highlights optimisation when it notes “[i]mproving the health status of the population, within the EU in general but particularly in many Member States of more recent accession is of utmost importance”. This neoliberal turn is then reinforced by an explicit reference to the economy when it is noted improved health “will contribute to the *quantity and quality of labour force*, as well as to the overall *productivity* levels of the *economy* and to *economic prosperity*” (SPC 2007: 9, emphasis added). This pattern of linkage and framing is repeated later when it is noted “[g]ood health is indeed the precondition both for well-being and good quality of life, *as well as* for high productivity and active ageing. Furthermore, healthcare should also be considered as a highly innovative sector with considerable potential for growth and employment” (ibid.: 12, emphasis added).

In the 2008 and 2009 joint reports economic, employment and social policies are noted as being “closely inter-related and mutually supportive”. Moreover, “[w]ell-designed *social protection systems* [...] *are productive factors contributing considerably* to [...] economic achievements” (CEU 2008: 6, emphasis added; cf. a focus on financial sustainability, public/private funding and privatisation in CEU 2009: 12-13). As the report continues: “*Ongoing* [...] *healthcare reforms have a positive impact both on the sustainability of public finances and on labour market behaviour*. Successful action on healthcare improves quality of life *and productivity*” (ibid.: emphasis added). The linkage again serves to emphasise optimisation and, therefore, install HCSs within a neoliberal frame.

Reforms or ‘modernisation’ strategies are aimed at “ensuring [...] long-term financial sustainability, and beyond this [...] social sustainability, that is [...] high quality, accessible health services” (SPC 2007: 13). The point here is not just that through various strategies market rationality is used to produce sustainability and optimisation, but that the latter supplants equity and solidarity as the frame for HCSs. Equity and solidarity are increasingly subordinated to, and not just conflated with, market-like conditions in the ‘modernisation’ of public services. The use of optimisation strategies can be demonstrated by the following three examples, taken from the joint reports. First, optimisation through competition is valorised. Competition is supposed to “promote *efficiency* [...] [and this is to be achieved by] *separating* the provision and funding roles”. The separation is a way of “fostering competition between health service providers” (CEU 2007: 9). Competition “among providers (and in some countries among insurers) is seen as a means to reduce costs of care and to enhance quality” of provision. Yet, competition “has to be *regulated* so as to best balance access by all, high

quality and financial sustainability” (CEU 2006: 14; CEU 2007: 9, emphasis added). Hervey points out “no normative statement is attached to” the emphasis on competition, and does not appear to form the basis of future benchmarking or best practice statements (Hervey 2008: 112). That might well be, but the stress on regulation sanctifies competition because it is made to seem more ‘social’ in nature or ‘health care friendly’ (cf. Offe 2003). The normative impulse here is for optimisation through the use of market rationality.

Second, an emphasis on a more ‘rational’ use of resources in HCSs deepens the reframing exercise by references to “overall caps on expenditure, co-payments and use of generic medicines, staff guidelines, and health technology assessments” (CEU 2007: 9). It is noted how member states are “seeking greater effectiveness and efficiency as well as aggregate cost containment through *reorganisation*, prioritisation and the development of *incentive structures* to users and providers” (CEU 2006: 5, emphasis added). The language is that of incentives and, by implication, disincentives and sanctions. Further, it is noted that the OMC/HC should focus on “*strengthening incentives* to users *and* providers for rational resource use” (CEU 2006: 15, emphasis added). Thus, both users and providers are constructed as rational actors who are to be steered towards rational economic behaviour within a market-like context.

Third, patient choice is noted and it reinforces the neoliberal framing of HCSs. It is not just institutions that must self-manage, but also individuals. The OMC/HC “should focus on [...] increasing patient choice and involvement” (CEU 2006: 15). Also, “to enhance [...] patient satisfaction a more patient-centred pattern of care is developing [...] ensuring patients’ rights, choice, involvement in decision-making and feedback through patient surveys” (CEU 2007: 8). The focus on choice builds on and enhances the importance of competition and incentives, since choice can only be achieved through different providers, which implies a degree of competition between them and incentives for action. Choice and rights to treatment (supra 1.) figure patients as more active, sovereign individuals in the liberal mould – they must be such in order to make choices and wield rights. Hervey notes “‘patients’, although their choices are to be enhanced, remain ‘patients’, not ‘consumers’” (2008: 113). Yet, patient enhancement through choice and rights are well-known ways of introducing market mechanisms into the provision of publicly funded services (Le Grand 2003) and complement wider moves within medicine to activate patients and encourage self-management (Rose 2007: Chapter 5).

*Enhanced* patients are, in common with consumers, endowed with agency and deemed able to self-manage as entrepreneurs, rational actors utilising and displaying economic behaviour within the context of market-like conditions fostered by regulated competition and incentives. ‘Patients’ are ‘consumers’ in all but name. The figure of the neoliberal citizen feared by some as only too present in the ECJ’s jurisprudence reemerges in the substantive outputs of the OMC/HC. As Brown explains, within this neoliberal frame citizens are reduced “to an unprecedented degree of *passivity* and political *complacency*. The model neoliberal citizen is one who strategizes for her- or himself among the various social, political, and economic options, *not* one who strives with others to *alter* or *organize* these options” (Brown 2005: 43, emphasis added). Patients might be constructed as active, but they must operate within the given market order. As such patients must tend to their own interests, and they are deemed incapable of sharing power. This construction undermines the fostering of a public sphere aimed at democratic political culture and community (Brown 2006: 89).

Stepping back, the context of the current global financial and economic crisis can be seen to draw the neoliberal frame for health care even more clearly – unsurprising, but nonetheless revelatory. For instance, the SPC notes “health and long-term care directly contribute to economic growth and employment” (SPC 2009: 3). Equity and especially solidarity are noted, but again linked to, and framed by, optimisation: “In the present context of economic downturn, solidarity is key to restore citizens’ confidence and *help pave the way for recovery*” (ibid.: emphasis added). Further, “[t]he importance of health and care as strategic and emerging sector should be strengthened in light of its role in matching future labour demand and providing growth potential” (ibid.: 4). Of course, the focus on, and increasing installation of, neoliberalism as the frame for health care is expected in the context of the LSII and how the SPC’s “work since its establishment has been largely determined by the strategic

goal for the EU's socio-economic progress set out at [...] Lisbon" (EC 2009d) (supra [section 3.1](#)).

As a result of the growing linkage between the social and the economy produced by neoliberalism's operation at the level of the operationalisation of the LSII, the gap between them is narrowed. This assists the extension and circulation of neoliberalism into the social, here legitimating and extending EU governance into health care. The narrowing gap also reemphasises the production of limited citizens and the reduced discursive space for politics, with the attendant undermining of oppositional formations and claims.

#### 4. Conclusion

In this paper I used a governmentality approach ([section 2](#)) to trace the operation of neoliberalism as the frame for health care ([section 3](#)). The analysis demonstrates the increasing use of neoliberal political rationality through the architecture of the LSII ([section 3.1](#)), techniques of the OMC/HC ([section 3.2](#)) and its substantive outputs ([section 3.3](#)). There are certainly traces of equity and solidarity (particularly in [section 3.2](#) and [3.3](#)), yet especially post-LSII there seems to be a stronger link made between equity and solidarity on the one hand and the market/economy on the other. Since the link is directed at producing optimisation, equity and solidarity are reworked and transformed by, and increasingly subordinated to, neoliberalism, which then frames health care.

Neoliberalism bypasses ideological battles despite being highly ideological, because it is profoundly depoliticising. Indeed, the EU's *choice* for neoliberalism is glossed over by an emphasis on producing results. Neoliberalism is a non-choice: It is the commonsense (and only) response to the demand for growth and jobs. Besides reinforcing the operation of neoliberalism as the frame in the techniques and substantive outputs, the LSII highlights the importance of the supposedly non-ideological and impartial market in legitimating reform and policy choices, as well as the extension of EU governance into sensitive areas like health care, as something authorised by citizens. As a further consequence for citizenship, neoliberalism's operation through the LSII, and the techniques and substantive outputs of the OMC/HC, reduces the discursive space for politics and the potential for oppositional formations. Consequently, the figure of the neoliberal citizen in the ECJ's jurisprudence is perpetuated and rendered more strongly in EU discourses (especially in relation to [3.3](#)). Given its nature and consequences it appears the OMC/HC is unable to buttress HCSs against neoliberalism.

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## Endnotes

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(1) Inaugurated in Case C-158/96 Kohll [1998] ECR I-1931. See further: Hervey 2007.

(2) This paper was produced before the ratification of the Reform Treaty or the Treaty of Lisbon, which repeals and replaces Article 152 EC with Article 168 Treaty on the Functioning of the European Union (TFEU). The Treaty of Lisbon is due to come into force on 1 December 2009.

(3) The asymmetry is affirmed given

1. that the initial proposal to codify the ECJ's jurisprudence (the so-called Bolkestein Directive) produced huge political opposition since it yoked health care to services more generally and, therefore, found its legal base in Article 95 EC (repealed and replaced by Article 114 TFEU) (i.e. internal market law)
2. the subsequent extraction of health care from services more generally
3. the use of discrete legislation for health care – but still with Article 95 EC as the legal base.

(4) Cf. Haahr provides a more general analysis of discursive and non-discursive elements, such as graphs and charts before the Lisbon Strategy II. The governmentality perspective differs from that adopted in this paper, particularly in relation to considering legitimization and citizenship in power's operation.

(5) Most of which are to be found at [http://ec.europa.eu/employment\\_social/spsi/the\\_process\\_en.htm](http://ec.europa.eu/employment_social/spsi/the_process_en.htm) [last accessed 5 August 2009].

(6) The Reform Treaty repeals and replaces Article 5 EC with Article 5 amended Treaty on European Union.

(7) <http://ec.europa.eu/social/main.jsp?catId=327&langId=en> [last accessed 5 August 2009].





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## The construction of EU's childcare policy through the Open Method of Coordination\*

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**Abstract:** This article elaborates analysis of the normative foundations of the European Union's policy for reconciliation of work and family life, with a specific focus on the shifts produced by the introduction of the Open Method of Coordination in the field of childcare policy. The main objective is to examine how childcare has been conceptualised for the purposes of EU public-policy making throughout the years of European integration (1951-2008) and whether the endorsement of the European Employment Strategy (EES) in 1997 has made an impact on this process. Adopting a constructivist analytical framework and policy frame analysis as main research method, the paper maps out the contemporary policy problematizations related to childcare provision, and traces their presence and dynamic development at the EU level. Based on a keyword search in the database of European Union law Eur-Lex, a dataset of 83 documents (42 pieces of secondary legislation and 41 Presidency Conclusions) is formed. The latter is subsequently examined through qualitative content analysis. The study reveals the normative and cognitive evolution of the policy-making process prior to and after the introduction of EES.

**Keywords:** discourse; policy analysis; EU gender policy; open coordination; European Social Model; policy coordination; political science

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### 1. Introduction

The addition of the Open Method of Coordination (OMC) to the multitude of steering modes

of the European Union (EU) has sparked heated academic debates regarding its potential impact and the effect it exercises on the policy-making processes at the EU and at the national level (for review see Kröger 2009 this issue). This article sets out to examine the impact of the application of the OMC on the normative and cognitive foundations of childcare policy at the EU level of governance. To that end, it will look in the policy area of employment i.e. it will study the European Employment Strategy (EES), with a particular focus on its fourth pillar (Gender equality) and the subsequent guidelines on reconciliation of work and family life and the 33 per cent Barcelona summit target in the field of childcare provision policy. Following the proposed analytical framework by Borrás and Radaelli the impact of the EES at the EU level could be conceptualised as organizational and ideational (Borrás and Radaelli 2009: 6-7).

The organizational impact concerns innovations and changes introduced in the applied 'governance formula' i.e. formal power endowments and the procedure of actors' interactions. Such innovations are numerous in the governance arena of employment policy. Under the OMC formula not only are the EU institutions differently endowed with power compared to the Community method for example, what is more, the interaction between them and the domestic policy-making institutions is organized on a substantially different basis. These organizational aspects and the novelties therein are extensively analysed in the existing OMC literature (Jacobsson 2002; Overdevest 2002; Porte and Pochet 2002; Radaelli 2003; Zeitlin, Pochet, and Magnusson 2005).

The ideational impact (i.e. the changes instigated by the EES in the policy norms, ideas and ideational repertoires, and in the cognitive schemes that interpret the policy "reality") is far less systematically examined. In the literature there is a broad consensus that – despite the initial rhetoric – the EES and the larger Lisbon agenda are after all mainly a strategy to enhance Europe's competitiveness (Dehousse 2002; Hermans 2005; Radaelli 2003; Rodrigues 2001; Rodrigues). Similarly, in the concrete example of gender equality (pillar IV of the EES) authors observe the focus of the EES on the supply-side of the economy, and on the lack of initiatives to change the behaviour of employers and of men, which is crucial for a lateral treatment of gender inequalities (Rubery 2002: 502). In a similar vein of thought, Lombardo and Meier claim that the notion of gender equality as employed by the European Employment Strategy (EES) does not encompass sufficient feminist reading (Lombardo and Meier 2006). Moreover, Stratigaki even depicts a 'cooptation' of the concept(1) of gender equality (Stratigaki 2004). Nevertheless, despite these general analyses, specific examples, or systematic and methodical studies of the impact of the EES on policy discourses are lacking, not the least due to the methodological difficulties involved (Kröger 2009). Subsequently, the present paper proposes a method to accomplish such a study and illustrates its application in childcare provision policy.

This article, therefore, sets out to discover what the normative and cognitive impact of the EES is, and moreover to probe the widely shared view in gender studies of EU policy that the OMC has brought a narrow interpretation of gender equality replacing the earlier broader one (Lewis 2006; Rossilli 2000; Stratigaki 2004). The concrete research questions that will be considered are:

- Has the arrival of the EES reshuffled the normative foundations of EU policy-making in the field of reconciliation of work and family life and childcare policy in particular? What kind of (normative) set of ideas for appropriate employment policy does the EES promote and support?
- Apart from the well-known procedural novelties (non-binding annual guidelines, iterative cycles of reporting and peer review, policy recommendations dressed in soft law, etc.), has the OMC introduced any shift in the principles and cognitive beliefs underlying the policy process?

In order to examine the ideational effects of the EES on the framing of reconciliation policies throughout the EU, the content of the concept of childcare is studied. The underlying assumption is that changes in the conceptualization of childcare are indicative for changes in the normative and cognitive assumptions of the policy-making process itself (see [section 2](#) for

elaboration of this argument). This paper therefore maps out the policy problematizations related to childcare throughout the period of European integration (1951-2008) based on a study of secondary legislation derived from Eur-Lex database of EU law. This allows for a thorough examination of the policy background in which the EES is embedded and of the general ideational dynamics of the policy-making process prior to and after the introduction of the OMC in the field of employment.

The article is structured as follows. The next section outlines the analytical framework and the method of the study – policy frame analysis. Section three maps out the main contemporary policy frames related to childcare as derived from national public policy debates. In section four the presence and dynamic development of these frames is traced in EU policy-making through qualitative content analysis. Finally, section five discusses the findings of the study and draws several conclusions.

## 2. Analytical framework of the study <sup>↑</sup>

In this study a constructivist analytical framework is applied. Since constructivism is a broad “church” (Christiansen, Jorgensen, and Wiener 1999; Moses and Knutsen 2007: 190-191), it has to be specified that in this study under a constructivist research perspective is envisioned the approach that combines anti-foundational ontology with constructivist epistemology and interpretative methodology in the study of social phenomena. From this perspective, politics and policy-making take quite a different shape than the conventional view. Power remains the central object of interest and study, but the struggle for power is not anymore conceived of as a contest of actors, interest groups, party platforms or candidate lists, but rather as a battle of alternative worldviews, a struggle for the establishment of a dominant meaning about social issues, as well as about the ability to define what is socially significant. In turn, policy making is not about provision of the optimal public policy given certain constellation of public problems but about the contingent choice of possible (but not unique) problematizations of social reality. This constructivist conception of public policy-making is in sharp contrast with the traditional (rationalist) one in that it shifts the focus from the choice of an optimal solution to ‘existing public problems’ through the application of cost-benefit analysis, toward the production of meaning in policy-making, and the construction of public problems. Any description of an issue or a ‘problem’ is an interpretation, and interpretations involve judgement and choices (Bacchi 1999: 1). Furthermore, the objects of study are no longer public ‘problems’ but articulated (i.e. possible but not unique) problematizations (Foucault 1984: 257, 256).

Given this background, a constructivist study of a supranational policy-making process (e.g. the EES) needs to firstly illuminate the particular problematizations of social conditions and phenomena the supranational process suggests, thus forwarding (even legitimizing) certain policy solutions over others. The role of the policy analyst then is to expose these dominant interpretations and their alternatives. A prominent method to do that is policy frame analysis (Yanow 2000). The first step in this method is the identification of the policy frames present in the studied policy area. But what is a policy frame exactly? And how could one recognise a frame in policy documents?

A frame is a selected representation of a social phenomenon. Similarly to a picture frame it represents a social issue in a certain light and within certain borders. Frames direct attention toward some elements while simultaneously diverting attention from other elements, “they highlight and contain at the same time that they exclude” (Yanow 2000: 11). According to Rein and Schoen a policy frame “is a perspective from which an amorphous, ill-defined, problematic situation can be made sense of and acted on” (Rein and Schoen 1993: 146). Contending policy frames entail not just different policy visions – different language, understandings, and perceptions – and potentially different courses of action, but also different values and different meanings (Yanow 2000: 12). Therefore, policy frames could be defined as performing three main functions. They name (point out) a social condition as problematic based on and from the perspective of certain normative belief system, offer an explanation



about the problem and the relevant phenomena and propose a policy action/ non-action. In other words, a policy frame comprises the following four dimensions:

1. Normative dimension – pertains to the function of the frame to judge and attach values to social reality;
2. Constitutive dimension – pertains to the function of the frame to name and thus constitute the public problem;
3. Cognitive dimension – pertains to the function of the frame to narrate about what has led to the problem, i.e. to present social reality in terms of cause-effect relations and
4. Policy dimension – pertains to the function of the frame to outline a course of public actions that would remedy the problem.

Sound public policies are based on a policy frame that implicitly or explicitly displays all the four dimensions described above. Subsequently, the deconstruction of the constitutive, normative, cognitive and policy underpinnings of governmental programmes, actions and measures becomes the primary activity of the policy analyst. This study is also concerned with the deconstruction of policy frames, and will perform frame analysis on secondary legislation related to childcare policy. The main objective is to examine how childcare has been conceptualised for the purposes of EU public policy making throughout the years of European integration (1951-2008) and whether the endorsement of the EES in 1997 has made an impact on this process. By mapping out the policy problems to which childcare has been linked throughout the process of European integration, it will become possible to analyse whether the EES has produced an impact on the conceptualization of childcare for policy purposes, and thus on the entire process of EU policy making in the field of reconciliation policies.

### **3. Childcare as a public policy solution and childcare related policy frames** ↑

Public support for non-home based childcare is a relatively recent phenomenon in the public policies of Western Europe. Well into the 1980s – and in some cases until much later (see Weishaupt this issue) – most continental countries were designing and applying policy measures to keep mothers at home to care for their children. Sweden was an exception of this policy line as already in 1972 13 per cent of Swedish children were visiting public day-care centres (Bjoernberg 2002), and childcare was used as a policy instrument to reconcile work and family obligations. Until the beginning of the 1970s, however, anywhere out of Scandinavia childcare facilities were mainly considered places for children from “problem” and/or poor families. These were places which a child would visit exceptionally rather than habitually. This rather negative general public image of childcare gradually began to change after the onset of female emancipation in the late 1960s. For example, the British Women’s Liberation Movement claimed 24-hour community-controlled childcare services as one of their Four Demands (Marchbank 1996: 9). Thus, the issue of non-home based childcare and provision of sufficient capacity of daycare facilities entered the public sphere of all West European countries and kept on coming back on the agenda of many governments throughout the 1980s and 1990s. In principle, the Social-Democrats were the main supporters of the enlargement of childcare capacities (for the cases of Austria and Ireland see Weishaupt this issue).

In the public debates since the 1980s, childcare services have been associated with various public policy problems. Rubio (2007) identifies the following public 'problems' that available and affordable childcare facilities could allegedly remedy: gender inequality, decreasing economic growth and/ or competitiveness, low fertility and demographic stagnation, social exclusion and child poverty, and/ or early education (see also Bacchi 1999; Lewis 2006; CEC, 2008). All of these perceived public problems (or rather problematizations) have, at different times and by different political and social actors (e.g. trade unions, political parties, interest groups) been linked to childcare provision as a feasible policy solution. For reasons of space, the article will not deal with all five policy frames. In particular, to the policy frames of social exclusion and early education will not be devoted special section in what follows. The main reason for this choice is that both are not expected in policy documents of the EU level. As

mentioned already, the social exclusion frame is the oldest policy frame with decreasing relevance at the national level. Conversely, the early education frame is relatively new and with increasing relevance in the domestic policy debates, but outside the competences of the EU, so it's not expected often in EU policy documents. Nevertheless, the empirical analysis remained alert for these two policy frames. As will be revealed below, however, none of the two was present in the secondary legislation derived from the Eur-Lex database of European Law. The remaining three frames – gender inequality, decreasing competitiveness and welfare state reform and decreasing demographic growth – will be focal for the ensuing empirical analysis. Therefore, [Table 1](#) and the rest of this section presents them in detail stating their normative, constitutive, cognitive and policy dimensions.

Table 1

### 3.1. Frame 1: Gender Inequality

If one embraces the normative values of equality among people regardless of gender, equal human rights, right to personal growth and self-improvement and equal rights and responsibilities within the family, the problem of gender inequality is easily discerned. Social reality is viewed as gender-biased from this perspective – more men than women are active in public life, men are more often chosen for representatives in national assemblies, predominantly men sit at the top management seats of big business corporations, men get better pay and have less discontinuous employment careers, etc. Conversely, women are underrepresented in public and corporate top levels, are less present on the labour market (especially once they give birth), and are more often economically dependent on their partners. The cognitive story (cause-effect narrative) is the following: Due to the patriarchal and androcentric organization of society, women are for centuries long restricted to activities within the private sphere, i.e. predominantly perform the domestic (unpaid and hardly valued) work, do not have access to paid work, participation in public life, education, which leads to their dependence and unequal position in relation to men. It is subsequently argued that if women work, they will become financially independent, advance professionally, reach higher stages in their careers, and ultimately decrease the inequality gap. Clearly, in order to enter paid employment women have to be ‘freed’ from (parts of) the unpaid work they usually perform. The policy solution is seen in daycare facilities for children and/or in the redistribution of tasks at home between the partners. It is crucial to underline the importance of the concept of sharing and redistribution of tasks in this context, because if gender equality policies are understood narrowly (i.e. only in terms of facilitating the access to paid employment) they would not ameliorate the position of women. To the contrary, it might even aggravate it since paid employment without equal sharing of unpaid responsibilities leads to the so-called “double shift”. The notion of the “double shift” describes the everyday reality of most women who have careers and raise families - they hold one job for which they are paid, and another one (at home) for which they are not (Hochschild and Machung 1989; Williams 2000). It is therefore crucial to have a broad interpretation of the concept of gender equality (i.e. as equal sharing of paid and unpaid work), if this problem is to be addressed properly. Therefore, in this study the policy frame of gender equality will be considered present in documents only if next to childcare facilities a reference is made to equal sharing of unpaid work.

An example of such a policy frame is provided by the Commission's Communication of 2006 “A Roadmap for equality between women and men 2006-2010”. Page 5 thereof reads (COM (2006) 92 of 01.03.2006):

#### “2.3. Better reconciliation policies for both women and men

Services and structures are adapting too slowly to a situation where both women and men work. Few men take parental leave or work part-time (7.4% compared to 32.6% for women); women remain the main carers of children and other dependants. Men should be encouraged to take up family responsibilities, in

particular through incentives to take parental and paternity leaves and to share leave entitlements with women.

Key actions

The Commission will

- [...]
- support the achievement of the Barcelona targets on childcare and the development of other care facilities through the Structural Funds and the exchange of good practices”

### 3.2. Frame 2: Economic competitiveness and welfare state reform

Based on the normative foundations of economic efficiency, growth, and material prosperity, European economic performance is often considered to be lagging behind compared with the USA and East Asia. Subsequently, the problems of decreasing competitiveness and inefficient welfare regimes emerge (Sapir 2006: 369-374). The cognitive link between these problems of decreasing economic competitiveness and childcare is female labour market participation. It is namely believed that higher availability of quality childcare facilities would lead to higher levels of female employment (and hence GDP). Moreover, women would not burden anymore the welfare state through benefits of various sorts. The reasoning behind this expectation follows a characteristic rationalist account of costs and benefits. Namely, it is pointed out that economic theory suggests two approaches to understanding the effects of childcare on women’s employment:

1. Value of care work (availability) – childcare arrangements affect the value a woman places on her time at home. Good childcare alternatives reduce the attractiveness/value of full-time care-giving work at home.
2. Childcare costs as a tax on mothers’ wages (affordability) – an increase in childcare costs will have the same effect as lowering of the wages, i.e. it will reduce both the propensity to remain employed and the amount of hours worked. Conversely, the lower the costs, the higher the expected labour market participation of women.

Both approaches predict that improvements in women’s childcare options (greater availability and/or lower costs) will be associated with increases in employment, and this prediction is supported by a large body of empirical research (Connelly 1992; Ribar 1995; Van der Lippe 2001; 2003). Since from this perspective care responsibilities are viewed to constitute a major obstacle to (full) employment the public provision (or subsidy) of affordable childcare is seen as the policy solution.

An example of this policy frame is provided by the Commission’s Report of 2008 “Implementation of the Barcelona objectives concerning childcare facilities for pre-school-age children”. Page 2 thereof states (COM(2008) 638):

“The development of childcare facilities gives parents more freedom to choose how to organise their time and thus better reconcile their working life with family life. This applies in particular to women, who, faced with inadequate childcare options, are more likely than men to have to give up work or to choose working arrangements which prevent them from fully exploiting their talents. The European economy is thus deprived of their productive potential, at a time when it is having to contend with economic and demographic challenges.”

### 3.3. Frame 3: Demographic crisis ↑

This frame has its normative grounds in the values of social preservation, reproduction, and cohesion, as well as economic efficiency. From this angle, low levels of fertility constitute a major problem because societies shrink, older people relatively increase in numbers compared to young people, the labour force stagnates and tensions in the pension system occur. The cognitive story with relevance to childcare here is that nowadays women bare less children and relatively late in their lives (if at all) because of the pursuit of a career, which does not fit well with the care responsibilities for a child. Once a baby comes into a woman's life, most often her career plans are put on hold. That is why, in the European societies, where individualisation processes are booming regardless of gender, less and less women decide to have (several) children. Their choice might be different had more childcare facilities been available argue the policy-makers. Once partially freed from their care responsibilities, and thus able to pursue their career plans, women would bare more children – so the argument goes. The demographic crisis could therefore be partially resolved by the policy solution of rising the number and affordability of childcare facilities. An example of this policy frame is provided by the Commission's Green Paper of 2005 "Confronting demographic change: a new solidarity between the generations". Page 5 thereof reads (CEC(2005) 94):

“The low fertility rate is the result of obstacles to private choices: late access to employment, job instability, expensive housing and lack of incentives (family benefits, parental leave, child care, equal pay). Incentives of this kind can have a positive impact on the birth rate and increase employment, especially female employment, as certain countries have shown.”

To summarise, childcare is often presented in national public policy debates as a remedy to three major “problematic” social conditions (Bacchi 1999; Lewis 2006; Lombardo and Meier 2006; Rubio 2007): gender inequality – frame one (F1), decreasing effectiveness of the welfare state and declining national economic competitiveness – frame two (F2) and demographic crisis, in particular low fertility in the context of greying population – frame three (F3). These three policy frames derived from the national policy debates of the member states of the European Union will in the next section be traced in EU secondary legislation. The search in the database of European Law Eur-Lex encompasses the entire period of European Integration from 1951 until the end 2008. The objective of is twofold: On the one hand to examine and compare the dynamics of framing of childcare at the EU level before and after the EES, and on the other hand to establish whether the introduction of the Open Method of Coordination in employment polices has influenced the conceptualisation of childcare, and thus the normative and cognitive foundations of the policy-making process.

## 4. Dynamics of childcare policy framing at the EU level ↑

This section reports the results of the policy frame analysis, which was elaborated in order to trace the dynamics of linking policy problems to the policy solution of childcare at EU-level. The main objective was to examine how childcare has been conceptualised for the purposes of EU public policy making throughout the years of European integration and whether the endorsement of the EES in 1997 has made an impact on this process. Based on a keyword search in the database of EU law Eur-Lex (secondary legislation), a dataset of 83 documents was formed (see [Table 2](#) for the steps in the formation of the dataset).

Table 2

First of all, the EES ‘acquis’ entered the dataset, i.e. all EES guidelines and all EES implementation reports (18 in total), as well as all Presidency Conclusions starting from the 1997 Amsterdam summit. Secondly, a search was performed in the Eur-Lex database under different search terms all signifying non-home based childcare (e.g. crèche, child care,

daycare, etc.) From all the hits (i.e. pieces of legislation that include the search term) only the relevant and new(2) documents entered the dataset. For example, the Council Decisions and Council Recommendations related to the EES did not enter twice into the database – they were filtered during the selection of new documents. On the next step a new search term was looked up in Eur-Lex and again only the relevant and new documents entered the dataset. Following this procedure, a dataset of 83 documents was formed. The latter was subsequently examined through qualitative content analysis, whereby the number of references to childcare (or related term) as a policy solution was documented and (wherever possible) each reference was assigned to one of the 3 policy frames discussed in [section 3](#). To accomplish that the immediate context where the reference belonged was studied. If it contained the constitutive and cognitive dimensions of any of the frames described in [section 3](#), then the reference would be counted as indicative of the respective policy frame. Only rarely did the documents refer to the normative dimensions of the policy frames, and that is quite understandable – (political) values, norms or principles are hardly ever explicit in policy documents. That is why the presence of the normative dimension was not considered as necessary for the existence of the policy frame. The frequency of occurrence of each of the three frames in the Presidency Conclusions is presented in [Table 3](#).

[Table 3](#)

The relevant rows i.e. the Presidency Conclusions that return hits related to the childcare search terms were integrated into the main document database derived from the Eur-Lex (see [Table 4](#)).

[Table 4](#)

“Childcare” and its derivatives and synonyms appear 182 times in the 83 documents. Not all of these references are attributable to a policy frame, however. For example, the 1992 Recommendation on Child care is often referred to in other documents, i.e. the term ‘childcare’ is simply mentioned without signifying a policy frame. In the remaining 124 references a full-fledged policy frame – or at least its constitutive and policy dimension – could be discerned. In 52 cases childcare is linked to gender inequality (F1), in 71 cases to competitiveness (F2), and in 1 case to the demographic crisis in Europe (F3). Evidently, childcare as a policy solution has been mainly linked to the public problems of gender inequality and decreasing economic competitiveness, and the ‘demography’ policy frame is almost absent(3) (only 1 reference). Therefore, the analysis in the rest of the article will focus only on the dynamics of representation and interplay between policy frames F1 and F2.

When the ‘careers’ (i.e. presence and frequency of appearance) of the two frames are plotted together on a graph, the following findings emerge (see [Figures 1](#) and [2](#)):

1. F1 is the oldest policy frame in EU secondary legislation. The first reference linking childcare to the problem of gender inequality dates back to 1986. This late appearance is not at all surprising given that in the 12 EU member states of the time public policy measures for childcare only became a prominent issue in the 1980s.
2. F2 only appears 10 years later (in 1996, i.e. two years before the endorsement of the first set of EES guidelines).
3. F1 is dominant until 1999 when it ‘hands over the lead’ to F2.
4. In the period from 1998 to 2002 (i.e. during the first 5 years of EES) the two policy frames co-exist in relative parity (20 references to F1 and 17 references to F2).
5. As from 2002 onwards, F2 clearly dominates over F1 (18 references to F1 and 52 references to F2).

[Figure 1](#)

One immediate conclusion that could be drawn is that the EES has exercised a strong effect on the meaning of childcare and the types of policy problems it might potentially remedy as a policy solution. Up to the introduction of the employment OMC, childcare was linked only to

the issue of gender equality, whereas the introduction of the EES coincides with the emergence of F2 in policy documents, i.e. with the linking of childcare to the issue of low female labour market participation and decreasing competitiveness. Furthermore, the findings reveal that three distinct periods in the ‘career’ of childcare could be set apart: up to 1998 (i.e. before the EES) when F1 is dominant, from 1998 to 2002 (i.e. after the introduction of the EES and until the first major reform of the EES guidelines) when F1 and F2 exist in relative parity, and from 2002 onwards when F2 clearly dominates over F1 (see [Figure 2](#)).

[Figure 2](#)

#### **4.1. Period 1: Dominance of gender equality concerns (until 1998) ↑**

In the period before the introduction of the EES (up to 1998), the policy frame of gender inequality (F1) undoubtedly dominated EU policy making (14 out of 16 references could be attributed to this policy frame). An example of this policy frame is to be found in the 1992 Council recommendation on child care. There are six references to F1 in this policy document. Moreover, it contains all the elements of the gender inequality policy frame.

The normative dimension (based on the values of solidarity, equality, sharing, and equal opportunities) is outlined in article 6 of this Council recommendation:

“Article 6 Sharing of responsibilities

As regards responsibilities arising from the care and upbringing of children, it is recommended that Member States should promote and encourage, with due respect for freedom of the individual, increased participation by men, in order to achieve a more equal sharing of parental responsibilities between men and women and to enable women to have a more effective role in the labour market.”

The constitutive dimension and a cognitive story are outlined in the preamble of the same 1992 Council recommendation:

“Whereas inadequate provision of child-care services at prices affordable to parents and other initiatives to reconcile responsibility for the family and the upbringing of children with the employment, or with the education and training of parents in order to obtain employment constitutes a major barrier to women's access to and more effective participation in the labour market, on equal terms with men, the effective participation of women in all areas of society and the effective use of their talents, skills and abilities in the current demographic situation;”

Finally, the policy dimension is the very *raison d’être* of the document. Other documents where F1 is present in this period are several Council resolutions on equal opportunities or workforce participation of women (see [Table 1](#)).

It is visible from these citations that up to the mid-/late 1990s the dynamics of framing in the EU was favouring the policy frame of gender inequality. It has to be underlined however that this dominant frame was ‘dressed’ in instruments of non-binding nature (resolutions, recommendations, etc.). Moreover, these instruments were not part of a larger policy-making mechanism but had the character of a ‘one-shot’ event. In the following periods analyzed by the study, the legislation is again soft but they are supported by a larger process of steering (the OMC), which arguably increases the potential influence of the policy frame.

#### **4.2. Period 2: Gradual turn to economic competitiveness concerns (1998-2002) ↑**

From 1998 onwards the policy discourse and the respective framing processes change. In this period a new conceptualisation becomes visible in policy documents – childcare is seen as a means of boosting EU's competitiveness by rising the employment rate of women and respectively the GDP growth. Up to 2002 this new conceptualisation co-exists in relative parity with the policy frame of gender inequality (20 references are attributable to F1 and 17 to F2).

An example of framing from this period could be found in the EES guidelines of 1999. Guideline 21 thereof states:

“Reconciling work and family life

Policies on career breaks, parental leave and part-time work, as well as flexible working arrangements which serve the interests of both employers and employees, are of particular importance to women and men. Implementation of the various Directives and social partner agreements in this area should be accelerated and monitored regularly. There must be an adequate provision of good quality care for children and other dependents in order to support women's and men's entry and continued participation in the labour market. An equal sharing of family responsibilities is crucial in this respect. In order to strengthen equal opportunities, Member States and the social partners will:

21. Design, implement and promote family-friendly policies, including affordable, accessible and high quality care services for children and other dependents, as well as parental and other leave schemes.”

Clearly, this guideline is about labour market participation (F2) but nevertheless still mentions “equal sharing” of unpaid work (F1) as crucially important element of a good reconciliation strategy.

Another illustration of the economic competitiveness frame (F2) could be found in the following policy recommendation directed to Ireland in 2001 (Council Recommendation of 19 January 2001 on the implementation of member states' employment policies):

“Ireland should therefore:

1. push ahead with its comprehensive strategy aimed at increasing the proportion of women in employment, removing tax barriers and increasing child care places; and take action with the aim of reducing the gender pay gap...”

From the citations above a gradual turn in the framing of childcare could be discerned (from F1 to F2). Nevertheless, the policy frame of gender inequality (F1) is still very much present in policy documents during this period. After the 5-year review of the EES, however, the normative and cognitive beliefs underlying childcare policy making will decisively take the ‘competitiveness’ direction.

### **4.3. Period 3: Prevalence of economic competitiveness concerns (after 2002) ↑**

From 2002 onwards (with the first major reform of the EES guidelines) the competitiveness frame (F2) clearly dominates and the gender equality one (F1) steps into the background. In this period, there are only 18 references to F1, while 52 are devoted to F2. At that time at the EU-level, rational economic interpretations of public policy problems became dominant not only in the field of childcare (Hermans 2005).

At the beginning of this period, the European Council approves two quantitative targets in the field of childcare to be achieved by the member states until 2010:

“Member states should remove disincentives to female labour participation and strive, taking into account the demand for childcare facilities and in line with national patterns of provision, to provide childcare by 2010 to at least 90% of children between the 3 years old and the mandatory school age and at least 33% of children under 3 years of age.”

Already in this citation the narrowing of the concept of reconciliation is visible. While up to 2002 the EES guidelines encouraged labour participation of women, but stressed equal sharing of unpaid work as indispensable part of the reconciliation package (see guideline 21 of 1999 cited above), as of 2002, policy documents are stripped of any “sharing rhetoric” and speak directly and without any deviations about raising ‘female labour participation’. This is a clear indication of the narrowing of the reconciliation concept, and subsequently of the gender equality vision forwarded by the EES.

Another citation from this same period illustrates the point further. In 2005, the reform of the Lisbon strategy (currently referred to as Lisbon II or the Strategy of Growth and Jobs) brought about the merger of the EES guidelines and the Broad Economic Policy Guidelines. Reconciliation and respectively childcare are since then part of the Integrated Guidelines for Growth and Jobs package. Thus, guideline No. 18 of the 2005 Integrated guidelines states:

“Guideline No 18: Promote a lifecycle approach to work through:

- a renewed endeavour to build employment pathways for young people and reduce youth unemployment, as called for in the European Youth Pact,
- resolute action to increase female participation and reduce gender gaps in employment, unemployment and pay,
- better reconciliation of work and private life and the provision of accessible and affordable childcare facilities and care for other dependants,
- [...].”

Similarly to the Barcelona objective, in this 18th guideline again in a very laconic style childcare is advanced as a means to increase labour market participation, revealing the shrinking of the conception of reconciliation in EU policy-making.

With the endorsement of the 2002 EES guidelines the prevalence of economic concerns over gender inequality ones, i.e. the replacement of F1 by F2 as a leading conceptualization of the childcare policy solution is definite. Subsequently, the policy rhetoric abandons the earlier broader notion of reconciliation as sharing of paid and unpaid work. Instead, documents reveal a narrow conception of reconciliation – as only a measure to facilitate combination of work and caring tasks of women in the context of raising their participation rate in the labour market.

## 5. Conclusions

The European Employment Strategy (EES) could be conceptualised as a supranational steering mechanism that installs ideational and organizational mechanisms that aim to influence the normative and cognitive foundations of reconciliation policies in the EU member states by diffusion and iterative repetition of particular visions of appropriate policy. This article focused on the shift in the normative underpinnings of childcare policy at the EU level of governance triggered by the EES. To that end, the evolution of the processes of framing of childcare as a policy solution was traced in secondary EC legislation for the period of European integration. The empirical findings established that prior to the endorsement of the EES in 1998 childcare was a policy solution almost exclusively linked to the problem of



gender inequality. Since the introduction of the Employment OMC, however, the policy discourse changed considerably – the new overarching objective of increasing economic competitiveness installed dominance of rational (economic) interpretations of public problems (and their solutions). Thus, the EES gradually ‘redesigned’ the initial (feminist) reading of what childcare is about, and diffused a much narrower notion of childcare that presents it as a tool that only fosters female labour market participation. The study therefore confirms the expectation that the EES changed substantially the meaning of reconciliation – stripping it of its initial feminist content, and refocusing it toward competitiveness. How can these findings be accounted for?

Among all other conceivable policy measures to the reconciliation dilemma(4) childcare provides the best “fit” to the discourse of full labour market participation. Alternative solutions to the work/care dilemma (e.g. leave schemes, part-time work, fiscal measures/ transfers, welfare allowances) either burden the fiscal pot or leave labour force capacities untapped. It is only childcare that at the same time allows parents to work five days a week, and moreover creates new jobs (in the care sector). This unique ‘fit’ between the demands of the normative environment (activation, raising competitiveness) and the capacity of childcare as a policy solution to match them accounts for the propagation of this policy frame at the EU level via the mechanisms of the OMC in the last 10 years.

Furthermore, an important finding of the study – corroborating the thesis of John Kingdon (2003) – is that certain policy solutions could only achieve public policy agenda status and be implemented once they are packaged sufficiently well with and accorded to dominant paradigms and hegemonic normative discourses (that of economic competitiveness in the case studied here). This was also the conclusion of Jennifer Marchbank who studied childcare provision policy in the UK. She argues that childcare provision only came onto the agenda of the British government once it was linked to the policy problem of economic competitiveness i.e. once the policy frame F2 was articulated (Marchbank 1996). Albeit present in the UK policy discussions since the 1970, childcare has never gained in importance until linked (or coupled in the vocabulary of John Kingdon 2003) with a more prominent policy paradigm(5). Such ‘window of opportunity’ appeared in the mid-/ end 1990s with the onset of third-way politics and the new paradigm of labour activation measures. The normative underpinnings of this new policy paradigm of ‘workfare as welfare’ resonates perfectly with the policy solution of childcare provision (as was explained above). This is how the policy frame linking economic competitiveness and childcare facilities (F2) gains prominence and ultimately takes the lead in the interpretation of what public childcare provision is about.

As demonstrated by the current study this was also the process that unfolded at the EU level of governance. Initially, the EU secondary legislation conceptualizes childcare as a tool to combat gender inequality, but with the emergence of the EES this feminist reading was replaced (within 5 years only) by the new interpretation of childcare as an instrument to activate untapped (female) labour market potential. The concrete process that accomplished this normative shift was the European Employment Strategy. The mechanisms of the Employment OMC – annual guidelines, Commission monitoring reports and policy recommendations – redrafted the meaning of childcare as a public policy solution. This is how the EES ‘refurbished’ and re-launched the career of the childcare policy solution due to the normative match of the former with the master discourse on competitiveness and the employment discourse of activation. Along the way, the initial (feminist) “load” of the term childcare stepped into the background.

This article demonstrated that the EES has ‘advanced the career’ of the childcare policy solution due to the normative match of the former with the master discourse on competitiveness and the employment discourse of activation. Moreover, the very meaning of childcare as a public policy solution was redrafted. As revealed by the policy frame analysis, until the endorsement of the EES, childcare was considered solely a policy solution directed to resolve gender inequality. As of 1998, the EES guidelines gradually ‘redesigned’ this meaning, and diffused a notion of childcare that presents it as a tool to boost female labour market participation. From 2002 onwards, this conceptualization of the policy problem (F2) became

the dominant frame at least at the EU level of governance. Whether this has further on become the case in the member states is an empirical question – object to future research agenda (but see Weishaupt this issue). One thing is certain, since the introduction of OMC, EU member states are much more exposed to a narrow interpretation of gender equality. What is more, they are at present institutionally and procedurally “chained” to it via the application of the OMC in the field of employment policies.

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## Endnotes

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(1) By cooptation is meant that “concepts initially developed by feminists are transformed and subordinated to different policy priorities thus losing their potential to change gender relations” (Stratigaki 2004: 32).

(2) By relevant is meant that only these documents were examined that were significant for the study of childcare as a policy measure. There is, for example, great use of the word “childcare” in legislation related to the Single Market and in toy safety regulations. Such use of the term was not relevant for the study, therefore the respective hits were filtered out and did not enter the dataset. Moreover, a track was kept of the new to the dataset documents. For example, from the 25 relevant documents yielded by the search term “childcare” 14 were already present in the dataset because they appear in ‘the EES acquis’. Therefore, only the remaining 9 documents entered the dataset.

(3) Absent are also the other contemporary policy frames that could be found in domestic policy-making processes: social inclusion (prominent in the UK), early education (the Netherlands), and integration of migrant children (prominent in Germany and Austria).

(4) Policies facilitating the reconciliation of work and family life have been very topical in all member states of the EU in the last decade. In brief, reconciliation policy is about the possible mix of solutions to the work/care dilemma i.e. about facilitating parents in combining paid work and family responsibilities. Typically, such policies include legislation and policy instruments that regulate:

- leave schemes (maternity, paternity and parental leave),
- part-time work and (flexible) working hours,
- provision of childcare facilities,
- allowances and fiscal incentives.

Despite the absence of direct transfer of competences in the above mentioned areas, throughout the 50 years of European integration, the European level of governance managed to elaborate a distinct policy mix (see Hantrais 2000). Leave schemes and part-time work arrangements are steered by ‘traditional’ policy instruments – Directives (although the method for their adoption is not the most typical legislative procedure (co-decision) but the Social Dialogue). Provision of childcare facilities is since the endorsement of the European Employment Strategy (in 1997) a very prominent element of the EU reconciliation policy mix.

(5) Marchbank observes, namely, that out of the 4 demands of the British Women' Liberation Movement only 3 have found their adequate place and ‘solution’ in public policy making and/or legislation: abortion, equal opportunities and equal education, equal pay (Marchbank 1996). Childcare did not make it to the agenda until 1996. Marchbank argues that this is due to the fact that no other major public goal has been ‘linked’ to the issue i.e. childcare was never framed in a way that it intersects the path of other major public policy discourses.

## List of Figures and Tables

**Table 1: Policy frames related to childcare provision in the EU**

<b>Frames</b>	<b>Gender inequality - F1</b>	<b>Decreasing economic competitiveness and welfare state reform - F2</b>	<b>Demography (fertility, greying population) - F3</b>
<b>Normative dimension (values, moral beliefs) -What sort of values underlie one's perception of social reality?</b>	Human rights, equality among people regardless of gender, right to personal growth and self-improvement, equal rights and responsibilities within the family, sharing	Economic efficiency and growth, material wellbeing, efficient collective provision of welfare.	Social reproduction and cohesion, economic efficiency
<b>Constitutive dimension (need for public intervention) - What is the problem?</b>	Women are oppressed, genders are unequal, unpaid work is not considered valuable and is hardly ever equally shared between the sexes	Economic growth is slow, the relative (global) competitive position of Europe is not strong enough. The Welfare state needs restructuring in direction of greater efficiency.	Demographic crisis (low number of births, greying population, pension gap, shrinking labour force)
<b>Cognitive dimension (narrative about the phenomenon and cause effect relations) - what has led to the problem?</b>	Women are restricted to activities within the private sphere, do not have access to paid work, nor to active participation in public life, which leads to their dependence, lack of dignity and equality. Women live in an androcentric (man-made and man-focused) world, where unpaid work is not valued.	Women are not sufficiently economically active. Women's labour market non-participation represents untapped potential. The more women enter the labour market, the greater the labour force, the larger the GDP, the higher the economic growth and competitiveness.	Women bare less children later in their lives (if at all) because of individualisation processes, career demands, economic difficulties. The state does not support sufficiently families to have as many children as they would ideally want.
<b>Policy dimension (public actions) - what can be done about it?</b>	Women's economic independence could be fostered through provision of accessible and affordable childcare facilities.	Provision of accessible and economically affordable childcare facilities.	Provision of accessible and economically affordable childcare facilities.

**Table 2: Steps in the dataset formation**

Search term	No of hits	Relevant hits	New hits
<b>EES acquis:</b> All EES guidelines	11	11	11
All EES implementation recommendations	7	7	7
Presidency Conclusions	46	41	41
<b>Search terms:</b> "child-care' and "child care"	44	15	13
"childcare"	99	25	9
"child-minding"	9	3	2
"crèche"	7	0	0
"daycare"	1	0	0
"child" AND "rear"	21	0	0
"child" AND "rearing"	14	0	0

**Table 3: Frequency distribution of the childcare related policy frames in the Presidency Conclusions from 1997 to 2008**

Month/Year	Eur. Council of:	Nr of references to childcare			
		Total	F1	F2	F3
Jun-97	Amsterdam	0			
Nov-97	Lux_Empl	1		1	
Dec-97	Lux	0			
Jun-98	Cardiff	1	1		
Dez-98	Vienna	0			
Mar-99	Berlin	0			
Jan-99	Cologne	0			
Oct-99	Tampere	0			
Dez-99	Helsinki	0			
Mar-00	Lisbon	1	1		
Jun-00	Feira	0			
Oct-00	Biaritz	0			
Dec-00	Nice	2	1	1	
Mar-01	Stockholm	1			
Jun-01	Goeteborg	0			
Oct-01	Ghent	0			
Dec-01	Laeken	0			
Mar-02	Barcelona	4	1	2	
Jun-02	Seville	0			
Oct-02	Brussels	0			
Dec-02	Copenhagen	0			
Mar-03	Brussels	1		1	
Jun-03	Thessaloniki	0			
Oct-03	Brussels	0			

Dec-03	Brussels	0			
Mar-04	Brussels	0			
Jun-04	Brussels	0			
Nov-04	Brussels	0			
Dec-04	Brussels	0			
Mar-05	Brussels	2		1	
Jun-05	Brussels	0			
Dec-05	Brussels	0			
Mar-06	Brussels	3	2	1	1
Jun-06	Brussels	0			
Dec-06	Brussels	0			
Mar-07	Brussels	0			
Jun-07	Brussels	0			
Dec-07	Brussels	0			
Mar-08	Brussels	1		1	
Jun-08	Brussels	0			
Oct-08	Brussels	0			
	<b>Total</b>	<b>17</b>	<b>6</b>	<b>8</b>	<b>1</b>

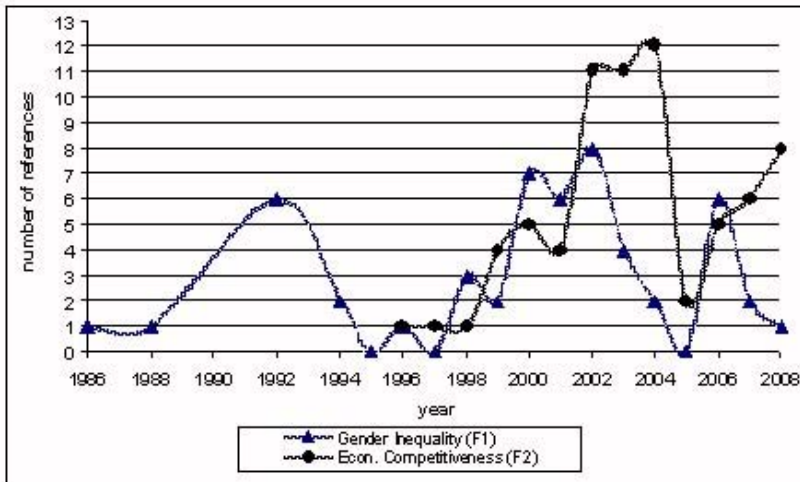
**Table 4: Frequency distribution of the childcare related policy frames in the studied documents**

Year	Document type	Topic	Nr of references			
			Total	F1	F2	F3
1986	Council Resolution	Equal opportunities	1	1		
1988	Council Resolution	Workforce participation of women	1	1		
1992	Council Recommendation	Childcare	15	6		
1994	Council Resolution	Workforce participation of women	2	2		
1995	Council Decision	Equal opportunities	1			
1996	Council Recommendation	Equal opportunities	2	1	1	
1997	Presidency Conclusions	Luxembourg European Council	1		1	
1998	Commission Recommendation	Home work	1	1		
1998	Council Recommendation	BEPG	1			
1998	Commission Special Report	Equal opportunities via ESF	5	1		
1998	Presidency Conclusions	Cardiff European Council	1	1		
1998	Council Resolution	EES guidelines	2		1	
1999	Council Recommendation	BEPG	2		2	
1999	Commission	Structural funds	5	1	1	
1999	Council Resolution	EES guidelines	2	1	1	
2000	Council Recommendation	EES implem.	2	2	1	
2000	Council Recommendation	BEPG	2		2	
2000	Presidency Conclusions	Lisbon European Council	1	1		
2000	Council Resolution	Balanced sharing of family respons	2	2		
2000	Council Decision	EES guidelines	2	1	1	
2000	Presidency Conclusions	Nice European Council	2	1	1	
2001	Council Decision	Gender Equality	2	1		

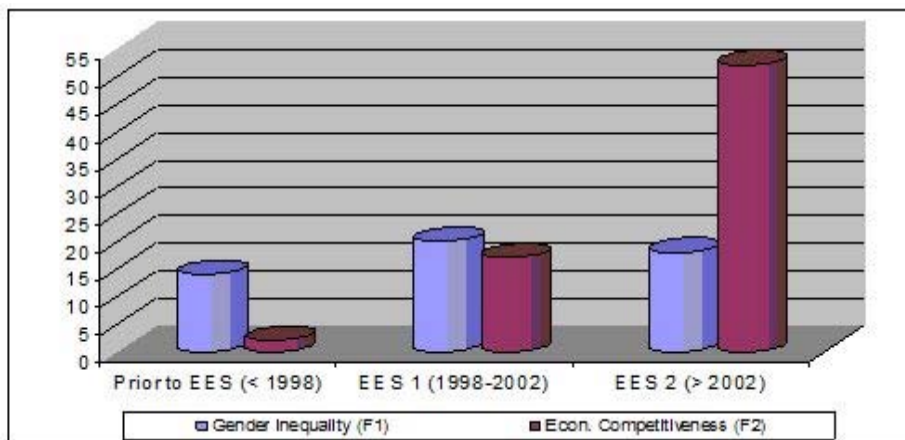
2001	Presidency Conclusions	Stockholm European Council	1			
2001	Council Recommendation	EES implem.	6	3	2	
2001	Council Recommendation	BEPG	3	1	1	
2001	Council Decision	EES guidelines	2	1	1	
2002	Council Recommendation	EES implem.	13	5	3	
2002	Presidency Conclusions	Barcelona European Council	4	1	2	
2002	Council Recommendation	BEPG	8	1	5	
2002	Council Decision	EES guidelines	2	1	1	
2003	Presidency Conclusions	Brussels European Council	1		1	
2003	Council Recommendation	BEPG	3		3	
2003	Council Decision	EES guidelines	5	1	2	
2003	Council Recommendation	EES implem.	12	3	5	
2004	Council Recommendation	EES implem.	11	1	10	
2004	Council Decision	EES guidelines	5	1	2	
2005	Presidency Conclusions	Brussels European Council	2		1	
2005	Council Decision	EES guidelines	2		1	
2006	Council Conclusions	Youth Pact	1	1		
2006	Directive of EP and Council	Equal opportunities	1	1		
2006	Presidency Conclusions	Brussels European Council	3	2	1	1
2006	Council Decision	EES guidelines	2		1	
2006	Council Decision	Rural Development	3		1	
2006	Regulation of EP and Council	ESF	1		1	
2006	Corrigendum to Council Regulation	ESF, ERDF, Cohesion fund	1	1	1	
2006	Council Decision	guidelines on cohesion	1	1		
2007	Council Conclusions	Alliance for Families	9	1	2	
2007	Council Recommendation	BEPG and EES impl. + update	9	1	3	
2007	Council Decision	EES guidelines	2		1	
2008	Council Recommendation	BEPG and EES impl. + update	10	1	5	
2008	Presidency Conclusions	Brussels European Council	1		1	
2008	Council Decision	EES guidelines	3		2	
	<b>Total:</b>		<b>182</b>	<b>52</b>	<b>71</b>	<b>1</b>



**Figure 1: Frequency distribution by policy frame (dynamics of interplay between F1 and F2)**



**Figure 2: Three periods in the 'career' of the childcare solution at the EU level of governance**







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## Money, votes or 'good' ideas? Partisan politics and the effectiveness of the European Employment Strategy in Austria and Ireland\*

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**Abstract:** The aim of this paper is not only to assess whether the European Employment Strategy (EES) has had an impact on national labour market reforms, but to also evaluate the effects of partisan politics on the EES and vice versa. After establishing three causal mechanisms through which the EES may have an effect on domestic reforms, this paper carefully traces the institutional evolution of activation and childcare policy in Austria and Ireland. It is argued that the EES has been effective in amplifying and accelerating the introduction of early interventions and case management in Austria, while even triggering such developments in Ireland. In both cases, partisan actors were willing to embrace, if not strategically utilize, the EES to issue and legitimize such changes. At early stages, money offered through the European Social Fund was also critical in initiating such programmatic changes. The introduction of public childcare, in turn, was opposed by conservative politicians in both countries throughout the late 1990s and early 2000s. Only after the launch of the Barcelona summit, which established hard targets for childcare places, governments gradually began to seek a politically viable compromise, acceptable to conservative political actors. Such a compromise was built on simultaneously expanding public childcare places and universal child benefits. While the former satisfies progressive actors and voters, the latter allows mothers to stay at home (at least part of the time) and thus strengthens traditional family values. This compromise became possible only due to the EES and associated targets, which increased political awareness, offered a benchmark, empowered societal actors, and – perhaps most importantly – softened the categorical resistance of conservative politicians to the provision of public childcare.

**Keywords:** welfare state; political parties; europeanization; open coordination; Austria; Ireland; political science

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## 1. Introduction

When the European Employment Strategy (EES) was launched in 1997, academics and policy makers alike were split into those who believed the EES was going to be an ineffective “add-on” to European treaties and those who hoped it would be an innovative tool for policy learning (1). For the sceptics, the EES was ineffective as it was neither legally binding nor enforceable through sanctions. The EES was merely political window-dressing and a compromise on the lowest common denominator as the member states had failed to agree on “hard” directives or regulations (e.g., Casey and Gold 2005; Lodge 2007; Schäfer 2005). For the proponents, in turn, the EES was an innovative tool for policy learning as it offered a treaty-based, institutionalized, and contextualized forum in which policy makers, national experts, and civil society actors could exchange ideas about institutional alternatives, regularly benchmark national programmes, and develop a set of indicators and goals with which welfare state policies and their strengths and weaknesses became more transparent (e.g., Hemerijck 2007; Zeitlin 2005; 2009).

More than ten years later, the support for and critique of the EES remains persistent. This is not surprising given the difficulty in generating reliable conclusions about the effectiveness of processes based on the Open Method of Coordination (OMC). The difficulty lies in the fact that a causal story of the kind, X (the OMC) causes Y (welfare reform) is based on the interpretation of the social-learning and policy-diffusion process that links X with Y. Offering such linkages is methodologically problematic as the causal variable X cannot be isolated from other (ideational) factors, such as the domestic trial-and-error learning processes or policy-diffusion mechanisms through other international organizations (cf., Hemerijck 2007; Zeitlin 2009). The problem lies also in the fact that observers and participants have reasons to downplay the effects of the OMC (as policy makers want to “claim credit” for their policies) or exaggerate its impact (e.g., when the interviewed actor’s job hinges on the continuation of the OMC). In either case, the data collected through interviews may lead to biased results.

What is surprising, however, is that in most of the literature those actors opposing or supporting the EES are typically treated as apolitical in the sense that their ideological predispositions are not accounted for analytically. They are either introverted, “rational” actors, who are able to unambiguously weigh programme costs against benefits (as assumed by many critics) or altruistic “problem-solvers” who are open to any “good” idea that presents itself (as assumed by most supporters). Rarely, however, these actors are seen as ideologically preordained politicians, who might have a genuine interest in importing some, while rejecting other messages proposed by the EES. Omitted is thus precisely if, and if so how, partisan concerns and considerations filter the EES’s messages, targets and recommendations. This paper seeks to correct this shortcoming as it not only asks whether the EES has had an impact on domestic reform efforts and outcomes, but also how partisan politics have “conditioned” such effects in two country cases, namely Austria and Ireland. By doing so, the paper sheds light on a previously underexplored variable, while also focusing on two countries that have mainly been outside the limelight of OMC studies.

The remainder of this paper is structured as follows. First, a theoretical section specifies causal mechanisms as to how the EES could have an impact on national reform efforts, derives expectations about the effects of partisanship on these mechanisms, and briefly elaborates on the case selection. Second, a brief overview of the contents of two major EES reform themes follows, including the concept of activation and the public provision of childcare to foster a gender neutral labour market. The empirical analysis of the two country cases constitutes the paper’s third and main part in which the effects of the EES’s activation and childcare recommendations are carefully traced and evaluated. A succinct conclusion summarizes the findings.

## 2. Theoretical considerations, causal mechanisms, case selection

Demonstrating if, and if so how, “soft” methods such as the EES have an impact on policy makers’ choices is a difficult task. It requires that we not only carefully identify and trace relevant processes of institutional change, but also try to offer a plausible, if not probable, account how these changes came about politically. In an attempt to simplify a complex reality, I focus on three causal mechanisms through which the EES could have an impact on national reform efforts and outcomes. All three mechanisms are highly sensitive to partisan considerations and ideological predispositions, potentially but not automatically intensifying or downsizing the EES’s impact. In this paper, the EES is considered “effective” if it can be established that it was a critical factor in accelerating, amplifying or even triggering national institutional changes in line with European prescriptions. In this sense, the EES can be effective through at least three (interrelated) mechanisms: material (money), strategic (votes) and ideational (“good” ideas).

Material effectiveness is given when funding associated with the EES – mainly the European Social Fund (ESF) – is a crucial factor for the creation, continuation or expansion of public programmes. As the ESF is much older than the EES, it is – strictly speaking – not an integral part of the EES. In practice, however, the ESF has increasingly been linked up with EES’ goals and ambitions and has become the EES’s principal financial tool. While ESF money is generally spend to reduce structural, intra-EU disparities, in the context of the EES, ESF money has mainly been focused on “upskilling” jobseekers and workers and assisting “marginalized” groups in gaining labour market attachments. The EES is thus expected to have an impact on national reforms as it provides additional, earmarked funding and thus has the potential to generate or sustain the political will to invest in certain labour market programmes (see also López-Santana this issue).

Strategic effectiveness in turn refers to situations in which political actors can utilize the EES to advance their own agendas. Also here, EES effectiveness does not presuppose that “learning” has taken place, but rather that certain actors, may these be politicians, civil servants, social partners or NGO representatives, can utilize the EES discourse, targets or forums to push a government to change policy in line with their preferences. Through naming, shaming or faming, the EES can thus be used as a “lever” (Visser 2005), an “ideational weapon” (Blythe 2002), or justification for policy changes with which certain actors can alter the institutional status quo, mostly by creating political awareness and thus affecting the electoral fortunes of an incumbent government. Hence it is the prospect of winning/losing electoral support that motivates incumbent politicians to (not) follow the guidelines and recommendations of the EES.

Last, ideational effectiveness goes to the heart of what the EES should be capable of delivering, i.e., providing a context to socialize and to learn from others (interview, EMCO) (2). The underlying idea for most supporters of the EES is that it allows policy makers to (more easily) access new insights to shared problems. This can then trigger a reassessment of (long-held) cognitive and normative beliefs, leading to the recalibration of existing instruments or the introduction of institutional alternatives. This is also to say that the ideational effectiveness of the EES needs to be measured with respect to its impact on the materialization of alternative “strategies for action” (source of inspiration, Parsons 2003: 7f). Establishing ideational effectiveness is most convincing if

- (a) institutional changes have occurred in absence of monetary support and despite (previous) ideological opposition on part of the governing political party(ies), and
- (b) if a similar institutional outcome has been approximated in a diverse set of cases with very different institutional settings and economic and social contexts (cf., Zeitlin 2009).

The following table summarizes the different forms these causal mechanisms can take, through

what ways they function, and what their potential effects are on partisan actors' ideological positioning.

Table 1

In order to assess the analytical value of these proposed mechanisms, Austria and Ireland have been selected as two exemplary cases. Austria and Ireland are ideal cases not only because they are “least likely” cases for the adoption of public childcare strategies due to their large Catholic electorates, which strongly favour the traditional male breadwinner model (73.6 per cent in Austria and 87.4 per cent in Ireland are Catholic, according to the CIA World Factbook), but also as they are “most dissimilar” in almost all their welfare and production regime aspects. More specifically, Austria is typically associated with the “continental” world of welfare and classified as a coordinated market economy, while Ireland is often seen as a “liberal” welfare state and liberal market economy (e.g., Hall and Gingrich 2004; Ludwig-Mayerhofer and Wroblewski 2004). Likewise, Ireland's economy has been rapidly growing in recent years, but started out with very high levels of unemployment during the early 1990s. Austria, on the other hand, has been outperforming most other European economies during the 1990s, but has seen a steady rise in unemployment during the early 2000s. Finally, while Ireland has been characterized by continuity in government – a centrist coalition government between the centrist Fianna Fáil (FF) and the market-liberal Progressive Democrats (PD) has been in office uninterrupted since 1997 (since 2007 also with the Green Party) – Austria has seen great instability, switching from a grand coalition between the Social Democrats and the Christian Democrats, to a Christian democratic/populist-right coalition government (2000-2006), back to an (unstable) grand coalition in 2006. Hence, these two countries have not only largely escaped the focus of academic attention on the effectiveness of the EES – which makes them already interesting cases – but also provide a rich context in which the effects of the above outlined causal mechanisms can be assessed.

### **3. EES targets – activation and childcare** ↑

As described in much more detail in this volume's introduction (see Kröger this issue), the goal of the EES is to provide “alternative strategies of action” or “institutional alternatives” which are hoped to be provided and encouraged through a number of interrelated steps, “starting from a joint diagnosis of a problem, a shared commitment to solve this ‘problem’ via setting Europe-wide guidelines, the identification of ‘good practices’ and (qualitative and quantitative) indicators for benchmarking purposes, the preparation of [national reform plans, so-called NRPs], the implementation of these [NRPs] and, finally, the periodic evaluation of national efforts” (Lodge 2007, 346). In this study, I will therefore evaluate the effectiveness of two such guidelines with great institutional consequences, including guidelines on labour market activation and state-led childcare provision, potentially challenging key constitutive elements of a country's welfare state and production regime type. This is to say, as the institutional adaptation required to attain these two guidelines requires the mobilization of substantial (financial) resources, while potentially triggering societal resistance, these core elements of the EES are “hard” cases for any test of a “soft” method.

More specifically, the first guidelines on the implementation of a preventative and employability-oriented strategy (Guideline 1 & 2 (1997-2002) and Guideline 1 (2003ff)), aim at institutionalizing the early identification of individual needs and ensuring that young/long-term unemployed persons are offered a new start in the form of training, retraining, work practice, a job or other employability measure after six/twelve months respectively. Moreover, Guideline 3 recommends shifting people from welfare dependency to work and training by increasing the number of unemployed people in active labour market policy (ALMP) measures, gradually achieving the average of the three most successful member states, and at least 20/25 per cent (Guideline 3 1997-2002/2003 respectively).

Likewise, the EES promotes the goal that all member states should actively support the employment of women, both by improving access to day-care services and by facilitating

return to work after childbearing (Guidelines 1997-2002). Subsequently, these goals were further specified by the 2002 Barcelona European Council, which enshrined the goal of providing access to childcare to 90 per cent of all children between three years of age and the mandatory school age, as well as to at least 33 per cent of children under three years of age by the year 2010. These targets then became also part of the 2003 Guidelines (for more details on the evolution of the European childcare discourse, see also Radulova this issue).

## 4. The case studies

### 4.1. Activation in Austria: From laggard to vanguard state?

Active labour market policy in Austria finds its roots in the Labour Market Promotion Act (Arbeitsmarktförderungsgesetz, AMFG) of 1968. Despite this early start, Austria's use of ALMP remained at first rather modest in international comparison. This situation did not significantly change, even during the mid to late 1980s, when a variety of new instruments such as the Aktion 8000 – creating employment opportunities of communal benefit for disadvantaged groups – and employment foundations (Stiftungen) – providing counselling, placement assistance, training, etc. for displaced workers – were launched. Rather than being an intervening instrument strategically used by the federal government, these ALMP were mainly organized as a localized, “bottom-up” approach (Zauner 2006: 206). Only when the Austrian public employment service – the Arbeitsmarktservice (AMS) – was separated from the Ministry in 1994 and organized as a semi-public, tripartite agency, Austria's approach to ALMP became more “top-down” in the sense that the respective ministry would formulate broad labour market objectives to the AMS, which were then translated into qualitative and quantitative targets to be reached by regional and local AMS branches. Programmatically, the AMS's main reorientation lay in focusing more strongly on job placement, improved customer service and stronger collaboration with employers. These organizational changes went hand-in-hand also with raising concerns – mostly by right of centre political actors – about “welfare abuse” and a too passive labour market policy orientation in general (Atzmüller 2009: 163ff).

This change in mood was quickly amplified when Austria joined the EU in 1995, and “especially after the EES had first been implemented [...] the EU became an important force in the shaping of labour market policy” (Ludwig-Mayerhofer and Wroblewski 2004: 493). The EES played an important role in at least two ways. On the one hand, the financial means available through the ESF – which accounted for almost 1/3 of Austria's budget for ALMP during the mid to late 1990s – functioned as an important “amplifier” toward a more “preventative” orientation (interviews, BMWA1, CDA, IHS-1). Moreover, the ESF quickly became an important source to also co-finance and expand measures for the most disadvantaged jobseekers, including employment services offered through socio-economic firms or counselling and training services offered by placement foundations (interviews BDV, WAFF). On the other hand, the guidelines agreed upon in the EES – and since 2000 the overarching goals of the Lisbon Agenda – have become the guiding framework for the workings of the ministry and the AMS (interviews, AK, AMS, BMWA1). Accordingly, already Austria's very first NAP translated the EES Guidelines into quantified targets for the time period until 2002, including:

- Halving the drift of under-25s into long-term unemployment;
- Halving the drift of unemployed adults into long-term unemployment;
- Ensuring that 20 per cent of the unemployed participate in a measure for (re-)entry into the labour market (Government of Austria 1998: 14).

Since then, activation has become a “buzzword” (interview, BMWA1) and reaching these targets has increased the pressure on the AMS/the government to deliver results (interview, IHS-2). Accordingly, all official reports (AMS business reports, the BMWA annual reports, subsequent NAPs) have made reference to these targets, which have become the key operational benchmark for the government and other stakeholders. Perhaps more tellingly, the

reorientation in Austria's labour market policy also led to significant increases in the budget for ALMP. Within a few years, the Social Democratic (SPÖ), Christian Democratic (ÖVP) coalition government more than doubled the overall expenditures for ALMP from some €250 million in the early 1990s to €641 million in 2000 (cf., Ludwig-Mayerhofer and Wroblewski 2004: 494).

This upward spending trend was subsequently shortly interrupted when a new centre-right/populist coalition government between the ÖVP and the populist Freedom Party (FPÖ) took office in 2000. These parties had been elected into government based on a "zero-deficit" campaign, which led them to freeze the budget for ALMP despite the international economic downturn following the burst of the "dot.com bubble" and the "September 11" terrorist attacks (Die Presse: 2002a). Not surprisingly, the ambitious targets set by the previous government were slightly missed in 2002 and the direction of ALMP somewhat recalibrated. While the number of participants in training measures grew in absolute terms, the duration and quality of these measures declined as "shorter" measures trumped high-quality, qualifications-oriented further education courses (interview, AK). Generally speaking, even though there was no overly dramatic "course correction," it became apparent that a different tone and direction had been taken. The new government's focus was less on equity concerns and more on programme efficiency and effectiveness. However, when intra-coalitional quarrels necessitated new elections in the fall of 2002, unemployment in general and the record level of youth unemployment in particular had become a key electoral issue. Not surprisingly all political parties promised to address unemployment, and once re-elected, the ÖVP-FPÖ government increased the budget for ALMP by some fifteen percent (about €100 million). As in 2000, the new government programme explicitly referenced the EES and reassured that the EU targets on employment remained a "top priority" (cf., Regierungsprogramm 2000; 2003). In addition to budget increases, the populist-right coalition government also further tightened jobseekers' "suitability criteria" and increased the use of sanctions, which were hoped to make the labour market more flexible.

Despite these institutional changes and a general economic upturn, unemployment continuously grew throughout the ÖVP-FPÖ's second term. In the light of approaching elections, the government promised yet again to increase expenditures for ALMP – now exceeding €900 million – and to retain higher levels of spending for the subsequent years to make longer-term planning feasible (Die Presse 2005b). Accordingly, in September 2005, the government approved an about one-third increase in ALMP expenditures, which mainly targeted young jobseekers, women and older persons (AMS 2006: 12; Die Presse 2005a). After the elections in the fall of 2006, in which the SPÖ emerged as the strongest party, the new SPÖ-ÖVP coalition government also promised to keep the higher expenditures for ALMP intact (Wirtschaftsblatt 2006b). Put differently, by 2006, an "active" labour market had become fully internalized and both mainstream political parties utilized budget increases as a means to garner voters, often also referencing the EES and its employment targets. While differences between parties persisted, they were limited to spending priorities and programme details without questioning Austria's overall reorientation and transformation.

In sum, even though there was a consensus among the interviewees that the EES did not trigger these changes, most observers confirmed that the EES discourse and associated targets had amplified and accelerated these developments, hence corroborating the EES's strategic and ideational effectiveness (cf. also Atzmüller 2009: 166). The material effectiveness, in turn, has declined over time in relative terms. Nonetheless, ESF funds have remained an important financial source for the successful continuation of various, more equity-oriented programs (interviews, BDV, WAFF).

#### **4.2. Activation in Ireland: Cutting edge without compulsion? ↑**

The 1960s were a crucial decade also in Ireland as constitutive elements of the Irish labour market policy regime were introduced. Due to substantially higher levels of unemployment, the Irish – in contrast to the Austrians – significantly expanded their use of a wide variety of



mainly voluntary ALMPs throughout the 1970s and 1980s (O’Connell and McGinnity 1997; Sexton and O’Connell 1996). However, despite their growing importance, Irish ALMP lacked an overarching strategy as various instruments were offered by a variety of actors and supervised by a multitude of departments (cf., Weishaupt 2008). ALMPs were also rather passive in the sense that many benefit recipients were never called into the Irish employment offices (as of 1987 called FÁS), they were not used as “availability” tests, and sanctions were hardly ever applied (3).

This passive orientation dramatically changed in September 1998, when a new coalition government between the centrist FF and the market-liberal PD swiftly launched their comprehensive Preventative Strategy. The core element of the Preventative Strategy was to “tighten the screw” for young benefit claimants by introducing more stringent job-search requirements (interview, UCD), while also introducing a systematized, client-centred approach (Burke 2006: 2). From then on, all jobseekers under the age of 25 would receive a letter from the Department of Social and Family Affairs (DSFA), inviting them for an interview to FÁS, after a six-month spell of worklessness. During this interview, jobseekers’ suitability for job vacancies or active labour market measures was assessed, an individual action plan drawn, and referrals to Jobs Clubs or a Local Employment Service (LES) centre made. This Preventative Strategy was, to a large extent, a direct “response to Guideline 1 of the EES, which committed Ireland to assist the unemployed after a certain period by offering them a job or an employability support” (O’Donnell and Moss 2005: 323). This assessment about the importance of the EES by Rory O’Donnell, director of the National Economic and Social Council (NESC), was corroborated also in a wide variety of interviews with involved actors close to the policy making process (interviews, DETE, FÁS, ICTU, UCD). Other actors further argued that the EES provided a political lever and outside legitimacy to civil servants in the Department for Enterprise, Trade and Employment (DETE), who had been eager to first introduce such a scheme (interview, CDI).

When subsequent studies confirmed the effectiveness of Irish activation policy (O’Connell 2002) – despite its “soft” character (4) – it reached wide-spread acceptance. Accordingly, the Preventative Strategy was gradually extended to all other jobseekers aged 18 to 64 and the activation threshold was reduced to three months (FÁS 2006: 49; Weishaupt 2008: 295ff). In 2006, unemployment benefits and unemployment assistance schemes were renamed Jobseeker’s Benefit and Jobseeker’s Allowance to further capture the new work orientation in Irish labour market policy.

It is important to note that the Preventative Strategy represents a major policy shift, which is in and of itself, a relatively cheap activation strategy. One observer explained that “all it takes is one stamp” as most recipients of the letter either drop their claims or follow the call and meet with a FÁS adviser to discuss their employment opportunities. However, another, very important element in the FÁS strategy is to offer access to training, education, or “sheltered” work opportunities to those jobseekers who cannot immediately find a job. It is here, where ESF money has played a critical role in at least three ways. First, since joining the EU, Irish policy makers could utilize ESF money to first build, and then expand, their physical infrastructure for the provision of labour market education and training, and improve staff capacity. This support was absolutely crucial for the development of a human-capital generating infrastructure during the 1980s and 1990s. Second, and perhaps more importantly, receiving ESF money required that policy makers were engaged in developing a long-term vision and comprehensive business plan for Irish labour market policy. It was this conditionality to be accountable and well organized that has helped to pave the way for Ireland’s human-capital generating activation strategy (interview, YOUTH). And finally, as in Austria, the ESF has supported – and still supports – special measures that promote equality and help marginalised groups to participate in the labour market, most importantly the Community Employment (CE) scheme.

In sum, while the ESF has played a formative role in Irish labour market policy developments, the ESF’s critical phase predates the launch of the EES. This is not to say that the funding attached to the EES was entirely ineffective. However, of much greater importance were the

EES's ideas based on activation, which were strategically utilized by civil servants to trigger a policy shift, and endorsed – at least with respect to young jobseekers – by the incoming government of 1998. Over time, activation became a politically acceptable instrument also to be applied to all other jobseekers, not only within the government but across the political spectrum. As such, the EES has proven to be effective in triggering significant normative and cognitive reassessments, resulting in a profound repositioning of Irish policy makers and the institutionalization of a new labour market policy regime.

### 4.3. Employment of women in Austria: Part-time only? ↑

Section 4.1 established that the EES may not have triggered, yet reinforced and accelerated a rather dramatic policy shift toward a more active labour market policy regime in Austria. Moreover, the brief review also showed that while partisan differences were present – especially with respect to the use of sanctions – the new orientation based on activation was never questioned. Rather different, however, was the situation with respect to childcare policy that promotes the (full-time) employment of women as ideologically-charged debates early on demarcated the political left from the right.

Generally speaking, it was on the initiative of the SPÖ that the federal government provided small amounts of “seed money” to promote the expansion of childcare facilities during their legislative term from 1995 to 1999 (Obinger and Tálos 2006: 159). The effects of this money were, however, relatively minor – as Conservative-governed Länder would not utilize the federal support (interview, BMWA2) – and childcare places for children under the age of three remained at a very low level (cf., Die Presse 2007b). With the inception of the ÖVP-FPÖ coalition government in 2000, the government redirected official policy toward women. Against the protest of the main opposition parties, including the SPÖ and the Greens (Obinger and Tálos 2006: 165), the centre-right parties introduced a new child benefit scheme, which has been in force since January 1, 2002. The previous, insurance-based parental leave allowance (Karenzgeld) was replaced with a new, universal child benefit (Kinderbetreuungsgeld, KBG), paid as a family entitlement, irrespective of employment history or income (Lutz 2003: 227). While the KBG now covers all women with children – including “inactive” spouses – it is also more generous, paid out longer, and the amount of additionally-earned income allowable under the scheme substantially increased. Through the introduction of the KBG, the government envisioned to financially secure young families with children, and to encourage part-time participation in the labour market by women with young children (Government of Austria 2004: 28). As a result, part-time employment of women as a proportion of total employment increased from 24.8 per cent in 2001 to 31.5 per cent in 2007 (OECD 2008).

Institutionalized childcare, however, became a salient topic only when all EU governments, including Austrian Chancellor Schüssel, declared the goal to expand childcare provisions on the Barcelona Summit in March 2002 (Die Presse 2002b). Subsequent to the Barcelona Summit, the EU's Recommendations for Austria became more specific, and for the first time, it was pointed out that more “childcare facilities” were needed. In 2004, an assessment of the KBG was also urged (Council of the European Union 2003: 28; 2004: 56). The EU's critique was based on expert evaluations that had shown that the new scheme encouraged women to prolong their inactivity (which negatively affects the long-term career perspectives of women), while unemployment among women with small children was also on the rise (Lutz 2003).

Despite the Chancellor's formal endorsement of the Barcelona targets and the urges of the EU, the centre-right/populist coalition government refused to offer any leadership or federal money to support the expansion of childcare. Rather, it defended the KBG as it offered parents the choice to purchase childcare services if needed, while encouraging the expansion of part-time work for women (cf., Die Presse 2006b). The KBG thus offered a pathway toward higher female employment rates, without fundamentally challenging the male-breadwinner model (5). Without doubt, taking such a position was not a great risk electorally. 56 per cent of all male and 43 per cent of all female Austrians still believed that a “good” mother stays at home when

she has children under the age of three (Die Presse 2007d). However, the Barcelona targets provided supporters of childcare expansion a new and quite powerful lobbying tool (interview, WKÖ). Since 2005, not only the Social Democrats but also the Association of Industrialists (IV) have repeatedly called upon the expansion of childcare facilities to reconcile work and family life, promote career opportunities for women and to raise fertility rates. The Austrian labour union federation (ÖGB) has also begun to refer to the Barcelona targets to pressure the government to expand childcare facilities (Die Presse 2006a) – which in 2005 reached only less than nine per cent of all children aged 0-2 (OECD 2006: 274). Not surprisingly, in the run-up to the elections in fall of 2006, the SPÖ declared higher female employment rates and improved childcare provisions as central elements of their campaign (Wirtschaftsblatt 2006a).

When in 2006, the newly elect SPÖ-ÖVP government took office, the ÖVP also started to gradually reassess its categorical resistance to childcare facilities, while increasingly acknowledging and accepting “atypical” family structures. In April 2007, minister for family affairs Andrea Kdolsky (ÖVP) called for a “family summit”, which subsequently met on 29 May. Before the summit, the social partners submitted a joint statement in which they outlined their views on improving the Austrian situation, including a reform of the KBG, more flexible childcare facility hours, and an annual expansion of childcare by 5,000 places (Die Presse 2007a). Based on the discussion during the summit meeting, the government agreed on the provision of €20 million annually for the creation of more childcare (and pre-school) places during the following three years (Die Presse 2007e) (6). The federal states were obliged to co-finance the expansion with equal amounts of money. In total, the government expected the subsequent creation of in-between 18,000 and 24,000 childcare and pre-school places (Die Presse 2007b). In order to garner the support of more socially conservative Länder – who had to transpose these intentions into action – the political parties agreed on a final compromise in October 2007: federal “seed money” could be used for both, the expansion of childcare facilities, i.e., the SPÖ’s preference, and for the training of non-institutional child minders (Tagesmütter), which was the ÖVP’s preference (Die Presse 2007c).

Also with respect to the controversial KBG, the coalition government found a compromise, namely a higher ceiling for additional income, i.e., it was raised from € 14,600 to € 16,200 (also for single parents, who previously were only allowed to earn € 5,500), and the introduction of three “variants” of a new, more flexible version. The new KBG now offers a 15 months (18 if the other parent, typically the father, also uses the leave option), a 20 (24) months and the original 30 (36) months option, with accordingly adjusted payments (Wirtschaftsblatt 2007).

In sum, the conclusions of the Barcelona summit had little substantive impact on the government’s position during the centre-right/populist coalition. The government’s preferred strategy was to extend family allowances to children 30 months old and younger, and to encourage part-time work, which did increase female employment rates, while not fundamentally challenging the male-breadwinner model (cf. also, Obinger and Tálos 2006). When however the SPÖ made the provision of childcare a key electoral issue in 2006 – supported by the social partners – a moderate breakthrough could be achieved. The recipe for legislative success lay in the combination of elements of the original child allowance (i.e., long, paid labour market exits) with the expansion of both childcare places and funding for child-minders. As such, partisan politics and ideological predispositions still mattered, but the EES and especially the “hard” targets associated with the Barcelona Summit increased the salience of the issue, while improving the lobbying power of the social partners (interviews, AK, WKÖ). While coalition governments are always characterized by compromises, the EES could be used as strategic tool with which the resistance against the expansion of childcare facilities through federal money could be gradually dismantled, at least within parts of the conservative movement.

#### 4.4. Employment of women in Ireland: Childcare and beyond ↑

Like Austria, Ireland is a strongly Catholic country in which the traditional gender roles of

male breadwinners and female caregivers predominate. Ireland is also, however, a very “young” country with a decade-long booming economy. Accordingly, young women have increasingly entered the labour market throughout the 1990s and female employment has grown continuously from below 40 per cent in 1991 to just over 60 per cent in 2005 (cf., OECD 1995; OECD 2008). An often well-educated, and rapidly growing female workforce has undoubtedly not only contributed to the success of the “Celtic Tiger”, but also poses new challenges to policy makers, who face a conservative electoral base, and – at the same time – changing economic currents that require substantial institutional changes. Tackling these competing interests, the centre-right coalition government initially initiated a dual strategy (7). On the one hand, the government altered the tax code in 2000 such that dual income families would be rewarded. This “individualization” of tax bands – which are typically found in the countries of the Nordic regime type (and Austria since 1972) – was received with great resistance by socially-conservative groups, as it directly challenges the male-breadwinner norm (Walsh 2004: 17). Among the opposing actors were not only the main opposition party, Fine Gael (FG), but also the Archbishop of Dublin, the Irish Family Planning Association, as well as many socially-conservative voters (Brennock 1999). Despite the loud opposition, the government did not renege on its decision as they believed that the reforms would advance the economic opportunities of women (interview, UCD). Pushing through tax reforms was also largely in line with the FF and PD’s market-oriented ideologies and thus easier to defend politically.

On the other hand, the government also expanded the provision of childcare places, which however, was much more difficult to accept for the FF’s base. Accordingly, the government initially concentrated its efforts on disadvantaged neighbourhoods, where childcare was seen as an appropriate way to assist low-income families in overcoming their economic hardship and reduce child poverty. The government’s main vehicle to deliver more childcare places was the Equal Opportunities Childcare Programme (EOCP) I (1998-2000) and II (2000-2005). Despite the “targeted” character, the government feared an electoral backlash, which it tried to compensate for by gradually and significantly increasing the provision of universal child benefits. Higher child benefits, so it was argued, offered a “real choice to parents” who were now in a position to either purchase childcare or raise their children at home (finance minister McCreevy, cited in IBEC/ICTU 2005: 27). However, the increase in child benefits was often criticized as it was

- (a) not sufficient to help low income families (the additional €150 covered only about a fourth of the monthly childcare fees for one child);
- (b) an inappropriate instrument to fight child poverty; and
- (c) stimulated, if anything, demand – in contrast to the supply – for childcare places, which was already high (Timmins 1999).

While the pressure to address the issue of childcare provision developed slowly during the late 1990s, it rapidly gained salience at the turn of the millennium, especially when the ECOP II was about to reach its conclusion. Moreover, international organizations, including the European Commission and the OECD repeatedly stressed throughout the early 2000s that despite the government’s attempt to provide more childcare places, “it was nowhere near the commitment to provide childcare for ‘90% of children between 3 years and school going age and 33% of children under 3 years’” (Government of Ireland 2004: 84).

As women’s labour market participation had dramatically increased during the boom years – growing faster than anywhere else in the OECD world – it became apparent that the participation of women had been a crucial ingredient in Ireland’s economic success story, particularly as women had become well – if not better – educated and trained than men (Sweeney 2006: 11). Women’s rising labour market participation, especially the extremely high participation rate of young women in their 20s, also meant that there was a great potential for an economic backlash when these women would decide to have children in their 30s, thus withdrawing from the labour market and causing major skills shortages in Ireland’s knowledge economy (interview, FÁS). Accordingly employers (and some policy makers) increasingly became interested in addressing issues related to the reconciliation of work and family life,

while the labour unions saw this as an area where they could promote developments toward an expansion of working women's rights. As in Austria, the Irish social partners quickly aligned on this issue and jointly began to lobby the government to make childcare available through public funds (IBEC/ICTU 2005: 1). In 2005, also "more than 20 childcare and children's rights organizations" joined their voices (Holmquist 2005). In short, by 2005, a variety of actors called for the expansion of childcare while also the European Commission had repeatedly urged the government to expand childcare places.

Facing continuous pressure from domestic and international sources to make childcare more accessible also to average-income families, the government committed itself to directly investing in childcare places during the partnership negotiations in 2006 (Toward 2016). Subsequently, the government launched a new National Childcare Investment Programme (NCIP) 2006-2010 as the successor to EOCP II with the target to produce an additional 50,000 childcare places by 2010. While the NCP will directly create 5,000 after school, and 10,000 pre-school education places, the main bulk of the new childcare places are envisioned to be created by private and voluntary sector actors, who can apply for large monetary grants toward the capital costs of developing a childcare facility. Grants are also offered to individual or group child minders who offer childcare services in their homes. The NCIP therefore marks an important departure from the EOCP I and II, as it is an explicit attempt to directly invest in the creation of childcare places and to improve the reconciliation of work and family life of average families, going beyond the previous areas of economic disadvantage (interview, NESO). In order to make childcare also more affordable, the NCIP included a new entitlement to parents with children under the age of five and a half. This new Early Childcare Supplement is a direct and tax free payment to parents, amounting some €1000 per year, automatically paid to all parents receiving child benefits.

In sum, the FF-PD government tried – just as Austrian policy makers did – to find a compromise that would be acceptable to proponents of both the male and the dual breadwinner model. By committing to expand the availability, affordability, and quality of childcare places and simultaneously expanding child benefits and introducing a new supplement (available irrespective of employment status), the government hoped to satisfy the electoral concerns of their socially-conservative Catholic constituency and address the concerns/recommendations of employers, unions, childcare organizations, and the EU alike. While perhaps only few politicians truly reassessed their ideological position on childcare as a result of the EES, the EES was again effective as a strategic tool. In other words, armed with the hard EU targets on childcare and backed with numerous requests by the EU to address the lack of affordable childcare in Ireland, socially progressive actors were eventually successful in pressuring the government to react on their positions.

## 5. Conclusions

This study shows that the EES has been effective to a varying extent in the fields of activation and childcare, but similar across the two country cases. In Austria, the EES has reinforced, while in Ireland the EES has even triggered institutional changes aimed at "activating" the unemployed through earlier and more systematic interventions. In both cases, material effectiveness could be constituted as ESF money – especially during the mid to late 1990s – provided a critical impetus to build the institutional capacity for individualized activation and case management. Even during the early 2000s, however, when the relative importance of ESF money had declined, the EES/ESF helped in sustaining the governments' political will to assist more marginalized groups. Funding provided to socio-economic firms and employment foundations in Austria and establishing training components in the Irish CE scheme are cases in point. The strategic effectiveness of the EES has – at least partially – been established in the sense that both governments used EU discourses and targets to legitimize the introduction of new measures. Such "faming" was possible as the principle of activation was largely welcomed by electorates and approved by the social partners. Ideational effectiveness, in turn, could be shown quite clearly in the Irish case, where Irish policy makers gradually reassessed their positions and embraced an "activation paradigm" which had previously not existed in

Ireland. While the ideational impact was less pronounced in Austria, the EES has nevertheless amplified and accelerated the Austrian government's endogenous reorientation.

The nationally particular way in which activation ideas were translated into policy, however, was shaped by partisan politics and historical trajectories. In Austria, the general message was not only to equip jobseekers with the necessary skills to find employment but was increasingly also associated with the desire to reduce "welfare abuse." As such, it is less surprising that the expansion of ALMP budgets was paralleled with a tightening of the benefits regime through more controls and sanctions, the introduction of stricter "suitability criteria" and a shift toward (inexpensive) "soft skills" measures. In Ireland, in turn, where mass unemployment had been a reality during the 1980s and early 1990s, the discourse was less centred on "policing" the unemployed – even though it was part of the governments' ambition – and more on the provision of skills training and work opportunities for disadvantaged jobseekers.

Developments with respect to childcare also offer great analytical insights. Initially, electoral concerns and ideological predispositions kept right-of-centre governments in both countries from following the calls of the EES, and both governments were able to "downplay" the salience of childcare during the late 1990s and early 2000s. However, the hard targets formulated at the Barcelona Summit and the subsequent EES Guidelines of 2003 catapulted childcare to the centre of attention across Europe. When the European benchmarking exercises clearly showed how far both Austria and Ireland lagged behind, the social partners, social democratic partisan actors, and other socially-liberal groups began to actively lobby their governments to address these shortcomings. In this context, the EES has been of great strategic effectiveness, creating awareness, establishing a benchmark and generating societal acceptance for a dual breadwinner norm. The message offered through the EES also contributed to the gradual reassessment of long-held family beliefs and values among conservative politicians, indicating at least partial ideational effectiveness. Hence, even though the governments' reaction was perhaps mostly strategic, the EES nevertheless turned out to be a critical component in paving the way for conservative governments' decision to expand state-led childcare provisions to average-income families and lone parents.

As in the case of activation, partisan predispositions mattered. As childcare could not easily be incorporated into the conservative/liberal political parties' platforms, an institutional compromise had to be found through which both, the male and dual breadwinner models could be sustained. This compromise was based on making universal child benefits more generous and easing access to part-time employment for women (especially in Austria), while simultaneously also expanding childcare places (and the availability of child minders). For conservative parties, such a compromise meant that they could offer their voters the ability to "choose" between a reinforced traditional variant and a newly established alternative.

Based on the insights gathered in two very different countries, we can draw two tentative conclusions that are important to studies of the EES and institutional change. First, the EES appears to be particularly effective if and when hard targets are formulated. While it might be premature to generalize such a finding without further research also in areas of the EES that lack quantitative targets, the rather disappointing findings in other, less institutionalized OMCs might be an indicator for the validity of such claims (e.g. Kröger 2008). Second, the EES works differently in different political areas, reflecting both partisan and societal preferences. While the concept activation was generally accepted among elites and voters, the provision of childcare places is highly controversial, at least in countries where more traditional family values dominate. As such, the potential for learning with and from others and defining an institutional alternative acceptable to all participants is more limited, and the EES's strategic use more likely. In institutional terms this means that compromises – perhaps on a low common denominator – are the most likely outcome rather than a cohesive redirection of policy. Such compromises might, however, be the first step in the gradual transformation of welfare state arrangements and societal belief systems.

## Appendix / Interviews

AK Representative of Austrian Chamber of Labour (AK); Division for Employment Policy, Vienna, June 15, 2007

AMS Public Employment Service (AMS); Member of Labour Market Board, Vienna, June 6, 2007

BDV Representative of the Federal Umbrella Organization for Social Firms (BDV), Vienna, December 2, 2008.

BMWA1 Two representatives of the Ministry for Economics and Labour; Labour Market Division, Vienna, June 6, 2007 and December 1, 2008

BMWA2 Representative of the Ministry for Economics and Labour; Labour Market Division, Vienna, December 2, 2008

CDA Country Desk Officer for Austria, Brussels, May 22, 2007

CDI Country Desk Officer for Ireland, Brussels, May 21, 2007

DETE Department for Economy, Trade and Employment (DETE); Labour Market Division, Dublin, March 1, 2007

EMCO Rotating member of the Employment Committee (EMCO), Bonn, April 11, 2007

FÁS Two representatives of FÁS, Research Unit (Skills and Labour Market), Dublin, March 1, 2007

ICTU Representative of Irish Congress of Trade Unions (ICTU), Dublin, March 1, 2007

IHS-1 Researcher at the Institute for Advanced Studies (IHS); Center for Employment, Qualifications, and Innovation (EQUI), Vienna, June 4, 2007

IHS-2 Researcher at the Institute for Advanced Studies (IHS); Economics and Finance, Vienna, June 11, 2007 and December 3, 2008

NESC Representative of National Economic and Social Council (NESC); Dublin, April 18, 2006 and February 27, 2007

UCD Professor at University College Dublin (UCD), Michael Smurfit School of Business, Dublin, January 8, 2008

YOUTH Representative of Department of Education, Division Youthreach, Dublin, February 26, 2007

WAFF Three representatives of the Vienna Employment Promotion Fund (WAFF), Vienna, December 1, 2008

WKÖ Representative of national Chamber of Commerce (WKÖ); Vienna, Division for Social and Health Policy, June 13, 2007

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## Endnotes

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(1) For a review of the workings of the EES, see Kröger in this volume.

(2) Please find a list with interviewees and their institutional affiliation in the [annex](#).

(3) A study conducted by Ireland's Central Statistics Office during the 1990s showed that about 50 per cent of all Live Register claimants did not show any evidence of active job search, "the largest [percentage] in any OECD country" (Walsh 2004, 15).

(4) While the letter indicates possible benefit sanctions upon refusal to attend the interview, the actual application of sanctions remained extremely rare (interview, DETE).

(5) Obinger and Tálos (2006, 175) argue that the new child-benefit scheme even reinforced the male-breadwinner model as the (female) expansion of part-time employment is based on precarious employment and thus women's dependence on their spouses becomes even greater.

(6) Childcare developments in Austria have also been strongly influenced by similar developments in

Germany, which has been described as the “Merkel effect” (interview, BMWA2).

(7) A “third” element was issuing non-discrimination legislation.

**Table 1: Causal mechanisms of EES effectiveness: forms, functions, effects**

	<i>Form</i>	<i>Function</i>	<i>Effects on partisan position</i>
<i>Material</i>	earmarked cash transfers	fosters political will through availability of new resources	marginal
<i>Strategic</i>	naming, shaming, faming	electoral concerns or hopes	calculated adaptations
<i>Ideational</i>	exposure to institutional alternatives	normative and/or cognitive reassessments	potential for profound repositioning





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## **Having a Say and Acting: Assessing the effectiveness of the European Employment Strategy as an intra-governmental coordinative instrument\***

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**Abstract:** As the European Union (EU) has strengthened, scholars have emphasized the development of multilevel governance structures and the salience of subnational actors. With the launch of the Open Method of Coordination and the increasing development of non-binding regulations, we must re-consider the potential of this type of governance instrument to serve as an intergovernmental and intra-governmental coordinative mechanism; thus contributing to the development of multilevel governance structures. This paper addresses this issue by focusing on the implementation of the European Employment Strategy and its potential to serve as an intra-governmental coordinative instrument. I argue that this non-binding instrument does informally (de facto) influence intra-governmental relations in member states. In addition, subnational actors have transferred many of these soft principles to lower levels of government. These propositions are explored using data gathered in the EU, Spain, Belgium, and Sweden at both the national and the sub national levels.

**Keywords:** employment policy; governance; multilevel governance; open coordination; policy coordination; social policy; soft law; Belgium; Spain; Sweden; political science

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### **1. Introduction**

As the European Union (EU) has strengthened, policy-making and implementation unfold within a complex web of relations and levels of government. Given the development of a multi-tiered system and the promotion of governance structures, debates about the consequences of European integration on the institutional structures and balances of power of member states have become increasingly salient. Most studies on the influence of European

integration on the aforementioned dimensions are grounded in the assumption that the EU uses legally binding instruments to affect domestic settings (i.e. the Community Method). In this context, some authors (Börzel 2002) have noted that subnational levels of governments have had to 'pay' the costs of implementation without often having much 'say' (participate in decision-making processes at the national and/or supranational levels). By contrast, others have emphasized the empowerment of subnational levels of government and the creation of a European system of multilevel governance (c.f. Hooghe and Marks 2001).

With the introduction of the Open Method of Coordination (OMC) and the increasing launch of non-binding rules, we must examine the potential of this governance instrument to (further) develop multilevel governance structures. Given the non-binding nature of the OMC, we should ask: Do national levels of government dominate these scenarios? More precisely, do they bring in subnational actors into the process of reporting and implementing EU soft mandates, even if there is no obligation and no sanctions for not doing so?(1) Are these soft principles transferred to regional and/or local settings? This paper answers these questions by assessing the influence of the European Employment Strategy (EES) on intra-governmental relations and on subnational labour market policy (LMP) initiatives.

Even if these questions have been overlooked by many working on the OMC, Europeanization and multilevel governance, the effect of this soft governance instrument on intra-governmental relations is not a trivial issue (c.f. Heidenreich and Zeitlin 2009; Büchs 2008; Kröger 2007). First, when it comes to the development of multilevel governance in Europe, supranational non-binding regulations could be influential instruments as they are modelled after a 'horizontal' model of governance (e.g. development of partnerships, promotion of inclusive strategies among multiple levels of government) (see Schäfer and Leiber this issue). By contrast, if the process is strictly dominated by supranational institutions and national levels, then the effectiveness of the OMC as a governance instrument would be challenged, especially if we refer to the possibility of "decentralized participation by stakeholders" (Eberlein and Kerwer 2004: 133). Second, lower levels of government are mainly responsible for giving effect, managing, and delivering LMPs, especially in an era of decentralization and devolution (Büchs and López-Santana 2008). New opportunities for intra-governmental coordination – 'national-subnational' and 'subnational-subnational' collaboration – potentially strengthen the implementation of OMC policy principles. In addition, more intra-governmental communication can help to overcome common problems associated with policy-making and implementation, such as information gaps, policy inconsistencies, and/or policy duplications. Finally, collaboration could lead to experimentation and policy innovation.

In this context, the participation of subnational entities in the implementation of the EES is a key dimension that should not be disregarded, especially if we are interested in assessing its effectiveness and its potential as a multilevel governance instrument (2). For the purpose of this paper, I mainly pay attention to the first component of the notion 'multilevel governance'. Namely, I use it to refer to the linkages among of various levels of government (i.e. supranational, national and subnational) in various stages of policy-making and implementation. Even if this paper does not examine the actions of member states at the supranational level, it depicts the EES as a supranational input which influences policy-making and governance processes at various levels of government(3). In this context, the paper explores the potential of this supranational soft instrument to serve as an intra-governmental coordinative mechanism.

This paper is structured as follows. The next section presents background information on the territorial dimension of the EES. The subsequent section develops my conceptual framework. Then, section four presents the three case studies. Finally, section five puts forward the main conclusions and implications of this study.

## **2. The activation of subnational actors: the case of the EES ↑**

After the launch of the EES in 1997, its implementation mainly relied on efforts by the

Commission (hereinafter, CEC) and national governments. But as part of a broader commitment to the reform of European governance, in 2001 this supranational body recognized the importance of subnational participation and mobilization (CEC 2001a, 2001b). Within the framework of the EES, such project aimed to include enterprises, social partners and all levels of government – local, regional, national, and European – in the creation of jobs. The involvement of these actors sought to reduce implementation deficits and develop governance structures in LMP. In addition, the promotion of subnational participation by the EU was partially grounded in the idea of decentralization being an institutional solution to the problem of unemployment.

To bring in lower levels of government and societal actors, the CEC requested member states to diffuse the EES to the entities closest to citizens. Yet, member states expressed their opposition to the development of the local dimension of the EES, and alternatively agreed to include relevant actors in the field of employment at national and regional levels that could have important contributions to make. Accordingly, the 2000, 2001 and 2002 Employment guidelines emphasized the development of the subnational dimension. The EU also encouraged the participation of subnational actors in the implementation of the EES through the horizontal priorities of the European Structural Funds (ESF). For instance, it funded the ‘Acting Locally’ campaign and developed local pilot programmes which created ‘Local Action Plans for Employment’. The local dimension of employment also became a priority in the 2000-2006 structural programmes of the ESF, thus increasingly linking the EES and ESF by making the latter the ‘financial arm’ of the EES(4). This meant that ESF funds were somewhat conditional on the implementation of the EES. In these scenarios, the participation of lower levels of government was seen as essential given that they are responsible for ‘making policy happen’, especially when we refer to strategic decisions regarding active LMPs and employment. For example, Public Employment Services (PESs) are managed by subnational and local entities. Finally, the likelihood of non-binding regulations affecting domestic policies increases as private and public actors (at various levels of governments) get involved (thus, making the process more open, participatory, and inclusive).

These initiatives were part of EU’s commitment to reforming European governance and diminishing the democratic deficit. Yet, the CEC did not provide precise guidelines on how to involve lower levels, mainly out of respect to the notion of subsidiarity. The following quote from an interviewee conducted at the CEC illustrates the implications of the notion of subsidiarity and the soft nature of the EES:

Interviewee: “There is not a straight answer [about how to include the local level] because we have no competences in terms of the municipal and local arrangements of member states, and those arrangements are extremely varied. There are countries that do not have a regional structure. In other countries, the balance of power and the relationship between the subnational and the national levels is sort of a political controversy, and in some other it is not.

Interviewer: To what degree is the EU pushing for a local strategy?

Interviewee: We start with words of caution, saying ‘hey, we are not telling you how to run your business. You have different arrangements. There is no one strategy fits all’. So, there is a contradiction between letting the local levels have to do something with the EU, and at the same time decentralizing. If we start providing instructions about local strategies, there is a contradiction about letting the local actors decide.

What we try to encourage is the establishment of Local Action Plans by exchanging experiences, benchmarking, and dissemination. By saying, ‘these students did well in some areas. You might as well use it’. And also, saying unambiguously that we have a responsibility for the implementation of the EES. Therefore, we have the right to know what happens locally and how it affects the local level. We have quite a lot of financing of innovative projects for local



actors, so they can be evaluated, assessed and disseminated” (Interview, CEC 2003).

Faced with these EU recommendations, member states had various options. They could:

1. ignore them, then national levels would strictly dominate the EES process;
2. alter their informal (de facto) institutions and policy-making process to accommodate subnational levels; or
3. change their formal/legal (de jure) institutions to formalize the participation of subnational levels.

Accordingly, I ask: Can we consider these EU recommendations effective? What has been the influence of these developments on intra-governmental relations? Are these soft policies transferred to subnational levels? To start addressing these questions, the following section provides a theoretical framework to evaluate these scenarios. This, in turn, will help us to assess the effectiveness of the EES and its potential to serve as a coordinative instrument sustaining the (further) development of multilevel governance structures.

### 3. Having a say and acting <sup>↑</sup>

As noted in the introduction, this paper addresses whether the implementation of the EES has enhanced or created new ‘national-subnational’ and ‘subnational-subnational’ coordinating initiatives, arenas and relationships. The first step in this exercise is to distinguish between two different sources of subnational participation:

1. having a say: the inclusion of subnational actors in national arenas (e.g. ministerial, executive, parliamentary, non-governmental); and
2. acting: ‘national-subnational’ and ‘subnational-subnational’ initiatives to diffuse or implement in this case the EES.

‘Having a say’ and ‘acting’ can result in new dynamics and patterns of intra-governmental collaboration and coordination. As it will be clarified below, ‘having a say’ entails the creation of national spaces, at a minimum, to communicate and collect information from various actors, including subnational policymakers (refer to the definition of reporting below and [Figure 1](#)). In the case of the EES, subnational actors should, at least, have a say when member states draft their national reports. Yet, ‘having a say’ is not a uniform event across countries as there are different degrees of subnational participation. When weak intra-governmental communication and coordination is a salient problem, ‘having a say’ can help to overcome implementation deficits and/or policy gaps as it allows subnational actors to participate in policy-making spaces at the national level. In other words, ‘having a say’ can help subnational governments to ‘act’. In the case of the second dimension and as it will be explained below, domestic actors can create local action plans and/or use the EES guidelines to structure LMP and projects at subnational levels, for instance. In this way, subnational actors could engage in various activities to diffuse and implement these EU soft principles.

To understand how (in which capacity) lower levels can have a say at the national level and to interpret cross-national findings, scholars must capture the nature of intra-governmental relations in a state. This is defined by the existing de jure institutional structure of a member state (e.g., federal, unitary), and the informal (de facto) division of intra-governmental responsibilities and coordination patterns.

More specifically, I characterize this variable as a continuum verging from ‘no involvement’ of subnational entities in LMP national activities to ‘shared decision-making’. Before moving on, the concepts illustrated by [Figure 1](#) must be clarified as they represent various ways in which having a say can take place:

1. Reporting refers to the act of presenting and displaying data and information at the national level for management purposes, such as spending and implementation records and progress reports (for example);
2. Consultation is a process of discussion and idea-sharing between levels of government. It does not entail approval of subnational bargaining positions, nor shared decision-making. In this case, lower levels are involved in the planning phase of policy-making so central governments can gain insights about local contexts;
3. Bargaining is similar to consultation, but it entails more power to the subnational entities. In contrast to consultation, where subnational actors do not necessarily win from coordination, bargaining should be a positive-sum game because subnational levels have the ability to affect national policy in some way or another. Bargaining should be seen as a component of shared-decision making, but not the other way around, as under bargaining subnational levels are not equal to the central government (e.g. lack of formal representation at the national level);
4. Finally, under shared-decision-making both levels of government are considered equal as subnational levels have formal and guaranteed access to bargaining and decision-making.

### Figure 1

When applying this typology to the analysis of the EES, we should capture whether we observe shifts (de jure or de facto) towards ‘the right’ on this continuum. If one believes that the EES is too ‘soft’ to influence intra-governmental dynamics, we would not expect a significant shift. Yet, in the following sections, I show that the interactive and iterative process of reporting to the EU level has provided a window of opportunity and an incentive for national levels to create spaces where subnational levels can ‘have a say’, thus contributing to a de facto shift in intra-governmental relations to the ‘right’ (refer to Figure 1). In this way, I argue that the EES does have a coordination effect. Of course, after the implementation process, all states will not end up in the same place given that pre-OMC member states had different types of institutional structures (e.g. unitary vs. federal states) and intra-governmental relations. Domestic institutions, therefore, filter the influence of the EES (i.e. how far they move towards the ‘right’ in this continuum).

As aforementioned, we must also capture new subnational schemes linked to the launch of the EES (act). By presenting various examples of acting in Belgium, Spain and Sweden, I seek to illustrate how the EES policy principles are being diffused and implemented by lower levels of government. Thus, these examples help us to assess the effectiveness of the EES as subnational levels are mainly responsible for implementing and giving effect to policies. In other words, ‘acting’ enhances the multilevel governance of the OMC given that other actors than the national and supranational levels, especially those closer to citizens, are being active within the EES framework.

In the context of the EES, as it will be shown in sections 4.1 through 4.3, the nature of acting has taken many shapes including the creation of local action programs, regional and territorial pacts and partnership programs. When referring to the factors driving these subnational initiatives, acting is characterized by two scenarios:

1. self-motivated subnational acting, and
2. acting driven by incentives.

In the first case, lower levels of government create initiatives to implement and/or diffuse the EES because they might want to ‘act’ out of good will, or because they absorb these principles and perceive EU guidelines as an important step to increase employment or to be competitive, for instance. In these scenarios acting is a self-motivated act, not an incentive-driven event. By contrast, in the second case acting is driven by a set of tangible incentives, such as the transfer of national or supranational funds, expertise and/or resources to subnational authorities. In this context, the role of ESF funds cannot be overlooked. More specifically, to explain the nature of LMPs and initiatives launched by subnational levels since the late 1990s, it is vital to

acknowledge the links between the EES and these EU funds as they have played a significant part in the diffusion and implementation of the EES by subnational levels. The ESF needs to be conceptualized as the financial arm of the EES, and these supranational resources represent a tangible incentive to act. Therefore, an assessment of the effectiveness of the EES (and other OMC processes) must incorporate the ESF as part of the story; otherwise, the independent influence of the EES will be overestimated.

Before presenting the main findings, the following point must be addressed –methodologically and empirically speaking: How should we conceptualize the impact of the OMC on domestic structures? Elsewhere I have argued that it is not realistic to assume that there is a linear relationship between the launch of soft law and domestic changes (see Vanhercke this issue; see Weishaupt this issue). Rather, I view the OMC as driving a ‘framing effect’ (vs. linear causality) which

“persuades domestic policymakers to reflect on soft European prescriptions and then construct their proposals within the limits of these frameworks [...] Therefore, the EES expands the courses of action available to policymakers by providing information and opening new spaces for cooperation, while simultaneously restraining their options by framing good and bad policy” (López-Santana 2006: 494).

When it comes to the aforementioned role of the ESF, these EU resources amplify the framing effect of the OMC as domestic actors have an additional incentive to adjust their policies, and patterns of coordination and behaviour (see Weishaupt this issue). Hence, I am not claiming that the EES causes subnational actors to ‘have a say’ and/or ‘act’. Rather, I sustain that when studying member states’ LMPs debates, actions, policies and reforms, since the late 1990s, we must include the important framing effect of the EES.

## 4. Empirical findings ↑

Having developed the theoretical framework, this section presents the Belgian, Spanish and Swedish experiences. The data presented here come from official documents and from more than 75 interviews conducted in the EU and these countries. From June of 2002 to December 2003 and in the summer of 2008 (in the case of Spain), I interviewed high-level civil servants, officials of trade unions and employers’ organizations, attachés from the national permanent representations and academic experts. In addition, I conducted interviews with civil servants and policymakers at regional levels in Madrid, Seville, and Brussels.

The three member states vary in their institutional structures. These differences are important to assess how soft law influences intra-governmental relations. Sweden is a unitary state in which the national level dominates decision-making and the creation of LMP. Spain is a de facto federal state in which the national level tends to overrun subnational entities. Finally, Belgium is a federal state in which the national and the subnational levels are considered equal to each other and the latter have competencies over many aspects of LMPs. Having briefly outlined the sources of data and the case selection, the first part of this section presents the Belgian case.

### 4.1. Belgium ↑

Belgium has a very distinctive and complex federal structure which reflects its linguistic and cultural composition. Its dual federalism entails a ‘horizontal’ nature of intra-governmental relations in which:

1. competences are exclusive,
2. all units are equal to each other, as far as the equality of legal norms is concerned, and

3. the federal level cannot overrule the legislations of the federated entities.

In the case of welfare policy and LMPs, competences cut across various levels of governments – the federal level is responsible for social security and unemployment insurance, whereas the regions are in charge of job search assistance, training and delivering active LMPs (these activities are funded by the federal level). Despite this division of competencies, frequent intra-governmental coordination was not the dominant rule (as indicated by many interviewees). In this way, before the introduction of the EES, the nature of subnational participation in national activities related to welfare and LMPs was placed at the left side of the continuum somewhere between reporting and weak consultation (see [Figure 1](#)).

A key finding in the case of Belgium is that the creation of the National Action Plans/National Reform Programmes (hereinafter, NAPs) has represented a window of opportunity for frequent intra-governmental communication, consultation and coordination among various levels of government. More specifically, representatives of the three levels of government (federal, regions, and communities) have regularly met to discuss the European guidelines and to gather information about subnational developments at the ‘Federal Public Service for Employment, Labour, and Social Dialogue’. Throughout the years, this administrative routine became a new, significant space for ‘national-subnational collaboration’. As the years have passed, national-subnational collaboration on the EES has strengthened through the creation of NAPs and other activities related to its diffusion and implementation (c.f. Verschraegen et al. 2008). For instance, in Belgium 79 percent of the interviewees claimed that the EES improved internal coordination, especially between levels of government(5). In these scenarios, the federal level had an incentive to involve the federated entities in national scenarios and reduce its role as a gatekeeper given that it is directly accountable to the EU (not the regions) on the OMC – even if welfare responsibilities are spread out across the territory.

However, this was not a smooth process as the Belgian institutional landscape represents an obstacle to the implementation and diffusion of EU policies (both hard and soft). The ESF and the CEC recognized these challenges by funding in 2000 the ‘ESF-NAP Impact Assessment Cell’ (ENIAC) – a cell to improve the coherence of ESF programs run in Belgium and to strengthen the links between the EES and the actions of the ESF among levels of government. ENIAC attempted to overcome the problems associated with weak intra-governmental coordination by creating new opportunities for federal and federated policymakers to cooperate and coordinate on LMPs (Verschraegen et al. 2008; Brussels Observatorium van de Arbeidsmarkt en Kwalificaties 2003). Thus, the creation of this organization by the EU serves as an indicator of the low levels of collaboration and coordination among levels of government in Belgium (previous to 2000). However, legally speaking, by 2006 ENIAC ceased its operations. To explain this action some have referred to this institution as an intrusion of the EU and/or the federal level on federated matters. Nonetheless, some have argued that despite its formal dissolution it created an informal space and a habit for recurrent intra-governmental coordination based on trust, which still persists (Interview, expert on Belgium 2008)(6).

As aforementioned, the EES has represented a new opportunity for the regions to have an active ‘say’ at the federal level, to coordinate with other regions, and to learn to trust the federal level. For instance, policymakers in Brussels viewed the drafting of regional plans as an exercise to prepare for the creation of federal NAPs, whilst national policymakers viewed regional plans as an opportunity for the regions to showcase their success. This, in turn, provided the federal level with an opportunity to oversee LMPs across levels of government.

These developments, in turn, have informally (de facto) shifted the nature of subnational participation in national matters related to LMPs in the direction of ‘bargaining’ (c.f. Gerven and Beckers 2009; Hamel and Vanhercke 2009). Verschraegen et al. (2008) argue that the signs of this de facto shift in intra-governmental cooperation were manifested through the increase of cooperation agreements between levels of government on welfare policies (federal-regional and regional-regional). Although some might interpret this as a strategy of the federal level to intervene in regional matters (and undermine their competencies), the collected data do not point to this matter. Rather, the findings suggest that both the federal level and the regions

benefited from these informal collaboration spaces, especially if we take into account that:

1. active and passive LMPs are two pieces of the welfare puzzle;
2. employment is not only a regional good, but also a collective one;
3. unemployment does not only affect a particular region but other regions, and the whole country (mobility and negative externalities);
4. regions are dependent on federal funding; and
5. the federal level is directly accountable to the EU.

In this way, we should not only take into account the ‘national-subnational’ dimension, but the ‘subnational-subnational’ aspect of collaboration and coordination that takes place by the creation of federal collaborative spaces.

Besides having a ‘say’ at the federal level, all three regions have launched multiple programmes which followed the principles of the EES. These instances of acting are relevant because these programmes help to diffuse to the regions the EU soft policies and prescriptions; thus, increasing the likelihood of implementation. The region of Brussels created ‘Regional Action Plans’, Flanders launched the ‘Pact of Vilvoorde’, whilst Wallonia introduced its own ‘Marshall Plan’ (Brussels Hoofdstedelijk Gewest 2003a; 2003b). These regional plans included targets and regional benchmarks, which were grounded in the EES and other Lisbon processes. The Brussels region also created ‘Social Pacts’ and a ‘Contract for the Economy and Employment’ (2005) to reduce unemployment by creating jobs and redeploying the region (7). Both projects followed the EES policy principles, and the latter initiative was funded by the ESF.

In addition, the regional governments established their regional monitoring mechanisms to oversee the implementation of EU soft processes. They also launched Territorial Pacts for Employment (e.g. Flanders: Halle-Vilvoorde, Tongres-Haspengouw; Wallonia: Hennuyer Bassin, West-Brabant). These pilot programmes, created by the CEC in 1996 and later integrated to the 2000-2006 ESF programming, followed the EES policy framework as they sought to mobilize important public and private actors to combat unemployment at the regional level. These findings suggest that the majority of the activities related to ‘acting’ were driven by EU by incentives; therefore, illustrating the argument that to capture subnational initiatives to ‘act’, it is essential to highlight the intervening role of the ESF.

To conclude, in Belgium the EES provided a new opportunity for federal and federated policymakers to cooperate and coordinate with each other on LMPs; thus, informally (de facto) shifting the nature of intra-governmental collaboration from reporting/weak consultation in the direction of bargaining. The EES have had noteworthy consequences on intra-governmental coordination, especially if we take into account the claim posed by many interviewees that before the introduction of the EES there was limited intra-governmental communication and coordination. Furthermore, driven by the resources and incentives provided by the ESF, subnational levels have brought back home these notions and have ‘acted’ by launching policy and collaboration programmes, which were in line with the EES.

## 4.2. Spain

Spain is a regionalized state, which is increasingly moving towards federalism. This tendency became even more pronounced after 1997, the year in which the EES was launched, when agreements to decentralize active LMPs and training to the Comunidades Autónomas (CAs) were created. Therefore, the CAs have become increasingly powerful since they organize, manage, distribute, and implement many aspects of LMP; yet, the national level retains the power to dictate the legal framework. Under this intra-governmental hierarchical model, competencies are shared and subnational policies must fall within national standards. In Spain, “[S]haring competencies does not necessarily entail joint action of the two levels of government. Rather, the central state authorizes the CA to ‘share’ its powers by developing and implementing its framework legislation (legislación básica). The central state legislates

without the participation of CAs. The CAs implements central-state decisions without the central government being able to intervene. The constitution does not provide any mechanisms of coordination the exercise of shared competencies” (Börzel 2002a: 94). With the exception of the irregular Conferencias Sectoriales (the main pillar of intra-governmental coordination), which were not legalized until 1996 (on gender issues) and 1997 (on labour issues), there were limited spaces for levels of government to communicate and coordinate on LMPs. This meant that before the launch of the EES, the nature of the intra-governmental coordination was extremely weak – somewhere at the far left of the continuum (see [Figure 1](#)).

In Spain, interviewed policymakers generally agreed with the idea that the introduction of the EES added cohesion, structure and clearness to the policy-making process. Throughout the process of drafting the NAPs, representatives of the CAs had a new space to have a ‘say’ in national arenas as they participated at least five times per year on matters related to the EES and, in addition, they approved the reports. Consequently, the task of reporting to the national level to draft the NAP opened new spaces where national and subnational organizations gathered to discuss the EES and their LMPs (c.f. Mailand 2008). These activities have promulgated a ‘unity’ vision allowing national and subnational actors, as one interviewee noted, to “be aware of the actions taken by different ministries and different general organizations [...] they can be subnational levels, and even local, and we are able to see the coherences and incoherencies of the different actions” (Interview, Spain 2003, author’s translation). For instance, through the task of CAs reporting their LMPs budgets to the national level to draft the NAP, it became evident that intra-governmental coordination was ineffective – both levels of government spent often a significant amount of money on the same type of policies and target groups(8).

Within this context, many interviewees argued that ‘having a say’ structured the process of devolution. Based on their views, the EES created targets, common points of reference and an overall strategic LMP plan. Moreover, it provided national and subnational actors with an additional space to the Conferencias Sectoriales to informally coordinate the transfer of LMP competencies. As one interviewee put it: “The EES has been an important instrument for the CAs and the national government since it allowed us to say we agree on transferring active LMPs to the CAs, but we must maintain a policy unity and a common strategy” (Interview, Spain 2003, author’s translation). Thus, the NAP represents a national strategic plan to set national policy objectives and budgets, which provides a reference point for policy-making and evaluation across levels of government.

From the point of view of the interviewees at the Community of Madrid, the EES enabled subnational levels to justify and claim further decentralization, as well as their key role as formulators and managers of active LMPs. This is particularly important if we take into account the Spanish hierarchical model of intra-governmental relations. The 2003 Spanish ‘Employment Act’ (which followed the tenets of the EES) strengthened these patterns as it promoted and established coordination mechanisms among PESs by including representatives of the CAs in these debates. More ‘say’ at the national level points at a gradual (de facto) shift in the nature of intra-governmental relations (see [Figure 1](#)) – from no/limited involvement to consultation. All in all, having a ‘say’ by being actively consulted has been beneficial to intra-governmental relations because the following patterns have tended to be the norm in Spain:

1. multiple bilateral agreements between the national government and the CAs;
2. weak institutional spaces for intra-governmental cooperation; and
3. strong competition among the CAs.

When referring to ‘acting’, the EES has supported the ‘territorialization’ of LMPs in Spain (Rocha Sánchez 2005). For instance, after the re-launch of the EES in 2005, the national government asked the CAs to draft their own ‘Regional Reform Programmes’. These initiatives promoted better and frequent coordination, and sought to make CAs active actors in the framework of the Lisbon Strategy (Spanish National Reform Programmes 2006: 1). In addition, to spread the new EES message, the national government organized workshops in several CAs.

As in the Belgian and Swedish cases, but even more notable in the case of Spain, acting is primarily grounded in the incentives provided by the ESF to lower levels, including the launching of LMPs pilot programmes to implement the policy principles of the EES. The Pléyade Project “The Diffusion and Implementation of the EES in the Local Ambit”(9) is an example (among others) of ‘acting’(10). It sought to activate local entities and improve their employment situation by providing them with financial and technical resources to analyse and evaluate their LMPs and institutions. The participating municipalities drafted their own ‘Local Employment Action Plans’ which were modelled after the EES. The project encouraged territorial, administrative and social concertation. In other words, the Pléyade Project was very much grounded in the notion of partnerships because it promoted the creation of networks to better manage LMPs at the local level. In addition, as in the Belgian case, CAs have created their own Regional Action Pacts for Employment (Rocha Sánchez 2005).

To recapitulate, in the process of drafting and implementing the EES, in Spain national coordinating spaces have been created where subnational entities have had a ‘say’. This new collaborative opportunities reinforce and aid the ongoing process of devolution of LMPs. The implementation of the EES, thus, serves as a European and national instrument to coordinate LMPs across jurisdictions. These developments are noteworthy given that in this country there are no formal intra-governmental mechanisms to exercise shared competencies. Thus, within the overall framework of devolution, we must take into account the EES as it has played an important role in the overall shift of intra-governmental collaboration – from ‘no/limited involvement’ in the direction of ‘consultation’. In this way, in Spain the EES serves as a (overlooked) policy-making “elaborated mechanisms for resolving intergovernmental disputes in devolved systems” (Keating and McEwen 2005) given that it helps to overcome coordination problems and information gaps.

### 4.3. Sweden

In Sweden, LMP has been a prerogative of the national government and the social partners. Under this institutional framework, local authorities are the main administrative structures that work under the policy model imposed by the central level. More specifically, the national ministry of labour delegates the implementation of LMPs to an executive agency (the Swedish National Labour Market Administration), which is responsible for managing and implementing these policies. At the county and municipal levels, the County Labour Boards and the PESs (under the umbrella of the aforementioned agency) deliver these policies to citizens. This means that subnational actors do not participate in decision-making at the national level as they are mainly ‘agents’ of the latter entity. In this way, before the launch of the EES, the participation of Swedish subnational authorities was even more limited than in the Spanish case – thus, placing their participation at the very far left of the continuum (see [Figure 1](#)).

When it comes to the creation of Swedish NAPs, the peak organizations representing subnational governments at the national level – the Swedish Federation of County Councils (SFCC) and the Swedish Association of Local Authorities (SALA) – have had an active ‘say’. The interviewees from these organizations viewed the process as a valuable experience since it provided them with a new tool for better interactions with other national (e.g. social partners) and subnational organizations. In addition, it allowed them to highlight the role of local organizations in LMPs. For instance, an interviewee said:

“Now we have more links with other actors. We have started to discuss via the NAP process the linkages and many areas that are much more important than they used to think. Sweden has a very sectorial system and you try to solve a problem within its field of operation. Now we have some kind of instrument to discuss how to go about what is the link to what, and how to solve situations as a whole making the local parliament more important, to make them have a broader view of what is going on at the local area. And then you have better instruments to find out what your sphere of interest is and how to solve things” (Interviewee, Sweden, October 2003).

Yet, regional and local governments have not had an active ‘say’ at the national level (Vifell 2009). Given the Swedish institutional (centralized) structure, these entities were primarily seen as managers and implementers of LMPs. Thus, the perception was that lower levels of government should not be active in early stages of policy-making, such as policy creation and formulation, or in this case in the creation of NAPs. Nonetheless, throughout this decade, this picture of subnational governments has been increasingly challenged (e.g. Regional Growth Agreements) (Svensson and Östhol 2002; Hudson 2005)(11). Even if these lower levels have not had an active ‘say’, national and the subnational levels have created specialized projects to diffuse (act) the EES message and to coordinate the implementation of other ‘soft’ processes (Swedish National Reform Programmes 2007). For instance, 54 percent of the Swedish interviewees referred to the notion of the EES serving as coordinating mechanism, which influenced domestic collaborative dynamics.

In addition to writing a pamphlet and designing a web-based training programme to disseminate the EES policies, in 2001 SALA carried out a ‘Local Action Plan’ programme, which was partly financed by the CEC. The final report of this project emphasized:

1. the development of partnerships and networks, i.e. meeting other people who work on the same policy issues and establishing working relations;
2. the opportunity to learn about ‘European LMP’ and targets; and
3. exchanging practices (Swedish Association of Local Authorities and Swedish Federation of County Councils 2001)(12).

At the national level, the ‘Local Action Plan’ project allowed this peak-organization to assert the key role of subnational levels in LMP. Moreover, it reinforced the need to include lower levels in decision-making and policy-making processes. Most importantly, the call for horizontal cooperation by the EES has provided the SFCC and SALA with a tool to claim their space and their role at the national and European levels. For example, the preface of the final report of the LAP project states:

“The Swedish LAP project wishes to point out that it is not enough only to acknowledge the importance of the local level, one must also give municipalities and regional bodies the mandate and tools to work with. [...] Therefore, local bodies must in collaboration with other parties—not at least the local trade and industry—receive actual opportunity to, in accordance with the EES, develop their own action plans. The Lap-project is welcoming the fact that the Commission is emphasizing that partnership shall be encouraged on all levels and the parties of the labour market as well as regional bodies and representatives of the civil community shall be given the opportunity to contribute” (Swedish Association of Local Authorities and Swedish Federation of County Council 2001).

As in Belgium and Spain, the ESF has also funded various local programmes (e.g. Västerbotten, Jönköping, Östergötland) to put the EES into practice through cooperation among the stakeholders. These developments represent the beginning of a series of attempts by national and subnational actors to generate partnership structures and policy networks to ‘act’ on the EES and other Lisbon processes. For instance, a number of Swedish local municipalities launched (on a voluntary basis) projects to develop local initiatives for growth and employment in line with the Integrated Guidelines and the Lisbon targets (Swedish Reform Programme for Growth and Employment 2005–2008). Examples of ‘acting’ initiatives are the:

1. informational campaign on the EES launched by the national level to diffuse the EES message;
2. ‘pilot county’ programme (organized by the Regional Association of Sörmland); and
3. ‘Reaction to Action’ seminar (organized by the Regional Council of Sörmland, the Stockholm Region, the EU network, and the Lisbon Regions Network) on the implementation of the Lisbon Strategy at the local and regional levels.



In the case of the first example, the national level created informational pamphlets and a 'magazine' (Jobben, or Jobs) to inform various actors about the EES. In addition, the national ministry organized seminars at the subnational levels to inform policymakers about the policy goals of the EES and various types of strategies to implement them. In the second case, this regional association sought to communicate and integrate the national employment programmes and the objectives of the Lisbon Strategy at the regional and the municipal levels.

The national government has also concluded local development agreements with the metropolitan municipalities to boost employment and reduce the number of people in need of social assistance. All in all, in 2004 there were 11 regional and 50 local agreements stemming from central agreements, and another 80 were in preparation to (for instance) include migrant workers into the labour force (Swedish NAP 2004). These 'national-subnational' developments fit within the doctrine of various Lisbon processes, including the EES. The need to actively involve subnational actors was especially emphasized in the 2005 and 2006 national programmes, and in the latter year the national government announced that it would present a coherent strategy to strengthen governance and dialogue between various levels. These initiatives culminated in the creation of a national forum to increase local and regional influence and responsibility:

“[T]he Government has established a national forum for regional competitiveness, entrepreneurship and employment to further develop the dialogue between national, regional and local levels on regional growth issues. [...] It is based on a shared responsibility between the regional and national levels for regional development, which requires a political dialogue and a shared view and understanding of important development issues. [...] one these forums will specifically consider the implementation of the Lisbon Strategy at the regional and local levels” (Swedish National Reform Programme 2007).

To review, in this centralized country, where subnational levels are (mainly) implementers and managers of LMPs, these entities did not have as much of a 'say' as in the other two member states. In this way, with the exception of the important role played by SFCC and SALA, it would not be accurate to argue that the implementation of the EES has significantly shifted the nature of intra-governmental collaboration (as it has been the case in Belgium and Spain). Yet, in Sweden, the EES opened a window of opportunities for 'national-subnational' and 'subnational-subnational' collaboration on LMP issues, which consequently sparked a discussion about the role of subnational entities in political and economic matters and to 'act'. In this case, the incentives provided by the ESF have pushed for a bottom-up perspective of policy-making. The evidence supports the notion that national and subnational levels have recognized the importance of diffusing and implementing the EES principles and of activating subnational actors. Even if all these developments have the potential to challenge institutional balances of power, they do not seem very threatening given that 'societal collaboration and concertation' is an intrinsic part of dominant political arrangements. Hence, these initiatives do not undermine, but reinforce Swedish corporatism, its consultative political culture, and its active welfare state.

To wrap up the case studies, [Table 1](#) summarizes the findings presented in this section. First, the reader should note that the fifth column highlights the shifts in the nature of 'say' in each country. More specifically, I argue that in Belgium and Spain we see a de facto shift to the right in the continuum presented in [section 3](#) (see [Figure 1](#)). Second, the last column of [Table 1](#) shows that the three countries launched 'Local Action Plans' and subnational pacts to diffuse and implement the strategy. As noted in [section 2](#), these initiatives were partly funded by CEC and the ESF. Thus, the financial incentives provided by the EU played a key role in driving these 'acting' initiatives.

#### Table 1

The following section concludes by retaking the questions posed in the introduction: Do national levels of government dominate the OMC? Or, do they bring in subnational actors?

Can subnational levels ‘have a say’ and ‘act’ under the EES?

## 5. Conclusion and implications

The evidence presented in [section four](#) shows that even if national ministries have initially acted as gatekeepers, in Spain and Belgium subnational levels have had an active ‘say’ in national spaces dedicated to the EES. In Sweden this trend is somewhat relevant, but to a lesser degree. Yet, lately various ‘acting’ initiatives have been initiated in this country. In the three countries, the consultative and coordinative framework of NAPs increased the frequency of interaction, thus, influencing the de facto (informal) nature of intra-governmental relations on issues linked to LMPs. Subnational actors, in turn, have been able to claim their role as key actors in LMPs. In this way, the EES has acted as an intra-governmental coordination instrument.

Furthermore, in the three cases, the launch of innovative regional and local LMP initiatives (along the lines of the EES) shows that this governance instrument is not irrelevant at lower levels of government. For instance, subnational actors have ‘acted’ by creating regional/territorial Plans, which incorporated the EES policy principles (see [Table 1](#))(13) . ‘Subnational-subnational’ developments proved to be also significant as they allowed subnational actors to be directly connected with the soft EU policy principles, while also experimenting with new policy ideas by creating partnerships and policy networks. It is worth noting that the majority of these developments are driven by the incentives (resources) provided by the ESF and have not tended to be ‘self-motivated’ in nature. Based on these findings, first, I conclude that the chances of lower levels experimenting with soft governance instruments increase when they are accompanied by tangible incentives (financial and technical) (in addition see Weishaupt this issue). These propositions mirror work on the development of multilevel governance structures in the pre-EES era (Hooghe and Marks 2001; Conzelmann 1998) and on intra-governmental dynamics in multi-tiered systems. For example, Peterson (1995:13) argues that in the United States “most national efforts to influence state governments come in the form of federal grants”.

Second, it is important to recognize that in all three countries the de jure (formal) institutional set up shaped and filtered the nature of saying. This is an important factor to understand why stakeholder participation on the OMC remains uneven (Büchs 2008: 776). In centralized states (Sweden), the subnational levels were less involved in saying than in regionalized and federal countries. I assert that these events are not insignificant as, when engaged in cross-national comparisons, we must address both absolute (how much a member state has changed given its departure point) and relative (one country vs. another/others) effects of the EES. This, in turn, will allow us to thoroughly analyze the individual and collective effectiveness of such governance instrument.

Finally, the findings suggest that ‘having a say’ and ‘acting’ support the development of new intra-governmental routines and subnational governance structures. Even if national actors acted as gatekeepers, which for the most part is no different from other areas ruled by hard law, these processes have evolved in a way that have allowed for: informal communication and more collaboration among various levels of government, the creation of partnerships, and for policy experimentation by lower levels of government. A relevant implication of these findings is that the OMC has the capacity to boost the development of multilevel governance structures. This is so because national and subnational actions and LMPs are increasingly enmeshed in this supranational soft framework and a set of multi-tiered policy networks. Still, as shown in this paper, the influence of these soft instruments is enhanced when the EU ‘shows the member states the money’.

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## Endnotes

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(1) The notion of 'subnational' refers to the levels of government below the central level.

(2) On other dimensions, for instance, see López-Santana (2009) and Schäfer and Leiber (this issue).

(3) The notion of governance is very pertinent to my analysis (especially when referring to acting) as ideally the implementation of the EES entails the involvement of a variety of public and private actors (e.g. partnerships).

(4) It is interesting to note that in 2003, policymakers barely recognized the connections between the EES and the ESF. However, five years later Spanish interviewees fully comprehended the links between the aforementioned processes. For instance, when writing a policy proposal the connections between them have to be emphasized.

(5) The collaborative dimension was addressed by the former minister Vandebroucke (in the context of the 2003 employment conference – based on the EES principles): “How many jobs will ultimately be created is not so important. What is much more important is that the way forward for socio-economic policy has been found with all parties concerned at the table together” (European Industrial Relations Observatory On-Line 2003).

(6) The Flemish region developed a database to compare its LMP indicators to the ones from Wallonia, Brussels, Belgium and Europe.

(7) The first social pact was created in 2002. It included commitments to: insert workers into the labour market, provide training, create a centre for professional developments, promote the equality of men and women in the workplace and combat discrimination.

(8) Börzel (2002) argues that duplications and overlapping are common problems in Spain.

(9) Proyecto Pléyade: Difusión e Implantación de la Estrategia Europea por el Empleo en el Ambito Local.

(10) The ESF funded local strategies for employment projects in Cádiz, Cuenca, Cantabria, Granada, Extremadura, Navarra, Huelva, Cataluña, Castilla y León and Pontevedra (c.f. Rocha Sánchez 2005).

(11) Regional growth agreements (launched in 1998) sought to stimulate economic growth by better sector coordination and adoption of industrial policies to fit subnational conditions. They were inspired by the ESF programmes.

(12) The project was carried out by six Swedish municipalities: Örnsköldsvik, Sundsvall, Söderhamn, Sundbyberg, Eskilstuna and Kungsbacka.

(13) The organization of such plans is dependent on the domestic organization of LMP. In some states, the plans are called ‘Regional Action Plans’ (Belgium, Portugal), in others ‘Local Action Plans’ (Sweden, Ireland, Greece), whereas Italy and Austria call them ‘Territorial Employment Pacts’. Other member states, such as the UK, Denmark, Germany, the Netherlands and Finland have also launched this type of initiatives (this information comes from a review of NAPs).

## List of Tables and Figures

**Table 1: Summary of domestic experiences: domestic structures and the EES**

	INSTITUTIONAL SET UP		EES PROCESS	
	Configuration of LMP	Role of Subnational Levels in LMP	Having a say	Acting
<b>Sweden</b>	Centralized and exclusive competency of the national level	Managers and Implementers	Inclusion of subnational peak organization only in <i>reporting</i>	Local Action Plans, National-Subnational Pacts, 'Pilot-county' Projects
<b>Spain</b>	Centralized And concurrent	Implementers and enforcers, increasingly formulators and decision-makers	Inclusion of subnational entities through active <i>consultation</i>	Local Action Plans and programs, Best Practices, Regional Action Plans
<b>Belgium</b>	Highly decentralized and exclusive	Main Actors, with the exception of Social Security	A movement towards <i>bargaining</i> between national and subnational entities in new arenas	Regional Pacts/Plans, Social Pacts, Territorial Pacts

**Figure 1: Having a 'say': Nature of 'national-subnational' collaboration**







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## Against the odds. The Open Method of Coordination as a selective amplifier for reforming Belgian pension policies\*

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**Abstract:** Tackling pensions' problems means engaging with what Pierson (2001) has called 'immovable objects'. Additionally, the EU competence for drafting specific legislation in this area remains unfulfilled potential, while EU legislation in other policy areas creates indirect pressures on national pension policies. Under such circumstances it seems that the room for an effective European intervention in the domain is limited, especially for "soft" modes of governance such as the Open Method of Coordination on Social Protection and Social Inclusion (SPSI). The pension's strand of the SPSI OMC is often referred to in academic writings as a bureaucratic nightmare which only involves experts and technocrats, even if some cognitive effects have been acknowledged. I take issue against the view of the OMC as mere window dressing. This chapter argues that OMC is "effective" in that it provides opportunities to create policy windows of opportunity which EU and national policymakers use in their efforts to discuss, manage and reform pension systems. Building on John Kingdon's (1995) theoretical framework and applying it to both the EU level and the (most likely) case of Belgium, I conclude that the pension OMC influences, against the odds, three core streams of the policy formation process. First, OMC influences the acceptance of compelling problems so that decision makers pay serious attention to them; secondly, OMC brings about changes in the political stream; and thirdly OMC makes certain ideas 'take hold and grow', so that they matter (more) in the policy soup. The core mechanisms through which OMC operates are puzzling, through deliberate learning and de facto socialization, and powering, through usage of the OMC architecture and peer pressure as a result of comparisons with others.

**Keywords:** open coordination; social policy; soft law; European social model; trade unions; participation; agenda-setting; governance; ideas; Europeanization; policy learning; benchmarking; Belgium; political science

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## 1. Soft law versus sticky entities

It may seem odd to devote a whole chapter to the Europeanization of pension policies through soft law. After all, the mature arrangements of European pension systems create huge electoral incentives as well as lock-in effects which make certain courses of action hard to reverse once they have been initiated (Natali 2007a).

So how could the European Union (EU) have any influence *at all* on such sticky entities, knowing that both Member States and EU institutions are heavily restricted not only in terms of their willingness, but also their ability to draw up European legislation in this area? To be more precise: Since the entry into force of Article 137 of the Treaty establishing the European Community (EC), the high hurdle of unanimity which was introduced for EU social security law (including, *e.g.*, with regard to minimum rules in statutory pension schemes) has never been surpassed, and so the competence for drafting legislation on this legal basis remains “unfulfilled potential” (Reyniers et al. 2010).

And yet, the absence of “pure” social security (pension) legislation did not prevent the EU from becoming an active player in the area of pensions through a variety of instruments.

Firstly, EU legislation in several policy areas affects pension policies. This occurs, amongst others, through the coordination of social security schemes and gender equality directives, with which national statutory social security rules must comply. The dynamics of market integration have also created indirect pressures on national welfare states: *de jure*, through the imposition by the European Court of Justice (ECJ) of market compatibility requirements (applicable to private insurance services, including complementary pensions); and *de facto* due to the forces of economic competition in an integrated market (Leibfried and Pierson 2000). In other words, the pensions’ field provides another illustration of Leibfried and Pierson’s key insight that the process of European integration has eroded both the sovereignty (legal authority) and autonomy (*de facto* regulatory capacity) of Member States in the realm of social policy (ibid.: 268).

Secondly, the indirect pressures on national welfare states have spurred “soft” modes of EU governance which have specifically addressed pension policies. This chapter examines whether one such instrument, namely the Open Method of Coordination (OMC), has influenced European debates and played a significant role in the domestic pensions’ policymaking process.

But let us begin ([section 2](#)) with the historical development of Europe’s best-kept secret, the Social Protection and Social Inclusion OMC (SPSI OMC), which incorporates a pensions’ ‘strand’. [Section 3](#) discusses the contrasting views in the literature on the pension OMC’s effectiveness. [Section 4](#) conceptualizes the ‘black box’ of OMC influence on the EU and domestic policymaking process, thereby providing the necessary theoretical perspective, while explaining the case study and research methodology. [Section 5](#) examines the pension OMC ‘in action’ at the EU level, assessing its effectiveness in Belgium. The [final section](#) presents conclusions.

## 2. The soft governance of pensions in Europe: where it all began

Even though the label “open coordination” came to light almost a decade ago, the actual *practice* of co-ordinating pension policies at EU level was by no means introduced by the OMC. Conceptually the OMC finds its roots in the Broad Economic Policy Guidelines (BEPG) introduced by the Treaty of Maastricht (1992), which involved non-binding recommendations from the Council on Member States to monitor the consistency of national economic policies with those of the European Monetary Union. In the context of the BEPG, in

1999 the Member States were invited to “review pension and health care spending in order to be able to cope with the financial burden on welfare spending of the ageing population” (Council of the EU 1999).

The “market” discourse on pensions in Europe was further strengthened by the High Level Group on Complementary Pensions, which started work at the beginning of the 1990s (CEC 1991), thereby spurring the Council of Ministers of Labour and Social Affairs to reach a political agreement, in November 1999, on a “Concerted Strategy on Social Protection” (Interview CEC3), as well as to organize work around 4 key concerns of the Member States, the 2<sup>nd</sup> of which was “to make pensions safe and pensions systems sustainable” (Council of the EU 2000)(1).

In the meanwhile, the “economic” players continued to assess pensions from the “financial sustainability” perspective: In November 2001 the Economic and Financial Affairs (ECOFIN) Council discussed a report prepared by the Economic Policy Committee (EPC) on the “Budgetary Challenges posed by Ageing Populations” (EPC 2001), in which it addressed the expected increase in public pensions spending by 2050, and confirmed itself as a regular player to be reckoned with on the pensions’ scene.

In response, the “social affairs” players speeded up their work: Sooner than requested, a “Joint Report” of the Social Protection Committee (SPC) and the EPC on “Objectives and Working Methods in the Area of Pensions” was adopted (SPC and EPC 2001), and politically rubberstamped by the Social Affairs and ECOFIN formations of the Council of the EU (December 2001). The Joint Report on Objectives and Working Methods established a set of 11 broad common objectives that Member States should pursue in their pension policies, relating to the adequacy, the financial sustainability and the modernization of pension systems.

After the Barcelona Spring European Council (March 2002), Member States started to prepare their first National Strategic Reports, which were followed by the first Joint Commission/Council Report on Pensions (CEC and Council of the EU 2003). The European Council in March 2003 welcomed the Joint Report and confirmed that the OMC was there to stay and not a one-shot exercise (European Council 2003: §49). In 2006 the pensions OMC became one strand of the overarching (“streamlined” in the EU jargon) SPSI OMC, which also covered social inclusion, as well as health care and care for the elderly (Council of the EU 2006).

The issue of whether this impacts on policy outcomes, is addressed in the next section.

### **3. Accounts of the pension OMC in action** ↑

Existing reviews of the ‘state of affairs’ in academic writing on the OMC provide contrasting findings about the value-added of this soft mode of European governance (Heidenreich and Zeitlin 2009; see also Kröger this issue). But does this confusion about its effectiveness also apply to the pension strand of the SPSI OMC? The answer, in short, is yes it does.

The dominant view of the pensions strand of the SPSI OMC in academic literature is that of a bureaucratic nightmare merely involving experts and technocrats, ineffective as a learning instrument. According to Lodge (2007: 358) the basic operational infrastructure for the pensions OMC “has been found wanting: standards had no directing capacity, information-gathering offered only very little truly comparative information to encourage ‘benchmarking’ or ‘learning with others’ and voluntary adjustment pressures seemed hardly present”. Eckardt (2005: 262) finds that the “OMC on pensions contributes only to one aspect of policy learning (i.e. on information gathering and dissemination), while its influence on actual pension reforms by actively pushing policy transfer seems to be very small”. Others raise serious questions about the democratic quality of this OMC strand which “fares even worse” than the European Employment Strategy (EES) when assessed according to the criteria of transparency, public debate, learning and participation (de la Porte and Nanz 2004: 278). Natali and de la Porte

(2004: 15) equally question the effectiveness of the pensions OMC, among others because the process is not at all visible in the national arena and peer review sessions only allow for a superficial exchange of ideas (ibid.: 14).

Radulova (2007: 13) assesses the structural features of this OMC and classifies it as a “lighter” OMC (as compared to ‘heavier’ variants such as the EES) in terms of the Member State compliance requirements. It should be stressed in this context that there are still a number of methodological problems(2) with the pension OMC indicators, which only cover some of the dimensions dealt with in the OMC context. This is in striking contrast to the statistical tools available for the social inclusion OMC and the assessment of the financial sustainability of pension systems in the context of the BEPG (SPC 2006). When studying the process of pension reform in Greece in the context of the ‘soft’ policy constraint emanating from the EU, Featherstone equally finds that the OMC process lacks the strength to provide a stimulus to domestic reform (Featherstone 2005: 746), especially since it is faced with near ‘immovable objects’ (ibid.: 747). More generally, Featherstone finds that the impact of EU pressures has not been central to Greek pension reforms. Finally, a UK SPC member testifies that “this strand of the OMC has been a bureaucratic exercise aimed at reporting, of no particular value to the UK” (Interview SPC5).

As with general OMC assessments, other accounts – or different facets of the same account – provide a rather different perspective on the pension OMC’s ‘effectiveness’. Thus, Featherstone (2005: 746) argues that “the OMC coverage of pensions affects Greece’s interest in reform (credibility, reputation), while serving to impact on domestic ideas (policy learning, mimicry, benchmarking)”. Different interviewees point to the role of the OMC in the recognition of policy problems in France (Interview SPC1, Interview CEC1) and Germany. The latter played a key role during its last EU Presidency in attempting to strengthen the learning dimension of the SPSI OMC (Interview CEC1), which would have stimulated auto-evaluation in pensions (Letzner and Schmitt 2007). According to Fuchs “drafting the National Strategy Report was not at all ‘business as usual’” in Germany as it led to enhanced cooperation between the social and finance ministries (Fuchs 2003: 6), while introducing the new experience of handling “governance by objectives” in German social policymaking (ibid.: 8).

According to Eckardt “the various OMCs, including that on pensions, make an important contribution. They provide a forum for the Commission and the various subcommittees involved to develop a commonly accepted European social-policy paradigm” (Eckardt 2005: 263). Perhaps this is why the pension strand of the SPSI OMC is actively supported by organizations such as AGE, the European Older People’s Platform which continues to inform its members about OMC procedures and ways to increase their involvement in the different stages of the OMC process (AGE 2008).

#### 4. Theoretical perspectives and research methodology

The opposed interpretations of the pension OMC's impact at national level described in the previous section can to a large degree be attributed to the absence of an agreed analytical framework for such an assessment. This section therefore raises the key question: How should we understand the OMC’s influence on EU and domestic policymaking processes?

In a nutshell, this chapter will argue that OMC is effective if, in the words of John Kingdon (1995), it provides opportunities to create a policy “window of opportunity” – an opportunity for policymakers to push forward their pet solution or problem. In operational terms, I will assess whether the SPSI OMC influences three important streams of the policy formation process, at EU level and in Belgium: the recognition of policy problems, the political playing field and the generation of policy alternatives.

The first stream, *problem recognition*, raises the question as to why, at any given time, certain problems capture the attention of policymakers while others do not. Put differently: *How* do

problems come to be recognized, and how do *conditions* come to be defined as *problems*. Following Kingdon, I will investigate whether the pension OMC plays a role in bringing problems to the attention of policymakers through:

- the use of *indicators* (to assess the magnitude and changing dimension of a problem);
- the *repackaging* of problems into new categories (since people perceive problems quite differently when put into one category rather than another);
- *comparisons* with other countries (taking domestic experience to create an international perspective);
- *focusing events* (e.g. a “crisis”, or labelling a situation as such) and;
- *feedback* on the operation of existing programmes (systematic monitoring and evaluation, studies on particular topics, informal feedback).

The policy agenda is also determined by the *political stream* of the policymaking process. Even if I do not contend that the pension OMC has any effect on components of this stream such as the public mood, pressure group campaigns, election results or changes in government (ibid.: 145), one could postulate that the OMC influences other aspects of this stream:

- changes in *interest group support* (e.g. trade unions);
- *empowerment* of new actors in seizing a place at the negotiation table (e.g. non-governmental organizations);
- *setting precedents* in terms of political practice (*ways of doing things*) which creates spillovers into adjacent policy arenas.

Still according to Kingdon the generation of *policy alternatives* by political entrepreneurs (the third stream of the policy process) resembles a process of biological natural selection: “Many ideas are possible in principle, and float around in a “policy primeval soup” in which specialists try out their ideas in a variety of ways” (ibid.: 19). More important than understanding *where* these ideas come from (they come from a plethora of different sources, and so tracing the ultimate origin of an idea “turns out to be futile”, ibid.: 73), the more relevant question is: *Why* do certain ideas survive, while others do not? I will postulate that the OMC influences whether or not certain ideas or policy alternatives take hold and grow through:

- the *gradual accumulation of knowledge and ideas*;
- the *recombination* of already familiar elements by *credible actors*;
- *softening up activities* (policy speeches, floating trial balloons, seminars etc.) culminating in a “tipping” phenomenon: An idea gradually catches on through persuasion and diffusion.

These mechanisms make it clear why Kingdon considers that policy entrepreneurs, who broker people and ideas, are more important than inventors: “Because recombination is more important than invention, there may be ‘no new thing under the sun’ at the same time that there may be dramatic change and innovation” (ibid.: 201). Concretely: “new” policy alternatives may in fact be “familiar” ideas that had never made it to the decision-agenda, but which for some reason become seriously considered by decision makers.

It is important for our study that the streams of problems, politics and policies in Kingdon’s model “are largely independent of one another, and each develops according to its own dynamics and rules. But at some critical junctures the three streams are joined, and the greatest policy changes grow out of that coupling [...]” (ibid.: 19). I will postulate that in some cases the OMC contributes to creating the conditions for such a *coupling* of the problems, politics and policy streams by political entrepreneurs which

- (a) play a key role in the decision-making process and
- (b) are familiar with OMC instruments and practices.

Even if Kingdon’s model is helpful in showing us *where to look*, it does not really explain how

the OMC's influence *actually works*. It is necessary therefore to complement the model with different governance mechanisms. The most important mechanism is strategic "usage" of the OMC by domestic actors (Jacquot and Woll 2003). *Usage* refers to the transformation of EU resources into political practice with the intention of pursuing a specific goal: influencing a particular policy decision, increasing one's capacity for action, one's access to the political process or the number of tools available (Jacquot and Woll 2003:6). One could indeed expect boundedly rational actors to use the OMC to legitimize their own preferences, advance their agendas, criticize official positions, demand increased participation in governance, underpin bargaining arguments during budgetary negotiations etc. (see Weishaupt this issue).

A second mechanism is *socialization and discursive diffusion*, i.e. the incorporation of European categories and concepts into the domestic debate through OMC involvement. As using the OMC may alter the ideas, norms and beliefs of the actors involved through learning, they sometimes – for example when persuaded by the arguments and evidence – incorporate such concepts into their domestic sphere. When referring to the notion of learning, I mean changes in the cognitive and normative orientations of policy actors as a result of past experience and new information(3). In the area of pensions, for example, normative considerations concern the question of fairness and solidarity when changing early exit schemes.

*Mutual learning* is a similar mechanism that can explain procedural changes and substantive shifts, through "a combination of enhanced awareness of different approaches and performance standards elsewhere on the one hand, and reflexive self-assessment, including improvements in institutional capacity for information gathering and monitoring on the other" (Zeitlin 2005: 479). An important difference between mutual learning and discursive diffusion is that the former is a *deliberate act* on the part of the person learning, while the latter simply "happens" by participating in the process (for a more in-depth discussion of learning accounts, see Hartlapp this issue, Pfister this issue).

Finally, *external or peer pressures* and associated practices, such as recommendations and 'rankings', can help to explain how the OMC could theoretically impact on the policy process.

Figure 1 summarizes the theoretical perspectives I use to examine the operation of the pensions OMC. The OMC's toolbox (reports, indicators, targets, peer reviews etc.) is adopted by EU and domestic actors with a view to selecting particular problems and choosing favoured solutions (*powering*): This occurs through different kinds of *usage* and *peer pressure*. But "[P]olitics finds its sources not only in power but also in uncertainty – men collectively wondering what to do. [...] Governments not only 'power' (...); they also puzzle" (Hecló 1974: 305); actors thereby identify problems through socialization and learning (*puzzling*). In doing so, they affect three streams of the policy formation process: the recognition of policy problems, the political playing field and the generation of policy alternatives. In some instances, actors will be able to join these streams and create a policy window of opportunity, so that they can push forward their agenda or proposal.

### Figure 1

One last element needs to be added to the conceptual framework: Actors' experiences with the OMC will *feed back* into the EU-level process. Indeed, if actors experience policy misfits between the EU and domestic levels, they will try to push their preferences up to the European level (for a discussion of the factors explaining Member States' ability to intervene in SPC discussions, see Horvath this issue). This way they reduce – at least in theory – compliance problems, and the associated adaptation costs (Caporaso et al. 2001: 7). And yet I will postulate that the OMC's domestic influence does *not* depend on the actual *success* of Member States' uploading efforts, but is in fact related to the degree to which domestic actors have been *actively engaged* in the EU decision-making process and therefore have subjective *ownership* of (or: are committed to) the process. This casts further doubt on the usefulness of the fit/misfit paradigm (Börzel 2003: 3) to explain domestic adaptation pressures as a result of EU soft law initiatives.

The conceptual framework developed above will be applied to one particular country which I consider to be a most likely case in terms of OMC impact, i.e. Belgium. The main reason for this is that in terms of its temporal dynamic “the self-transformation of the Belgian social insurance system, due to the particular institutional make up of the Belgian polity, proceeded gradually, cumulatively and effectively by stealth” (Hemerijck and Marx 2009: 10). I will postulate that soft instruments such as the OMC fit well with such a gradual reform process, and with the Belgian informal decision-making culture. Additionally, there is a positive general attitude towards the EU in this small Member State, which played a key role in ‘shaping’ the basic architecture of the pensions OMC at the EU level in 2001 (arguably creating a certain ‘commitment’ to the process). These features, together with the fact that in the years following the launch of the pensions OMC several important debates were launched and decisions were taken in the pensions arena, and (especially) pre-retirement, make Belgium a particularly interesting case study.

The empirical evidence of the case study is drawn from (national and European) official documentation, secondary literature as well as in-depth interviews with more than 30 decision makers in Belgium and at EU level. These elite interviews took place in a flexible ‘semi-structured’ setting. Almost all interviewees accepted that the interview would be recorded and transcribed, under condition of confidentiality, hence the anonymous reference to the respondents’ institutional affiliation (see [Annex](#)).

## 5. Assessing the effectiveness of the OMC in action

### 5.1. The pensions strand of the SPSI OMC: operation at EU level

This section discusses whether the SPSI OMC impacted on the *European* initiatives in the field of pensions. I trace OMC influence on the three policy streams described in [section 4](#): the recognition of policy *problems*, the *political* playing field in the field of pensions, and the generation of *policy alternatives*. In order to understand *how* the OMC matters, I highlight the actual mechanisms which bring about these changes: usage, peer pressure, socialization and learning (see [Figure 1](#) above).

As suggested in the literature review above, there is widespread agreement among actors that the pensions OMC had at least one ‘effect’ at EU level, namely that it enabled the *recognition* of the “social sustainability” of pension systems as a legitimate *policy problem* (Interview TU/SOC; Interview SPC3; Interview CNT3; Interview MINCAB3). As one of the founding fathers of this OMC put it: The recognition that “the pensions challenge is not a financial challenge with some social constraints, but a social challenge with financial constraints” (Vandenbroucke 2001) allowed for a more balanced EU discourse in which the social dimension acquired a legitimate place. This can be seen, for example, in the EU Common Objectives on pensions as well as the SPSI OMC *indicators* (including calculations of pension replacement rates and risk-of-poverty rates among pensioners).

Note that a knowledgeable EPC-member underlines that “The Economic Policy Committee saw the OMC as a means to transfer the recognition of the sustainability issue to those responsible for reforms. That was the main interest for our Committee to engage in this process” (Interview PLAN1). A Belgian SPC member confirms: the “OMC gave a legitimate basis to these ‘economic’ messages, now that they are backed up by the ‘social’ wing of the process (Interview SPC4). The fact that regular reports are drawn up *jointly* by the SPC and the EPC (see [section 2](#)) was key to this: The feedback that was provided on the (poor) performance of Member States’ pensions systems was considered to be far more legitimate (since the SPC and DG Social Affairs of the European Commission were involved) than previous reports that emanated from the EPC alone. Or from the Organization for Economic Cooperation and Development (OECD) for that matter: Neither institutions were really *trusted* (and as a consequence rarely used) by social actors (Interview PLAN2, interview EMPL/FEB).

This recognition of ‘social sustainability’ as a policy problem did not just ‘happen’ through the OMC: It was engineered by a number of policy entrepreneurs. Thus, at the beginning of the EU process, the European debate on pensions was presented (in terms of discourse) by the European Commission as an “ageing of population” problem, which reduced the political sensitivity of addressing this issue at the EU level. This can be seen as an illustration of *repackaging* (by political entrepreneurs) of problems into new categories.

Also note that from 1999 until 2002 the activities of the European Round Table of Industrialists chaired by Carlo De Benedetti(4) acted as *focusing events* in that, through conferences, reports and recommendations for action which received considerable public attention – they portrayed European pension systems as a “time bomb” that needed to be “defused” in view of the increasing burden on taxpayers and the competitiveness of European industry. As a reaction, policy entrepreneurs involved in the pensions OMC organized several informal Council meetings(5) and high-level international conferences (for example Leuven(6) and Berlin(7)) with keynote speeches by policy entrepreneurs which produced trial balloons that were underpinned by scientific reports (e.g. Esping-Andersen et al. 2002; for other examples, see Kröger this issue). All of this was done in an effort to pave the way for the newly-acquired issue of “social sustainability” in the area of pensions.

The EU *political playing field* in the field of pensions was arguably changed through the OMC as well. The joint approach to pensions brought a *new set of actors* to the debate, namely the Social Affairs Council formation and the SPC. As illustrated in [section 2](#), the active stance of the ECOFIN Council provided a real ‘push’ for social affairs ministers to claim their role, speedily(8). In political terms it was important that the European Council demanded – at the request of the Social Affairs Council – that “the results of the Open Method of Coordination be integrated into the Broad Economic Policy Guidelines” (European Council 2001), which some saw as the confirmation, at the highest political level, of the ‘say’ of social ministers in the EU pensions debate. According to the former president of the EPC’s Working Group on Ageing (WGA), the BEPG were indeed altered by the involvement of economic actors in the OMC (Interview PLAN1). Others claim that this event marked the ultimate subordination of the social OMCs to the EU economic and financial coordination processes. This is perhaps why the European Federation of Pensioners and Elderly People (FERPA), which is closely associated with the European Trade Union Confederation (ETUC) does not see this OMC as a strategic tool at all, but rather an “attempt to increase flexibility while scrapping or reducing social benefits” (FERPA 2005). Note that ETUC is prudently taking on a more positive attitude towards the OMC, which in its view could contribute to bolstering social cohesion (ETUC 2006).

In the slipstream of the social affairs ministers, other actors seized the opportunity to claim a place at the EU table, the most important one being the European Commission. Several interviewees indeed point to the important role of this institution in the process, which skilfully uses the OMC to expand its influence. An SPC member even refers to the “dominance of the Commission, which pushes through its own agenda” (Interview SPC4).

Another newcomer is AGE (which is co-financed by the European Commission) which draws legitimacy from (or to put it bluntly: it owes its existence to) the OMC to take an active part in the EU debate. Note, however, that no AGE representatives (nor those of any other social partner or civil society organization) participate (even as observers) in SPC or EPC meetings (Natali 2007b: 19).

Finally, it would seem that the political support for soft governance in the field of pensions has *spilled over* into adjacent policy instruments: Directive 2003/41 on the activities and supervision of institutions for occupational retirement provision, for example, uses OMC-types of mechanisms (exchanges of experience, benchmarking) to implement this EU legislation (Amitsis 2004).

Let us now examine the generation of specific *policy alternatives*. The overall framework promoted by the OMC is the ‘three-pronged strategy’: sustain sound budgetary positions,

reform pension systems, and raise employment rates. As regards pension reforms, the pensions OMC has further strengthened certain policy alternatives:

- the issue of financial sustainability
- a new division of pension pillars (increasing occupational and private insurance),
- a hybrid model of pension, including a focus on minimum guarantees (Ervik 2006).

These ideas are being passed through multiple ‘softening up’ activities such as the production of studies and seminars. For example, the pensions section of the 2007 Joint Report highlights the recent work carried out on indicators (replacement rates) as well as on the results of “in-depth analyses” carried out on two topics: the design of minimum income provisions for older people and the link between flexibility in the retirement age and longer working lives (SPC and CEC 2007). As was the case in the policy recognition stream, interviewees underscore the crucial importance of the fact that policy alternatives are now being formulated *jointly* by social affairs *and* economic players. This joint decision-making gives new legitimacy to familiar ideas that have not yet made it to the decision agenda (including with regard to raising minimum pensions and the partial privatization of pensions), and increases their chances of being seriously considered as conceivable policy.

## 5.2. Domestic use of the pensions OMC: report from Belgium

The most significant impact of the SPSI OMC in Belgium can be found in *the recognition of policy problems* stream. In almost all interviews I conducted the basic fact was raised that the OMC facilitates the comparison of performance with other countries, which has become regular practice. A key figure in the Belgian National Labour Council explains:

“In the Group of 10 [consisting of leading trade unions and employers’ representatives, BV] European statistics and studies are always kept an eye on. After all they make it possible to see how Belgium is doing with regard to other countries. Without saying it, without even realizing it, we ‘do’ Europe” (Interview CNT2).

Note that these comparisons are not always ‘out in the open’, as one academic involved in drafting the 2003 reform of the 2<sup>nd</sup> pillar explains: “Even if the inspiration from abroad is evident, it happened entirely under the radar. In one meeting the minister explicitly asked us not to refer to what we had learned from these foreign comparisons” (Interview AC1).

But is there a link between these EU comparisons and the OMC? At first sight, Belgium did not need the OMC to raise the issue of the financial sustainability of its pension system: The BEPG and the OECD had already done a fine job in this regard. And yet, key actors confirm that *feedback* on the operation of existing pension policies through *systematic monitoring*, evaluation and studies on particular topics raised awareness of budgetary constraints among a new elite of actors, i.e. those involved in pension policies (and not merely the economic actors, who were already convinced). To give one illustration: OMC indicators, in combination with pressure from the European Employment Strategy, have made the magnitude of the early-retirement problem crystal clear to Belgian social policy makers and contributed to an important mind-shift among trade unions. As two members of the Employment Committee (EMCO) explain: “The European reference framework led actors to accept early retirement as “the Belgian problem” and no longer as “the Belgian model” (Interview EMCO4, Interview EMCO3).

One illustration of the penetration of pension OMC indicators in the domestic setting is the fact that the low (and decreasing) replacement rate of Belgian pensions has become an issue that is being studied, for the first time, by the influential Study Committee on Ageing (Interview PLAN2). Although the finding that replacement rates did not follow the evolution of prices was not new, OMC indicators and debates made it possible to *repackage* it under a new category (social sustainability), with a comparative perspective. A key negotiator confirms



how important such *usage* of OMC sub-instruments can be to raise an issue to the decision agenda: “If the trade unions can highlight that the ‘older’ pensions are 10 per cent behind with regard to other pensions, and that the latter are relatively low in comparison to other countries, then they have a very strong point. Without the OMC that would have been much more difficult” (Interview CNT3).

Again, it is clear that pressure emanating from the OMC does not automatically “fall” in the domestic arena: Thus a former Head of Cabinet(9) reports that in 2003 the minister for pensions gave specific instructions

“not to entirely evacuate some of the wordings proposed by the Commission about abandoning pre-retirement, since they would be useful in the near future. After all the minister felt that not enough people were ringing the alarm bell as far as the future of our social security system is concerned” (Interview MINCAB5).

The fact that the Commission suggested that part of Belgium’s pension strategy was in crisis can be seen as a *focusing event* which was very much welcomed, and partly engineered, by some of the domestic decision makers.

Surprisingly enough, the SPSI OMC also seems to have ended up in the *political* stream of pensions policymaking in Belgium. At a very general level, the EU focus on the need to reform is very strong, which in itself becomes an argument in political negotiations: Comparisons with other countries through joint econometric hypotheses reinforce the legitimacy of reform, as they often show that the Belgian pensions system is “immobile” (e.g. in comparison with Sweden or The Netherlands). As a member of the Planning Bureau puts it: “Member States can no longer hide behind incomparable numbers, they are very quickly faced with their responsibilities [...] these systems have become rather transparent” (Interview PLAN1). The EU’s role in legitimizing reform amongst *interest groups* cannot be overestimated. According to this key trade unionist: “When there is a European debate about a certain issue, this allows for the creation of a context in which one can convince others that that there is no other option than to talk about it and to find an agreement” (Interview TU/SOC). As a result of this EU pressure on pension reform, “everyone, including the trade unions, now realizes that we need a second reform, and after that a third reform” (Interview PLAN1).

But what happens *concretely* to the OMC in the political stream? An example may illustrate this point: The increase of the minimum income for elderly people (‘GRAPA’ in French(10)), in December 2006. A former Belgian Minister for Pensions explains that:

“Sometimes the OMC can be usefully applied in the national debate. For example, we legitimized the increase of the GRAPA by pointing out that the benefit levels were below the European risk-of-poverty line. Probably no one would dare to turn back that decision, since it would give the message that older people are pushed below the poverty line once again” (Interview MINCAB1).

The European risk-of-poverty norm, which was developed in the context of the Social Inclusion strand of the SPSI OMC, acquired a broader mobilizing character (Hamel and Vanhercke 2009), as can be seen in the fact that in the summer of 2007 a legislative proposal was laid down in the Belgian Senate with a view to raising the minimum pension for independent workers to the GRAPA level, the main argument being that it would be intolerable for retired independent workers to be left to live below the European poverty line. The director of the study service of the Christian Trade Unions adds: “At our congress in 2002 we demanded that all the minima in social security be raised to 60 per cent of the median income” (Interview TU/CHR). In other words: The political practice of using the EU poverty norm as a reference has *spilled over* from the SPSI OMC into a number of adjacent policy areas. A different kind of spillover from the OMC “ways of doing things” can be seen in the National Labour Council: “By being formally consulted about the OMC in 2001, we became

aware that all of this is not so soft after all, that it could have serious consequences. Before we were consulted about the OMC, Europe did not exist in this institution” (Interview CNT1). So, surprising as it may seem, “soft law” raised awareness about the EU as an important policy arena in this central domestic institution.

Interviewees also point to another effect of this OMC in the political stream, namely its incremental contribution to changes in *interest group support* (namely from trade unions) for pre-retirement measures (see above), something that remains a politically salient issue in Belgium. The careful reader will have noticed that I have not talked about the *empowerment* of new actors in this section: It would seem that the pensions OMC only provides leverage to those policymakers and stakeholders who are already in the “inner circle” of decision-making. As national ministries have acted as gatekeepers of the process (see López-Santana this issue) it has not yet brought new actors to the table (see Dawson this issue). A top civil servant explained that when she proposed to “open up” the writing of the National Strategic Report, the cabinet answered “we are not going to interview all pensioners, are we?” (Interview MIN/SS). And when asked which stakeholders could be interested at the national level, a senior Commission official answered “well in pensions the clear actors are the social partners and possibly *all sorts of pressure groups*” (Interview CEC2). In other words: “Opening up” this strand of the OMC does not seem to be high on the priority list of domestic or EU-level actors.

As far as the generation of *policy alternatives* by policy entrepreneurs is concerned, there seems to be wide agreement among key Belgian players that the pensions OMC promotes a focus on a minimum pension, a 3-pillar pension model (in Belgium as in other Member States this means: increasing the 2<sup>nd</sup> and especially the 3<sup>rd</sup> – private – pension pillar), and the actuarial neutrality of pension systems (Interview MIN/SS; Interview SPC4; Interview PLAN2). Note that these are market-correcting as well as market-enhancing reforms. According to one Belgian SPC member “it is the Commission that distils these key messages from the melting pot of very diverse policy initiatives and orientations of the Member States; namely those messages which resonate with the Commission’s concerns” (Interview SPC4). According to the same Belgian SPC member “it has become increasingly difficult to change one word in the discourse of the European Commission” (ibid.).

Crucially, actors explain that the generation of policy preferences through participation in the OMC does not happen overnight, but gradually. One key actor explains:

“Those who think that the agenda of the inter-professional agreements has been adapted to the European agenda are definitely wrong. But one can imagine Europe’s influence as a trickle-down effect: Europe diffuses slowly and calmly, which allows certain issues to be brought to the table, some of which suit us, others do not” (Interview TU/SOC).

Or, as one (OMC-critical) representative of the Belgian employers’ puts it: “The OMC has produced a number of fancy studies about pension systems in the Member States, and that’s it. [...] But then again if a message is repeated often enough, it frames our minds anyway” (Interview EMPL/FEB). Thus, the EU seems to form ‘softening up’ activities, a gradual accumulation of ideas which in some cases culminate in a cognitive tipping phenomenon.

This can be seen in the Generation Pact, as one of its key negotiators from the trade union side explained: “Since the European objectives already determined the priorities, actors within the National Labour Council probably felt less compelled to ‘occupy the territory’” (Interview CNT2). Another negotiator confirms: “It is EU pressure that led to the Generation Pact. So you could say that soft law has legal consequences, since one is obliged to take measures” (Interview TU/LIB). It seems that trade union attitudes towards soft law are rather mixed: Some use the term “terror of benchmarks”, while confirming that “they are also a very important authoritative argument, and we have learned to use them when it suits us” (Interview TU/CHR). Concretely, then, how did OMC interfere with the generation of policy alternatives

in the Generation Pact?

The Pact increased the age criterion for early retirement benefits: Involved actors from the trade unions' and employers' sides confirm that European discourse, studies, arguments and statistics played a key role in this. Crucially, the compromise that was struck also included the introduction of an "age bonus" (for those who remain active after the age of 62): This is a largely symbolic measure, but one that prudently introduces an entirely new element in the Belgian pensions system, i.e. that of actuarial neutrality. Other measures in the pact point in the same direction, for example the calculation of differentiated ceilings for "assimilated days", again a rather symbolic measure but one which, according to a high-ranking civil servant in the Planning Bureau, "opens the door for a reduction of solidarity in the Belgian pension system" (Interview SPC4). The Generation Pact seems to be a case where the OMC enabled political entrepreneurs to join the problem recognition, political and policy alternative stream, pushing an idea whose time has come to be on the decision-making table.

## 6. Conclusions

While setting the scene of this paper, I wondered if, in the absence of EU legislation specifically aimed at pensions, a soft and relatively novel process such as the OMC had any effect at all on EU and national pension politics and policies. At first sight, this seems rather unlikely: Not only is Belgium an archetypal example of the "frozen continental welfare state landscape" (Esping-Andersen, 1996); [section 2](#) also illustrates that academic literature has weighed up the pensions' strand of the Social Protection and Social inclusion OMC, and came to rather mixed conclusions. While some cognitive effects have been acknowledged, as well as this OMC's role in counterbalancing the EU pensions discourse developed by the Finance Ministers, the basic infrastructure of the process is usually judged as too weak to have any significant effect at the domestic level.

This paper rejects the mainstream view of the pensions OMC as mere window dressing. This in no way implies that I claim that domestic pension policies are *determined* by EU influences. And yet, a large part of the Belgian decision-making elite considers the OMC's impact in the area of pensions to be undeniable. In this Member State – which I consider to be a most likely case – the soft form of policy coordination provides opportunities to create policy "windows of opportunity", which policy makers use, together with other tools available, in their efforts to discuss, manage and reform pension systems. This happens, first because the OMC influences the acceptance of compelling problems so that decision makers pay serious attention to them; secondly because the OMC brings about changes in the political stream; and thirdly because the OMC makes certain ideas 'take hold and grow', so that they matter (more) in the policy soup.

There is also strong confirmation of the core mechanisms through which the OMC operates: The empirical section provided examples of puzzling, through deliberate *learning* and *de facto socialization*, and of powering, through *usage* of the OMC architecture and *peer pressure* as a result of comparisons with others.

The empirical assessment also made it clear that the OMC's influence (including its learning dimension), is not necessarily seen as *positive* by the actors involved: Doubts are raised about the fact that few efforts are undertaken to "open up" the pensions OMC, about the direction of the reforms promoted through OMC (e.g. focus on competitiveness rather than solidarity), about the dominant role played by the Commission and the economic actors, and finally about the effectiveness of the method. In spite of these doubts and criticism, none of the key actors rejected OMC outright: Even the more sceptical policymakers prefer to engage in a problematic OMC rather than leaving the floor entirely to the economic players. The fact that actors commit themselves to this OMC, and believe it has a certain impact on policies, does not necessarily imply that they are fond of it. This also illustrates that the preference for "hard" or "soft" law in this issue area is not a binary one: some accepted the OMC "since nothing else is available", others described the OMC as a step-up to legislation.

Obviously, further research is needed. For example, one can postulate that these mechanisms play out rather differently between Member States and that a soft instrument such as the OMC fits well with the Belgian informal decision-making culture, in which there is a positive general attitude towards the EU; several of our interviewees point to a (long-lasting) ‘Presidency effect’: The fact that Belgian actors (notably social democratic ministers) played a key role in ‘shaping’ the basic architecture of this OMC at the EU level in 2001, may well provide a credible explanation as to why these actors are motivated in ‘taking’ it to the domestic level. And yet the evidence – how thin it may be – of the operation of the pensions OMC in Greece, Germany and France ([section 3](#)) calls for further research as regards the usage and effects of this OMC in other Member States.

One could also postulate that the effectiveness of the social OMC varies between its strands, some having grown more ‘teeth’ (e.g. as a consequence of differences in institutional architecture) and thus being more effective than others. It seems that the impact of the OMC is also related to the degree to which domestic actors have been involved in the EU decision-making process (or not) in the first place. Arguably the effectiveness of any OMC can only be assessed by taking the ‘uploading’ dimension into account (Hamel and Vanhercke 2009), since it co-determines the degree of “ownership” of (and thus commitment to) this soft process.

To sum up, the OMC is certainly not an irresistible force shaking the immovable edifice of Belgian pensions policies, but there is empirical evidence that this EU process is being used (explicitly or, more likely, by stealth) by key actors as an increasingly important leverage. The OMC sometimes opens policy windows of opportunity in the domestic policy-making arena. Critically, this does not primarily happen as a result of command-and-control mechanisms, peer review (peer pressure) or naming and shaming. More often, usage by actors at the national level and socialization lead to the kind of impact I have tried to illustrate. As such, the pensions OMC can be seen as a selective amplifier of domestic pensions policies.

## Appendix / List of interviews

AC1 Professor, Law Faculty, University of Leuven, March 2007

CEC1 Head of Unit, European Commission, Brussels, July 2007

CEC2 Deputy Head of Unit, European Commission, Brussels, July 2007

CEC3 Former Director, European Commission, Brussels, October 2007

CNT1 Chairman, National Labour Council (NLC), Brussels, December 2007

CNT2 Secretary-General, NLC, Brussels, April 2007

CNT3 Chairman and legal advisor, NLC, Brussels, June 2007

EMCO1 EMCO Chair, Brussels, June 2007

EMCO2 Director General, Federal Public Service (FPS) for Employment, Brussels, December 2007

EMCO3 Former Chairman, Board of the FPS for Employment, Brussels, December 2007

EMCO4 General Advisor, FPS for Employment, Brussels, April 2007

EMPL/FEB Senior Advisor, Federation of Belgian Enterprises, Brussels, December 2007

MINCAB1 Former Minister for Pensions and his Head of Cabinet, Leuven, April 2007

MINCAB2 European advisor, Minister for Pensions, Brussels, June 2007

MINCAB3 Deputy Head of Cabinet, Minister for Social Affairs, Brussels, June 2007

MINCAB4 Deputy Head of Cabinet, Minister for Social Integration, Brussels, April 2007

MINCAB5 Former Head of Cabinet, Minister for Social Affairs and Pensions, Brussels, June 2009

MIN/SS Coordinator of International Affairs, FPS for Social Security, Brussels, June 2007

PLAN1 Senior Civil Servant, Federal Planning Bureau, Brussels, October 2007

PLAN2 Advisor, Federal Planning Bureau, Brussels, June 2007

SPC1 Former SPC Chair, Brussels, October 2007

SPC2 Former SPC Secretary, European Commission, Brussels, October 2007

SPC3 Former SPC Secretary, European Commission, Brussels, September 2007

SPC4 Belgian SPC Member, Brussels, June 2007

SPC5 UK SPC Member, Brussels, September 2007

TU/CHR Director and legal advisor, Studies Department, Confederation of Christian Trade Unions, Brussels, October 2007

TU/LIB Director and Head, Studies Department, Liberal trade Union Organisation, Brussels, October 2007

TU/SOC Director and advisor, Studies Department, Belgian General Federation of Labour, Brussels, June 2007

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## Endnotes

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(1) The other objectives are "to make work pay and provide secure income", "to promote social inclusion" and "to ensure high quality and sustainable health care" (Council of the EU, 2000).

(2) The new "Portfolio of streamlined Social Inclusion, Pensions and Health indicators" contains a significant amount of commonly agreed national pension indicators, which do not allow for direct cross-country comparison (SPC, 2006).

(3) Cognitive orientations are understood as causal propositions about what is effective and feasible in order to solve a problem. Normative orientations refer to what is desirable and legitimate.

(4) Online available: <http://www.ert.be> (accessed 18 September 2009).

(5) de la Porte and Adão e Silva (2007: 155) found that in the period (1997 – 2007) 'social protection' (mainly pensions) appears as the third issue debated in informal Employment and Social Affairs Council meetings: five times as 'main issue' and twice as 'secondary issue'.

(6) Leuven, Conference "Towards a new architecture for social protection?", 19-20 October 2001.



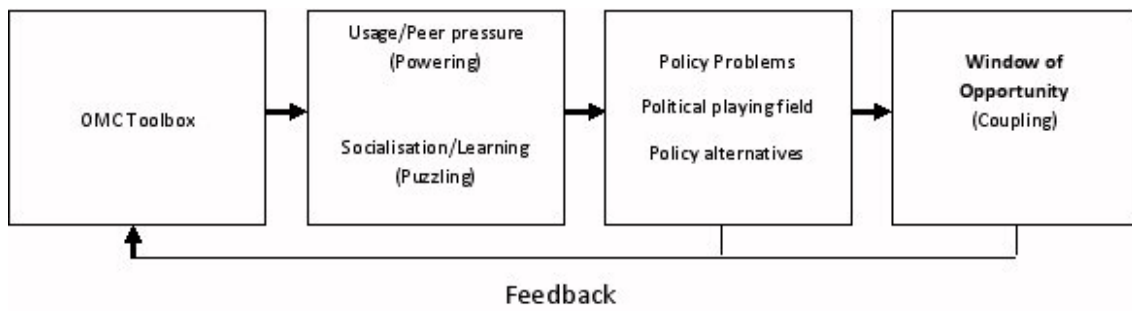
(7) Berlin, International Conference on Open Co-ordination and Retirement Provision, 9-10 November 2001.

(8) This increasingly active stance of the EPC with regard to the pensions issue was the key reason why this OMC was launched under the Belgian Presidency in 2001, even if this was not the intention at the beginning of the Presidency.

(9) In Belgium a minister is entitled to a 'ministerial cabinet' consisting of a staff of personal advisers whom the minister appoints personally when she takes office and who are not part of the administrative hierarchy.

(10) GRAPA, Garantie de revenus aux personnes âgées.

**Figure 1: Conceptualizing OMC in action: Mechanisms and effects**







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## What kind of consensus? Conflicting notions of effectiveness within the Social Protection Committee\*

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**Abstract:** The Social Protection Committee (SPC) is the main forum for exchanging information and best practices among the member states within the framework of the Open Method of Coordination (OMC) in the fields of social protection and social inclusion. This implies that looking at how and when the SPC can work ‘effectively’ is crucial in understanding the potentials of the so-called social OMC. As committee delegates – together with other key actors – define the acceptable and desirable modes of interactions, the successfulness of these interactions is also tied to their own perceptions of effectiveness. Therefore, this article looks at participants' perceptions in order to reconstruct abstract categories based on which the actors themselves evaluate their own working practices, taking into account both the “uploading” and the “downloading” dimension of the process. The article has two main goals. First, it lists the criteria of effectiveness linked to both national and European-level factors that SPC members rely on when evaluating the work of their own committee. Second, based on the abstract concepts of effectiveness that emerge on the basis of in-depth interviews, the article formulates more general hypotheses about the effective functioning of EU level committees, which can be used as bases for future research.

**Keywords:** institutionalisation; open coordination; expert committees; governance; participation; organisation theory; social policy; political science

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### 1. Introduction

The Social Protection Committee (SPC) is the main forum for exchanging information and

best practices among the member states within the framework of the Open Method of Coordination (OMC) in the fields of social protection and social inclusion. Its role is important for several reasons. First, committee members coming from national ministries are the ones who are mainly responsible – together with the European Commission – for developing European level policy frameworks (i.e. common objectives, guidelines and opinions) in social policy areas. Second, these national delegates represent a key link between European and national administrations: Policy “uploading” and “downloading” (Börzel 2002) go through the SPC. Finally, while the SPC was established by a Council Decision and its tasks are included in the EC Treaty, no detailed instructions are given about its working practices. Hence, the OMC and the SPC in particular largely rely on semi-formal governance practices (Christiansen and Piattoni 2004), which means that committee members themselves are responsible for establishing the informal ‘rules of the game’ according to which the OMC can work (Horvath 2008). Therefore, their regular exchanges in committee meetings heavily influence the effective functioning of the whole coordination process. As will be explained below, effectiveness in this context refers to the effectiveness of communicative interactions and the effective participation of committee members. Both of these factors are linked to policy-making within the OMC: The uploading and downloading of policy objectives.

The concept of effectiveness is usually defined as the capacity of the OMC to influence national-level policy-making. In other words, it refers to the OMC’s “potential to transform the practices of the member states” (Jacobsson 2004: 356). The keyword of analysis in this case is ‘policy learning’. Empirical assessments on the potentials of the OMC to enhance policy learning usually map changes – frame shifts or policy changes – at the national level. The results depend on the analysed country and the policy issue. Therefore, conclusions vary widely (for a broad overview, see Kröger this issue and Zeitlin 2009). This article takes a different approach to assessing effectiveness: It focuses on the policy-making process at the European level. Thus, the article does not deal with the domestic implementation of European policies, but looks at how their very construction is influenced by organisational factors. This process is crucial in understanding how the OMC can induce national level impacts. As many argue, if European level policy principles are the results of an open, equal and consensual decision-making process, member states are more likely to become committed to their implementation (Jacobsson 2004; Puetter 2006).

Therefore, this article focuses on how and when the SPC can work effectively and assumes that taking into account both the uploading and the downloading dimension of policy-making is crucial in understanding the potentials of the OMC (see also Vanhercke this issue). Since committee delegates, together with other key actors, define the acceptable and desirable modes of interactions – i.e. the goals and rules of committee meetings and the principles of communication among representatives – the success of these interactions is also to a large extent tied to their own perceptions of effectiveness. Therefore, instead of analysing the operation of the SPC based on pre-defined indicators of effectiveness, the article looks at participants’ perceptions in order to reconstruct abstract categories based on which the actors themselves evaluate their own working practices. From a methodological point of view, this implies an inductive research design.

Yet, the article does not want to suggest that the effective functioning of the SPC – and in turn the OMC – only depends on committee members’ perceptions. Certainly, external factors such as the political framework in which the SPC operates cannot be neglected. Nevertheless, since previous empirical analyses have rarely opened the ‘black box’ of committee level interactions, the present analysis emphasises the importance of SPC members’ interpretations and their perceptions on the functioning of the committee. As will be discussed below, such focus includes looking at how committee representatives reconstruct the external political framework of their organisation.

Against this background, the article has thus two main goals. First, based on an analysis of interviews, it lists the criteria of effectiveness linked to both national and European-level factors that SPC members rely on when evaluating the work of their own committee. The result of such an analysis is the detailed specification of categories, which can provide an

insight into how and when the “social OMC” (CEC 2008) can function effectively. Second, based on the abstract concepts of effectiveness identified on the basis of in-depth interviews, the article formulates more general hypotheses about the effective functioning of EU level committees. These can be used as bases for future deductive research.

The article is structured as follows. The next section presents a brief overview about the internal functioning and the policy environment of the SPC. This provides the basis for choosing the interpretative theoretical and methodological framework that is discussed in the third section. The article then turns to the empirical case study on prevailing perceptions of effectiveness within the SPC. This empirical section consists of four main parts: It reviews how participating actors themselves perceive the main functions of the SPC, outlines how they perceive the organisation of interactions within the SPC, discusses how actors interpret the individual and organisational conditions for effective participation, and finally constructs the abstract categories of effectiveness. In doing so, the analysis connects perceptions of effective participation with competing or complementary definitions of the SPC. The final section presents the conclusions.

## **2. The Social Protection Committee: Organisational and policy context** ↑

The SPC was established by Council Decision 2000/436/EC in 2000 and was re-established with slight modifications by Council Decision 2004/689/EC in 2004. As was mentioned above, it is the main “vehicle”(1) for exchanging information among EU member states and the Commission in the areas of social protection and social inclusion. In other words, this committee is the main forum for policy coordination among member state representatives where delegates discuss and debate about policy objectives, guidelines and opinions. The main tasks of the SPC include monitoring the social situation in the different member states, promoting the exchanges of information, preparing reports and formulating opinions on diverse subjects and initiatives (Council of the European Union 2000, 2004). This implies that the SPC is the site where “much of the consensus-building within the OMC” takes place (Armstrong 2003: 181).

In addition, committee members – two delegates from national ministries and two representatives of the European Commission – represent a central link between national and European administrations. This has two important aspects. On the one hand, the SPC is “an interface between the Commission and the Council” (Armstrong 2003: 181), thus between the Commission and member states. As such, it is the forum which shapes the European agenda (uploading dimension). On the other hand, committee members play a crucial role in influencing the position of national bureaucrats both about the OMC as a mode of governance and regarding the policy issues it deals with (downloading dimension). Hence, SPC members influence the potential of the OMC also through persuading or discouraging national civil servants concerning its significance (de la Porte, Natali and Pochet 2009).

The SPC is dealing with the issue areas of social protection and social inclusion. The first policy area in which the SPC has been involved is social inclusion, which was followed most importantly by the adequacy and sustainability of pension systems and health and long-term care. These policy areas are interesting for several reasons. First of all, social protection and social inclusion are “politically sensitive” issues where the competence of the EU has always been questioned (Radaelli 2003). Daly (2007: 2) describes social policy within the EU as “fitful”, since there are “periods of intense activity followed by times when social policy is hardly spoken of”. The launching of the Lisbon Strategy in 2000 meant a new opportunity “to realise a model of social policy organised around social exclusion as the problem definition”, choosing the OMC as the “policy-making methodology” in this field (Daly 2007: 3). Yet, the re-launching of the Lisbon Strategy in 2005, which refocused the strategy on growth and jobs at the expense of social cohesion, changed the status this coordination process. This made it more important for social policy actors to justify and prove their political significance.

The specificity of the institutional environment of the SPC is that it operates within a

framework that rests on purely voluntary, legally non-binding coordination processes in policy areas where problems and their importance are easily contested and redefined. Furthermore, the formal rules based on which the SPC operates are relatively vague, which means that committee members themselves have a crucial role in developing the working methods themselves. Such committees are often conceptualised as transnational governance “networks”, where interactions “take place within a regulative, normative, cognitive and imaginary framework” (Sørensen and Torfing 2007: 9). Governance networks have the potential to “establish a framework for consensus building” (ibid.: 13). In the context of the OMC, such an institutional framework is often described as experimental governance (Sabel and Zeitlin 2006; Szyszczak 2006; Zeitlin 2005). The framework of democratic experimentalism focuses on the role of informal and flexible governance arrangements that facilitate the revision of institutional and policy standards through the process of consensus-seeking deliberation in multi-level fora.

The consequence of such a governance setting is that the ways in which committee members perceive their own role and the organisation they act in have significant consequences for the actual effective operation of the SPC and in turn, the OMC. First, communicative interactions have to be developed in a way that they facilitate consensus-seeking. If committee members do not perceive these interactions as potentially resulting in consensual solutions – thus as being effective – they will not engage in discussions, which in turn makes it impossible for the SPC to function effectively. This also influences the commitments of member states to implement the objectives of the OMC (downloading dimension). Certainly, the nature and purpose of such a consensus as well as the circumstances under which it might be reached has to be defined and embraced by committee members themselves. Second, committee members have to be able to participate in committee discussions effectively. Again, since the OMC depends on the self-commitments of member states and such a commitment starts with the engagement of SPC members, each one of them has to believe that they are able to participate effectively and influence the discussion (uploading dimension).

Organisational analyses that examine the perceptions and interactions of the members of specific committees usually focus on the way in which the organisation of committees (e.g. membership, meetings, etc.) influences the roles, identities and behaviour of committee members and vice versa, how the perceived roles of committee members shape the organisation of interactions (see e.g. de la Porte, Natali and Pochet 2009; Egeberg 2004; Egeberg, Schaefer and Trondal 2003; Thedvall 2005). In these cases, committees are often conceptualised as arenas or sites of socialisation for national civil servants, where committee members evoke new roles which shape their identities (Egeberg 2004). For example, based on participant observation, Thedvall (2005) analyses how the meeting format shapes decision-making in the Employment Committee (EMCO) as well as how it influences the role perceptions of committee members.

A recent organisational analysis of the SPC and the EMCO was conducted by de la Porte, Natali and Pochet (2009). In their article, the authors examine the means of socialisation and self-governance within these two committees. They argue that members of the SPC and the EMCO have three main roles: A “policy reform” role, an “expertocratic” role and a “technocratic” role (ibid.). They also examine the perceived strength of individual committee members in influencing discussions and find that the main factors that play an important role are the length of membership and language skills. Finally, the authors also confirm that the organisation of interactions within these two OMC committees is predominantly consensus-based (ibid.).

The present case study also includes a micro-level organisational analysis of a specific committee, but differs from previous studies in several respects. First of all, in contrast to many analyses on committees, it does not include pre-given hypotheses about relevant organisational factors that influence a socialisation process (e.g. conditions of deliberation), but looks at committee members’ perceptions as a first step. Second, it links these perceptions of effectiveness and the sources of effective participation explicitly to the potential functions of the SPC and the roles of its members. Thus, the article does not examine organisational

factors independently from SPC members' own evaluation and interpretation about the purposes of their actions. Instead, it acknowledges that first, committee members' interactions are embedded in a political context that is reconstructed and given meaning(s) to by committee delegates themselves, and second, that the effective operation of the SPC is dependent on this reconstruction process. The next section presents an analytical framework that is useful in helping to evaluate such perceptions.

### 3. Theoretical and methodological assumptions

Analyses that focus on the ways in which actors involved in governance processes perceive, enact, and make sense of them rely on the concept of inter-subjectivity. The inter-subjective construction(2) of governance arrangements implies the following assumptions. On the one hand, institutions are designed on the basis of normative principles of appropriateness that guide institutional practice. These normative principles influence actors' perceptions and interactions within a given organisational structure. On the other hand, the principles are communicated and performed by actors who take part in this practice. Thus, discursive interactions within this structure contribute to the re-construction of these normative principles. In other words, institutions shape and legitimise the interactions of actors and vice versa: Actors who participate in policy processes discursively enact and legitimise governance arrangements.

This "performance" (Hajer 2006) and meaning-making through continuous contestation (Wiener 2007) brings about "living institutions" (Olsen 2000) through the process of institutionalisation (Olsen 1997). When actors start to enact and interpret certain organisational rules and norms and they do so in a more and more regular way, the process of institutionalisation starts. Olsen (1997) defines institutionalisation as a process that involves

1. "structuralization and routinization of behaviour";
2. "standardization, homogenization and authorization of codes of meaning and ways of reasoning"; and
3. "linking resources to values and world-views" (Olsen 1997: 213).

This article is concerned about the first and the last aspects: the organisation of interactions as well as the relationship between institutional stories and the perception of resources. These two factors are strongly connected to effectiveness and effective participation within a given institutional setting.

The concept of institutionalisation is applied to the OMC by Heidenreich and Bischoff (2008). They conceptualise the OMC as a process of institutionalisation "in which new social fields are created at the intersection of the European and the national politics and administrations" (ibid.: 505). As the authors argue, these social fields have their own "actors, organizations, issues, interests and rules of interpretation and appropriateness" (Heidenreich and Bischoff 2008: 505). Thus, the institutionalisation process includes the continuous redefinition of the 'rules of the game' according to actors' interests, the development and standardisation of appropriate patterns of behaviour based on formal and informal rules, and the formation of common frames of references (Heidenreich and Bischoff 2008: 506). While it is the overall level of institutionalisation that determines potentials for mutual learning within this framework, the development of common frames of references in which committees have a key role is seen as a crucial element (see also López-Santana 2006). This also highlights the importance of looking at how these common frames of references become accepted at the European level.

The first element of institutionalisation in the framework of Olsen (1997), the "structuralization and routinization of behaviour" within governance arrangements, can be interpreted as the mode of interaction: The way of discussing, communicating and interpreting issues. Modes of interaction or "requirements of communication" (March and Olsen 1995: 175) become conventionalised, well-established and legitimate through an institutionalisation



process. Thus, institutional practice contributes to the establishment of new, acceptable decision-making procedures. These procedures influence the effectiveness of committee meetings – how far these meetings fulfil their goals – and through this, the effective functioning of the OMC.

Concerning resources, March and Olsen (1995: 92) distinguish four types of resources or “capabilities”. These are “rights and authorities”, “political resources”, “political competencies” and “organizing capacity”, all of which develop distinctively within specific governance arrangements. Within the framework of this article, these resources or capabilities are conceptualised to be inter-subjective: They are dependent on the perceptions and interpretations of actors that evolve through discursive practices. Thus, individual and organisational capabilities and resources are seen as context-dependent, so are power and authority. Examples for such context-specific resources in a policy-shaping institutional setting can be, for example, “technical knowledge”, the “seniority” of participants, “credibility, professional reputation and respectability” (Puetter 2006: 25-26), “personal authority”, or “expertise” (Tallberg 2008). These resources influence the effective participation of committee delegates through shaping power relationships among actors, the sources of authority, as well as actors’ opportunities to upload specific issues to the European level.

In order to map perceptions about the effective organisation of interactions and sources of effective participation, the case study of this article follows an interpretive and inductive research strategy. Focusing on the nature of interactions and the relevant resources of participants, it includes the micro-analysis of an organisation, where important organisational characteristics are not hypothesised a priori.

The article relies on the analysis of forty-five semi-structured, anonymous interviews(3) with member state representatives of the SPC, officials of the European Commission, social affairs attachés and counsellors from permanent representations who participate in SPC meetings more or less regularly, as well as NGO representatives observing the work of the committee. Since the analytical framework of the article centres on the concept of inter-subjectivity, the relevant actors to be interviewed were the ones who actively participate in the inter-subjective construction of the SPC and its governance and policy framework. In this case, the opinion of ‘outsiders’ was supposed to be less relevant for the internal institutionalisation process, since they do not have the possibility to contest or perform the rules of the game or the policy principles (they might do so indirectly, but then this indirect impact is reflected in the opinion of participating actors). Furthermore, while external factors of effectiveness are not dealt with explicitly in this article, their influence on the functioning of the SPC is taken into account to the extent of their impact on the perceptions of SPC members. In other words, it is assumed that committee members reconstruct and give meaning to the external political framework of the SPC and this shapes their perceptions of its effectiveness.

#### **4. Perceptions of effectiveness within the SPC** ↑

The analysis of the SPC that follows in this section consists of four main parts. First, participating actors’ interpretations about the main functions of the committee are presented. These interpretations give invaluable insights about actors’ own definitions of the SPC and the OMC as a whole. One needs to look at these definitions since conceptions of effectiveness are linked to the perceived goals of the SPC and the OMC. Thus, these definitions are the starting points in actors’ evaluations about appropriate patterns of behaviour and the necessary resources needed for effective participation in the committee. The second sub-section links such definitions with evaluations of the organisation of interactions within the committee. The third sub-section reviews how delegates perceive the conditions for effective participation in the SPC and the distribution of resources within the committee. Relationships between perceived resources and the competing or complementary definitions of the SPC are also analysed. Finally, the last sub-section summarises the empirical findings and presents the resulting categories of effectiveness.

#### 4.1. The main functions of the SPC ↑

There are two main broader functions of the SPC that can be distinguished based on the interviews: A 'political forum' and a 'policy forum' function. The following quote summarises these two functions or 'pillars' well:

“There is the political process, which is linked to the NAPs, to the monitoring, to strengthening the EU dimension. And then there is (...) the mutual learning process, which is more directed to policy developments at the national level, and it is more about exchange of policy and policy transfer” (Interview NGO, October 2007).

Accordingly, the perceived political forum function of the SPC is to promote the visibility of social issues at the European level. In addition, in its policy forum function, the SPC has to provide a platform for exchanging information and it has to promote policy learning. Radaelli (2003: 12) referred to this double role of the SPC as policy “learning in a political context”, drawing attention to contradictions inherent in its institutional design. Such potential contradictions are analysed here in the context of effectiveness.

The political forum function of the SPC was referred to by seventeen SPC members (both from capitals and from permanent representations) and its fulfilment was questioned by only two of them. In a more detailed description, this function of the committee is to send input to the Employment and Social Affairs Council, and in turn to the European Council. Sending such key messages shows that “member states have a common vision on what the main policy priorities are to be achieved” (Interview COM, April 2006). Here lies the political nature of the SPC: This process aims to put social issues on the European agenda to increase their visibility on the European level and “to strengthen the social pillar of Lisbon” (Interview NGO, October 2007).

Such a “common vision” or common opinions are seen to be the results of a consensual process in which all views are taken into account. Thus, achieving a consensual opinion or a compromise during SPC meetings is argued to be central because the SPC is formulating opinions on several subjects, which can highlight the importance of certain policies. In other words, the SPC needs to send “ministers a clear message understood by the whole committee” (Interview SPC17, May 2006) in order to fulfil its goal of being a “social voice” (Interview COM, April 2006).

In parallel to its political forum function, the SPC is also often described as a policy forum. This was articulated by thirty SPC members. Nevertheless, though the policy forum function of the SPC was more often referred to than its political forum function, its fulfilment was also questioned by a greater proportion of its advocates (exactly half): Fifteen SPC members claimed that the SPC could not fulfil its policy forum function. This function of the SPC is to provide a platform for SPC delegates to engage in more detailed discussions on “important policy matters” (Interview SPC/PR3, September 2007), which have the potential to induce changes at the national level. For example, in this view, the added value of the SPC “is definitely more looking at the quantitative side, at indicators, monitoring certain processes, exchanging information and looking at best practices” (Interview SPC16, March 2006).

In the policy forum function of the SPC, dialogue is seen to be the instrument of the “exchange of knowledge and science” (Interview SPC/PR9, September 2007). The SPC is seen as a “conceptual committee” in which delegates can talk to all their “colleagues to try to understand their position” regardless of existing differences in perspectives (Interview SPC5, March 2006). Thus, the SPC is regarded as a forum in which mutual exchange is supposed to strengthen “evidence-based policy-making” (Interview SPC12, March 2006) and the “analytical capacity” at the national and the European level (Interview COM, September 2007).

These two definitions of the SPC exist in parallel, fifteen members perceiving both functions as important parts of the operation of the SPC. Nevertheless, some interviewees evaluated these goals as being the elements of competing rather than complementary definitions of the purposes of the committee. These actors perceived potential tensions and contradictions between these functions. For example, as one of the delegates noted, some think “that the Social Protection Committee was a sort of draft meeting for the Council; I do not think that this would be the purpose, I think we have to discuss” (Interview SPC3, September 2007).

Such a tension can be linked to competing definitions of appropriate patterns of behaviour and that of the appropriate functioning of the committee. For example, if the goal is to have a dialogue over policy problems and practices, then in an effective meeting, everyone can take the floor and share opinions with others. On the contrary, if the meeting serves the purpose of finding a consensus about a politically important document, then an effective meeting is relatively short where delegates do not come up with critical remarks and thus where a common position is easily accepted by all participants. Such organisational aspects are discussed in the next sub-section.

## 4.2. Organisation of interactions at the European level

The effectiveness of the organisation of interactions or the routinisation of modes of communication has to be linked to the above definitions of the SPC. As was argued beforehand, perceptions of effectiveness are necessarily tied to how appropriate behaviour is defined. The present section identifies criteria of effectiveness based on an examination of critical remarks made by interviewees. This strategy was chosen because critical observations can more specifically highlight which factors are perceived to be necessary for the effective functioning of the SPC. As the previous sub-section showed, most critical remarks made about the operation of the SPC can be linked to the policy forum function of the committee. Since the political forum function of the SPC was rarely criticised, it is more difficult to establish criteria of effectiveness related to this definition. Nevertheless, conclusions are drawn also in this case.

Factors listed by interviewees as influencing the depth of discussions are often connected to the large number of committee representatives. Group size is a well-known factor influencing the quality of discussions (see Bailer, Hertz and Leuffen 2009). After the 2004 enlargement of the EU, the number of delegates almost doubled in the SPC. Although the SPC established new rules of procedure (Horvath 2008), discussions are often seen as still not going smoothly with 27 member states on board. On the one hand, new rules limiting discussion time encourage passivity. On the other hand, a few interviewees claimed that the new rules are not applied rigorously enough and that “everybody is still talking” (Interview SPC/PR3, September 2007), which results in long and often repetitive meetings where delegates hope that “not everybody will speak” (Interview SPC3, September 2007). As a result – and also due to the packed agenda of the SPC – interviewees often complained about the problem that only formal or procedural issues are discussed in the SPC (e.g. the wording of documents) and not important policy matters.

This large number of committee representatives is also often linked to the high turnover rate in SPC membership, which has important consequences. Most importantly, discussions become more difficult since several members do not know about previous agreements (Horvath 2008). In addition, because “personal contacts are very important” in the committee, members states with a changing representation have more difficulties to get their points across (Interview SPC/PR2, September 2007). This high turnover rate is especially a problem in the case of SPC representatives from newer member states, mostly due to the small size of their countries and the fewer resources available (Horvath 2008).

In relation to the political forum function of the SPC, concerns are less connected to the organisation of interactions within the SPC. Instead, a few interviewees referred to problems related to the nature of interactions between the SPC and other relevant committees such as the

Employment Committee (EMCO) and the Economic Policy Committee (EPC). The interaction between the SPC and the other two committees became particularly important after the re-launching of the Lisbon Strategy in 2005, which refocused the strategy on jobs and growth. Especially since then, the SPC regularly produces joint opinions with the EMCO, and sometimes – though much less frequently – with the EPC. Interviewees argued that these inter-committee interactions are not symmetric and that the SPC is weaker than the other two committees. As a result, joint opinions are said to reflect more the opinions of the other committees, which makes it impossible for the SPC to express a “strong opinion” on social policy issues (Interview SPC8, January 2008). If SPC members feel that their opinion is not taken into account, it is less likely that they find it important to push forward certain issues and to find consensual solutions, which then can weaken political commitments and also the SPC.

To sum up, the above organisational issues influence the work of the SPC regardless of its assumed functions. Nevertheless, the problem of the large number of committee members is perceived to be more relevant for the policy forum function of the SPC, since this function involves more the presence of in-depth policy discussions. Political decisions might be made even with the presence of a large number of members or with a heavy agenda. Changing membership can be disadvantageous from both perspectives: If new members do not respect previous decisions, it might cause problems in reaching a consensus. Finally, the political importance of the SPC vis-à-vis other committees is more important assuming the political function of the SPC, since this function is inherently linked to the weight of SPC decisions in the political coordination process.

### **4.3. Sources of effective participation: Actors’ individual and organisational resources** ↑

Relationships between actors and power distributions can influence the effective participation of committee representatives. Therefore, it is essential to examine how resources are perceived to be distributed within the SPC and to link such perceptions with the main functions of the committee.

The first and most obvious resource in SPC meetings is the ability to intervene in discussions, which can be related to both individual factors and those linked to the organisation of discussions. While several interviewees argued that “there is no real barrier to contribution” (Interview SPC2, March 2006), others listed a number of factors that indeed influence who can be part of SPC discussions. Some interviewees linked such an ability to intervene to the personality of delegates and made statements like “maybe there are some individuals who feel a bit inhibited and it is very hard to get over that” (Interview SPC2, March 2006). However, most participants made a connection between the frequency of contributions and other, mostly institutionally coded factors. One of these factors is certainly that members with less experience in attending such meetings are less likely to participate actively (see also de la Porte, Natali and Pochet 2009). Accordingly, newcomers to the SPC – for example, delegates from newer member states – are usually described as being relatively passive in SPC meetings.

Another important factor that is referred to in explaining the passivity of some delegates is the insufficient human resources and “administrative capacity” (Interview COM, November 2007) in national ministries, again especially in newer member countries. As a Commission official argued, contributions are very much “dependent on the type of resources the member states put in into the room” (Interview COM, December 2007). Several delegates complained about the unavailability of enough staff dealing with European issues in national ministries. Consequently, representatives are overloaded with work and have difficulties in preparing for the meetings sufficiently well. Such problems are also linked to the small size of several member states, which makes it even more difficult to have enough people working on related issues.

A related problem is the lack of instructions given to SPC delegates, which makes it difficult

for them to intervene in discussions. Many interviewees perceived SPC delegates as being representatives of ministers, ministries, governments or states. In case delegates perceive their own role in categories of representation, it implies that they do not see themselves as deciding on their own what to say and when in SPC meetings. Instead, they act upon a ministerial, governmental or national mandate, which mandate is regarded as a resource.

Besides the above resources that influence the access to the dialogue, there are also other differences between delegates with the consequence that certain interventions are more influential. The main individual resource mentioned by participants that can influence whether an opinion is fully respected is expertise or knowledge (see also Tallberg 2008). An expert is “someone who is knowledgeable about the area and knows what they are talking about” and whose “contribution is a value” (Interview SPC12, March 2006). Furthermore, an expert is a person who can present convincing arguments. In connection with expertise, several delegates mentioned again the disadvantages of small member states having fewer resources. As the argument goes, small member states are not able to send their best experts to SPC meetings, or sometimes they are not able to send anybody at all, which certainly hinders their effective participation in committee meetings.

The expertise of SPC members is influenced by their official rank in their ministry for two main reasons. First, senior officials are usually more experienced and have more expertise in a given policy area, while “young colleagues lack the necessary knowledge to think about solutions to existing problems” (Interview SPC8, January 2008). Second, senior representatives are closer to the minister. Because of their expertise and status, senior officials can engage more in discussions and can be more flexible in agreeing on a consensual decision. In contrast, junior members usually have to wait until they consult their colleagues in the capital, which makes it difficult for them to participate in discussions effectively. Regarding seniority, there is again an observed difference between older and newer member states (Horvath 2008). While SPC representatives from older member states are most often senior civil servants, those who come from newer member states are usually younger and less influential. One reason behind this difference is the lack of language skills of senior officials in newer member states (see also de la Porte, Natali and Pochet 2009).

Another commonly mentioned source of more effective participation was the size of the country of the delegate. Certainly, many interviewees argued that there is no distinction made between delegates on the basis of their home country. For example, one of the interviewees argued that “from my experience I cannot say that there is a difference made whether little Luxembourg is saying something, or a huge country like Germany” (Interview SPC14, March 2006). Nevertheless, some interviewees articulated the opinion that the size of the country does indeed influence how much weight a delegate’s opinion has in the debate. In the majority of relevant cases, however, this was regarded as an indirect resource linked to better administrative capacities. Yet, some participants thought that some representatives were more listened to “because their country is more powerful” (Interview SPC3, September 2007).

An additional resource or source of respect that was mentioned during the interviews is the ability to reach a compromise or offer consensual solutions to problems. In this context, newer member states are again seen to be in a disadvantaged position: “Due to the different, non-democratic history, we fall behind the old fifteen in the ability to establish consensual solutions, which has been practiced by old member states for forty years” (Interview SPC15, July 2007). Other participants discussed this resource of being able to reach a consensus in connection to the role of the chair of the SPC (on the role of chairs, see Tallberg 2008). As one of the delegates noted about the previous chairman of the SPC, he is listened to because “he practices as a voice of compromise suggesting ways to go about” (Interview SPC5, March 2006).

Finally, since debates are seen as characterised by arguments among different ‘discourse coalitions’<sup>(4)</sup>, being part of a powerful discourse coalition is also considered as a resource in the debate. This is especially true in the case of small member states (assuming the importance of country size). As a delegate from a small member state noted:

“As a small country it is useful if you have [allies], because I think if [our country] absolutely disagreed with something, and it was just [our country], I do not feel it would stand a chance. But if you find two or three more countries who agree with you, then you have a good chance” (Interview SPC1, May 2006).

There are said to be two different coalitions of member states within the SPC that usually represent conflicting positions on diverse policy issues along political-ideological lines. On the one hand, one group of countries “would like to see more social Europe, would like to see the Lisbon Strategy much more socially oriented, would like to see that the so-called social dimension of the Lisbon Strategy is much more strengthened” (Interview SPC/PR1, September 2007). On the other hand, there are other member states “who more would like to focus on growth and employment, as in the new revised Lisbon Strategy” (Interview SPC/PR3, September 2007). The balance of power between these discourse coalitions has changed over time, especially after the 2004 enlargement. Certainly evaluations depend on the interviewees’ own ‘membership’ in such coalitions: While those who have gained more influence argue that a ‘more balanced’ distribution of power helps discussions, those who were in a previously dominant coalition and have been losing power to influence claim that such change hinders discussions.

How can these resources be linked to the perceived functions of the SPC? What are the resources that are evaluated to be important assuming that the SPC has a political forum function? Are these resources different from those shaping effective participation in a policy forum? Briefly, the more important it is to represent a relatively fixed mandate, the less important it becomes to have professional debates in the SPC. In contrast, the ability to present convincing and professionally sound arguments (expertise) is perceived to be important when assuming a policy forum function. Seniority is mentioned both in connection to the political forum function (senior representatives have better connections to the minister, therefore do not need strong mandates) and to the policy forum function (senior members have more knowledge). Consensus-seeking is most often referred to in connection with the importance of promoting the visibility of issues on the European level (political forum function), but in a few cases it is evaluated to be important in connection with the policy forum function as well. Interestingly, belonging to one or the other discourse coalition is not an indication for the commitments or evaluations concerning the political and policy forum functions of the SPC. This also means that promoting the visibility of social issues is perceived to be important for both coalitions. However, the way interviewees define the dividing line between coalitions depends on the perceived function of the SPC. On the one hand, when it comes to substantial policy debates (policy forum), the balance of power between discourse coalitions diverging on the role of social policy is seen as highly important. On the other hand, when the SPC is perceived to be a political forum, such coalitions rather seem to represent the groups of member states with different views on the desired strength of cooperation in social protection and social inclusion.

#### 4.4. Summary: Categories of effectiveness within the SPC

Table 1 summarises the criteria of effectiveness that can be identified based on the empirical case study. These criteria partly depend on which function of the SPC is envisaged. Thus, the table shows the factors that are needed for the effective functioning of the SPC as a policy or as a political forum.

Table 1

Table 1 also indicates how the empirical analysis can serve as a basis for hypothesis-building. The categories show the main factors that can be hypothesised as necessary conditions of effectiveness given the assumed functions of a given committee or organisation. These criteria are tied to organisations that rely on a consensual form of decision-making. Specifically, in case the main role of a committee is to produce politically important consensual documents, then it will be effective if members are of a senior rank or if they receive strong national

mandates that still make compromised solutions possible. In other words, discourse coalitions are ideally not too strong or are well balanced in a political committee. However, if a committee ought to function as a mutual learning forum, then it can work effectively with fewer members who are experts in the given policy fields, as well as with having fewer agenda items. Ideally, the members can form an epistemic community with not very strong dividing lines between discourse coalitions.

Both in the case of political and policy fora, it is important for the effective functioning of a committee that all members participate equally in the uploading process. Nevertheless, different resources are considered to be important for a political forum and for a policy forum. In addition, while policy downloading is the main goal for a mutual learning forum – and working methods should be designed accordingly – the downloading dimension is secondary in case the primary function of a committee is a political one. As a result, the substantial outcome of committee discussions can be hypothesised to be different in the case of committees with different functions.

## 5. Conclusion

This article set out to explore perceptions of effectiveness within the SPC. It examined how the organisation of interactions is evaluated by participating actors and which resources are seen as affecting who can be an influential actor in SPC discussions, given the policy forum or the political forum function of the committee. This was important to look at because these factors influence what kind of policy issues can be uploaded to the European level and by whom, as well as the potentials of policy downloading.

The analysis in this article showed that it is difficult for the SPC to function effectively as a policy forum due to the large number and high turnover of representatives and the heavy agenda. A potential consequence of the lack of opportunities for SPC delegates to discuss questions in more detail is that the European Commission can become more influential in shaping the European agenda. Concerning the political forum function of the SPC, this is perceived to be endangered by the weak position of the SPC and the policy areas of social protection and social inclusion within the Lisbon Strategy. Nevertheless, some argue that the distinctiveness of the social OMC can also be regarded as an advantage that enables the process to develop its own “identity” (Daly 2006: 476; see also Vanhercke this issue). These possibilities can be further explored by analyses that focus more explicitly on the external conditions of effectiveness.

Regarding the effective participation of SPC members, the analysis revealed that SPC delegates are perceived to have unequal opportunities to influence discussions, especially due to differences in national level factors. Delegates from newer member states are especially seen as being in a disadvantaged position. In this reading, newer SPC delegates might find it more difficult to upload their agenda to the European level.

Based on the case study, potential contradictions can also be highlighted between the effective functioning of the SPC as a political and as a policy forum. These contradictions have to be taken into consideration when evaluating the working methods of a committee. Thus, the main functions of committees and other forum-type organisation have to be made clear before assessing the applicable criteria of effectiveness. For example, while in-depth discussions can be regarded as desirable from a policy learning perspective, they might not be seen as necessary for a political committee to function ‘effectively’.

The continuous (re-)constructions of committees’ different functions are usually neglected by studies that assume that the OMC and soft modes of governance ought to be ‘deliberative’ in order to operate effectively (see discussions on deliberative governance, for example Cohen and Sabel 1997; Joerges and Neyer 1997; Mosher and Trubek 2003; Teague 2001; Zeitlin 2005). This article showed that while committee interactions are interpreted to be consensual by almost all participating actors, in-depth discussions are not always seen as ‘useful’ elements

of the coordination process. Similarly, the consequences of potential contradictions between the different purposes of committee interactions are often disregarded by analyses. Multi-purpose processes imply multiple meanings of effectiveness, which need to be understood in order to be able to analyse policy developments within given organisational and political frameworks.

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## Endnotes

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(1) See the Social Inclusion website of DG Employment, Social Affairs and Equal Opportunities of the European Commission: [http://ec.europa.eu/employment\\_social/spsi/social\\_protection\\_committee\\_en.htm](http://ec.europa.eu/employment_social/spsi/social_protection_committee_en.htm) (last accessed 30 January 2008).

(2) On the social construction of reality, see Berger and Luckmann (1966).

(3) The interviews were conducted between March 2006 and January 2008. All interviews are cited by category and the date of the interview. In case more interviews were conducted in the same month, a number is added to the reference (the numbering is random). The categories are the following: SPC: SPC member; SPC/PR: SPC member from permanent representation; COM: Commission official; NGO: NGO representative.

(4) For a conceptualisation of “discourse coalitions”, see Hajer (1993).

**Table 1: Conditions for effectiveness**

<b>Effectiveness categories</b>	<b>criteria: main</b>	<b>Policy forum</b>	<b>Political forum</b>
Criteria linked to the organisation of interactions	Group size	<i>Smaller number of delegates or the presence of issue-specific sub-groups</i>	Number of delegates irrelevant (all actors should be included)
	Agenda	<i>Reasonable number of agenda items</i>	Number of agenda items irrelevant (all items should be concluded)
	Stability of representation	No or low turnover rate	No or low turnover rate
	Position of the committee	Inter-committee relations not necessarily relevant	<i>Strong SPC</i>
Criteria linked to the distribution of resources	Experience	Equally experienced delegates	Equally experienced delegates
	Human resources at national level	Sufficient human resources in national ministries	Sufficient human resources in national ministries
	Seniority and mandate	<i>Senior members and/or experts</i>	<i>Senior members and/or strong national mandate</i>
	Language skills	Good language skills	Good language skills
	Consensus	Consensus-seeking attitude	Consensus-seeking attitude
	Discourse coalitions	<i>Not strong discourse coalitions ("epistemic community")</i>	<i>Well-balanced or not very strong discourse coalitions (compromise should be reached easily)</i>

The most important and differentiating factors are marked in italics.