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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; T elo 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(1). 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)(2). 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; T elo 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 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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(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.