

# The Open Method of Co-ordination: A Way to the Europeanization of Social and Employment Policies?\*

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## Abstract

The open method of co-ordination (OMC) can contribute to the co-ordinated modernization of the national systems of employment and social protection in Europe, if it is institutionalized in a relatively stable way at the European level and if the European processes can influence effectively the national reform strategies. The first challenge was met successfully by the bureaucratization, codification and formalization of some co-ordination processes at the European level. These processes can be interpreted as the institutionalization of a social field. The second challenge refers to the need for an effective coupling between the European and the national arenas. Currently, the most important way of coupling these two social fields is based on mutual learning. Given the limitations of such a predominantly cognitive coupling, the Commission can either enforce the 'national ownership' of the co-ordination processes, improve the mutual learning processes or strengthen the strategic ('financial incentives') and normative ('legal obligations') forms of coupling between the European and national social fields.

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## Introduction

The process of the European integration which started in the 1950s is characterized by the primacy of economic and monetary integration. Neither the need for compensating the losers of this integration process nor the spillover effects predicted by neo-functional approaches led to European systems of social protection comparable to those at the national level. Such a shift of competences and resources was prevented by the reluctance of the nation-states to transfer competences to a supranational level, by the extraordinary heterogeneity of national systems of social protection and interest representation (Scharpf, 1999, 2002), by the economic differences within the EU, and last but not least by the primarily national conceptions of identity, solidarity and justice. Instead of redistributive policies, mainly regulatory policies have been pursued at the European level (Majone, 1996). 'Social Europe' therefore is currently a multi-level system of national redistributive policies and supranational regulations focusing on the co-ordination of national social security systems, on gender equality, health and safety and worker information and consultation. These supranational regulations are above all a consequence of 'markets and courts', of market integration processes and the associated harmonization of rules and market regulations especially by the European Court of Justice (Leibfried and Pierson, 2000; Ferrera, 2005). But the reform of the national employment and welfare regimes 'can only be carried out by Member States [. . .] the influence of the EU within that process is necessarily limited' (Rhodes, 2006, p. 6).

However, the liberalization and integration of the European economies through the creation of the internal market, the different enlargement rounds and the introduction of the common currency challenges this division of labour between the national and the European level. Even if the globalization and Europeanization of the economy does not lead to a 'race to the bottom' of national welfare states, demands for a modernization of the national labour market and social security regimes are increasing. These challenges have to be faced first of all at the national level, but they are also a challenge for the EU because they threaten the continuation of the European integration process as the outcome of the French referendum on the constitutional treaty and the resistance to both further enlargement and the further liberalization of the internal market show. In different ways and to a different degree, the European nation-states have to reform their employment and social policy systems – and a supranational co-ordination may support the adaptation to the challenges of a European-wide and globally integrated economy. A prerequisite for this is the existence of institutional forms that take into account the national responsibility, the peculiarities of

the European multi-level system and the heterogeneity of European welfare regimes.

In the 1990s, the European Union (EU) developed a procedure which institutionalizes systematic learning processes between the Member States of the EU: the so-called 'open method of co-ordination' (OMC) as it was termed by the Lisbon European Council (2000). It is the methodical backbone of the Lisbon strategy with which the EU tries to modernize the European employment, economic, educational and social policies in order 'to become the most competitive and dynamic knowledge-based economy in the world'. In contrast to binding legal norms, this procedure is based rather on co-operation, reciprocal learning and the voluntary participation of the Member States and not on binding legal norms, minimum standards and economic pressures: the Member States agree on a set of common goals, put them into practice at the national level and evaluate the outcomes. This method is used in different ways and in different fields (economic policy, employment, poverty and social inclusion, pensions, health care, youth, education, migration, environment, enterprises, information society, innovation) – above all in fields, that still remain within the responsibility of the Member States, and in those in which the EU has no competences for the definition of minimum standards (Mosher and Trubek, 2003). The most advanced co-ordination processes are the European Employment Strategy (EES) and the OMC inclusion.

In the current discussion on the effectiveness of the European co-ordination of national reform processes at least three different approaches can be distinguished (Citi and Rhodes, 2007), a critical one, which focuses on the different institutionalization of 'economic' and 'social' Europe, thus transforming the debate between intergovernmental and supranational approaches to European integration into an analysis of the negative integration of the European economies and a lack of positive integration in the social dimension (Scharpf, 1999, 2002). The second approach focuses on the possibilities of learning and deliberation (Sabel and Zeitlin, 2007; Mosher and Trubek, 2003; Eberlein and Kerwer, 2004), while the third approach challenges these optimistic visions of transnational learning on empirical grounds (Zeitlin and Pochet, 2005; Armstrong, 2006; Jacobsson and Vifell, 2007b).

Especially the empirical analysis of the different co-ordination processes is still in its infancy (for example, the overview in de la Porte and Pochet, 2004; Radaelli, 2003; Zeitlin, 2005; Armstrong, 2006; López-Santana, 2006; Citi and Rhodes, 2007; Jacobsson and Vifell, 2007a,b; Buchkremer and Zirra, 2008). Adequate answers to two questions are still missing: (1) how are the different OMC processes institutionalized at the European level? Do they succeed in developing a consensus on the objectives to be achieved in spite of heterogeneous national situations and do they succeed in integrating the

interests of the Member States and other actors (civil society, regions, parliaments, scientific expertise)? In order to answer this question, it is necessary to examine how the different co-ordination procedures are institutionalized, how the various EU organizations co-operate during these processes and what impact the different forms of institutionalization have on the exchange, negotiation and learning processes at the European level. (2) What impact do the different European co-ordination processes have at the national level? In which ways and by what means do the European objectives shape national reform processes?

Due to the elevated number of co-ordination processes and nation-states, an exhaustive answer to this question cannot be expected. However, we will attempt to provide partial and preliminary answers to these two questions in the second and third sections based on our own enquiries in Brussels, France and Germany.<sup>1</sup> We will begin with a short review of the current debate on these two questions and a proposal for a conceptual framework for the analysis of the institutionalization processes of the OMC at the European and national levels.

## **I. The Institutionalization and Domestic Impact of OMC Processes: An Analytical Framework**

The open method of co-ordination (OMC) – which is ‘embedded in the master discourse of competitiveness’ (Radaelli, 2003, p. 7) especially since the integration of the EES in the reformed Lisbon Strategy in 2005 – is characterized by processes in which Member States jointly review and compare the attainment of commonly-agreed objectives, for example, on the basis of national action plans and peer reviews. Such a comparison should facilitate the exchange of experiences and reciprocal learning; it could lead to the establishment of a supranational level for the consulting, definition and monitoring of national reform policies. Unlike the Stability and Growth pact, there are no formal sanctions if the objectives are not achieved. In its most advanced form, in the case of the European Employment Strategy (EES), the OMC is characterized by common guidelines and objectives, by (partially quantified) indicators, by the elaboration of national action plans (since 2005,

<sup>1</sup> In July 2004 and in June 2005 we conducted 17 interviews on the open method of co-ordination with representatives of the European Commission (GD Employment and Social Affairs; GD Enterprise and Industry), the BDI, the Permanent Representation of Germany to the EU, the European Parliament, and the ‘Observatoire Social Européen’ in Brussels. In addition, the following text is based on 16 interviews conducted by Andreas Huber during the preparation of his master thesis in Brussels, Paris and Berlin in summer 2004.

national reform programmes), by a joint evaluation of the results, by peer reviews and the exchange of best practices and by the continuous repetition of this cycle. The method is inspired by benchmarking procedures, which are used by firms and international organizations – especially the OECD (Schäfer, 2006; Armingeon, 2007; Arrowsmith *et al.*, 2004; Mosher and Trubek, 2003, p. 50; Héritier, 2001; Hodson and Maher, 2001; Linsenmann *et al.*, 2007). According to Radaelli (2003), the main characteristics of the method are a new, and more limited, role of law, a new approach to problem-solving, participation by different levels of government and the civil society, new ways to produce usable knowledge and policy learning. Jacobsson and Vifell (2007b, p. 167) add the principles of subsidiarity, flexibility, and policy and multi-level integration. The current debate on the effectiveness and legitimacy of the OMC focuses especially on the openness and democratic potential of the OMC (Jacobsson and Vifell, 2007b; Sabel and Zeitlin, 2007) and on the relative merits of hard and soft law (Buchkremer and Zirra, 2008; López-Santana, 2006).

### *Between Participation and Bureaucratic Co-ordination*

A first issue in the debate on the OMC is the more or less participative character of the new co-ordination processes. On the one hand, many authors emphasize that a crucial advantage of the OMC is the possibility of involving regional, municipal and non-governmental actors (especially social partners, welfare organizations, companies, non-governmental organizations), which ‘might constitute strong pressure groups as well as a solid democratic platform for decision-making and implementation’ (Borrás and Jacobsson, 2004). The OMC should ‘enhance the legitimacy of EU decision-making, allowing more decentralized participation by stakeholders’ (Eberlein and Kerwer, 2004, p. 133). This participation may also increase the effectiveness of the OMC because it can integrate multiple perspectives (Trubek and Trubek, 2005) thus increasing the capability to develop adequate solutions for complex problems (Héritier, 2001; Mosher and Trubek, 2003).

Up to now, however, the OMC has contributed little towards the development of more participative political styles at European and national levels (Radaelli, 2003, p. 49) or has even substituted more binding forms of participation such as the Social Dialogue (Gold *et al.*, 2007). In general, the involvement of non-governmental actors seems to depend mostly on the political interests and national bargaining agendas of these actors (De la Porte and Pochet, 2005, p. 381): in the field of inclusion policies, the OMC has often facilitated the involvement of non-governmental actors and the emergence of a more participative approach (Armstrong, 2006, p. 92). In the field of

employment policies, however, the interest of the social partners to participate in the draft of the National Action Plans seems to be weak, because these plans are often seen as a bureaucratic exercise documenting governmental activities and plans, responding to objectives that were decided without consulting them. Therefore, instead of a stronger participation of parliamentary, civil society and regional actors, an even stronger centralization and hierarchization at the national level has been observed (Eberlein and Kerwer, 2004). At the European level, the situation is different: the European Parliament (2003) has expressed a clear interest in stronger participation on a European level – however without success, because up to now it has only been ‘consulted’ (European Parliament, 2003). Zeitlin (2005, p. 485) therefore suggests a broader participation of non-state and subnational actors in OMC processes and an increased transparency.

Instead of a broad participation, some authors claim that the major advantage of OMC is the creation of national and European co-ordination bodies (Radaelli, 2003) and a transnational, highly professionalized arena characterized by ‘confidence and consensus between the national officials and the EU representatives’ (Jacobsson and Vifell, 2007b, p. 184). Considerable parts of the co-ordination take place in bureaucratic, highly professionalized, not democratically legitimized and politically barely controllable decision-making committees<sup>2</sup> or even in bilateral relations between Commission and Council officials (European Parliament, 2003, pp. 13–14). These committees are entrusted with the formulation of common objectives as well as guidelines, the common monitoring and, if possible and necessary, the formulation of recommendations. The Employment Committee (EMCO), for example, largely draws up the employment guidelines, common indicators, the joint employment report and the recommendations on the implementation of Member States’ employment policies. In this and other committees and the respective subcommittees, many civil servants are involved in continuous communication and co-ordination processes facilitating the professionalization and mutual learning between the experts involved and officials (Eberlein and Kerwer, 2004, p. 129). Compared with the promised participation of civil society and social partners this elite or ‘expertocratic deliberation’ is viewed

<sup>2</sup> Especially important for the different OMC processes are the following committees: the Employment Committee (founded at the end of 1996 as ‘Employment and Labour Market Committee’ on the basis of Article 130 of the treaty establishing the EC), the Social Protection Committee (set up in June 2000; Article 144 TEC), the Economic and Financial Committee proposed in Article 114 TEC and the Economic Policy Committee (set up in February 1974; Article 272 TEC). The members of these committees are high-ranking officials of the Commission, the Member States and, in the case of the economic policy co-ordination, the European Central Bank as well. Each of these committees has miscellaneous subcommittees.

rather sceptically (de la Porte and Pochet, 2004, p. 74; Zeitlin, 2005). Given the highly bureaucratized and professionalized bargaining and exchange, the OMC may be analysed more correctly as a specific form of interorganizational co-ordination (Zeitlin, 2005, p. 460). Peer reviews, for example, have been described as 'a learning process for a limited community of labour market technicians and experts' (Casey and Gold, 2005, p. 37).

In conclusion: the OMC processes were hailed as a new road to more participative governance involving local, regional and non-governmental actors. The possibility of an increased participation of local and regional actors, of social partners and non-governmental organizations has been described as a major advantage of the OMC, because it could contribute to the legitimacy of the outcomes and involve potential veto-players. These hopes for OMC inclusion have partially been fulfilled where the EU has frequently contributed in order to broaden the range of social policies from the avoidance of (economic) poverty to social inclusion. In the field of employment policies however, the interest of non-governmental actors beyond the social partners to be involved seems to be rather limited. Instead of an 'open' participation, the OMC establishes procedures and rules for an 'elite deliberation' by civil servants and experts (Jacobsson and Vifell, 2007b, p. 184). The OMC thus created new possibilities for supranational, highly professionalized and bureaucratized co-ordination of national reform projects. This 'expert-deliberation' has contributed to the creation of a new epistemic community, especially in employment policies.

### *Between Sanctions and Learning*

A second crucial issue in the debate on the OMC is the question of whether the OMC is an effective way of modernizing the national social security and employment systems. This question arises because the commonly agreed objectives of OMC processes – for example, the increase of the employment rate or the share of research and development expenditures – are not binding legal obligations. No sanctions enhance the credibility of national commitments. In contrast to other soft regulations, not even the threat of legal obligations, the 'shadow of the law', supports the domestic implementation of the OMC objectives (Borrás and Jacobsson, 2004). For Scharpf (2002, p. 665), the absence of sanctions and enforcement procedures reflects the 'fundamental asymmetry between policies promoting market efficiencies and those promoting social protection and equality'. In order to counterbalance the legally enforceable liberalization of markets, Scharpf (2002) as well as Rhodes (2006, p. 19) demand a greater legal enforceability of the OMC objectives.

Other authors, however, analyse the absence of sanctions not as the major weakness of the OMC but as a prerequisite for 'experimentation, learning and the development of new procedures' (Begg and Berghman, 2002, p. 192). In this perspective, the OMC is a prototype of a soft, 'post-regulatory regulation'. The OMC is not seen as a second-class alternative to 'hard' legal guidelines but is, rather, superior to this 'because it fosters learning and provides flexibility to the policy process' (Radaelli, 2003, p. 22).

Until now, the possibilities for mutual learning seem to be rather limited: Zeitlin (2005, pp. 470–6), for example, analyses the empirical evidence and concludes that 'there are relatively few concrete cases of direct or first-order policy learning at national level'. The 'limited evidence of direct policy transfer' (Zeitlin, 2005, p. 472) is explained by institutional inertia, by the shortcomings of the OMC processes (for example, the absence of possibilities for the exchange of experiences and for peer reviews and limited participation of regional and non-governmental actors) and by the fact that the implementation of policy reforms is not only dependent on new insights, but on a firm political commitment, i.e. on power.

In conclusion, the OMC can be interpreted as an attempt to stimulate the concerted modernization of national systems of social protection and employment by 'expert deliberation' – a tightrope walk between national sovereignty and increased European co-operation. The implementation of commonly agreed objectives at the national level is not supported by legal sanctions which some authors see as the major weakness. Other authors emphasize that informal sanctions ('naming and shaming') at least within the involved epistemic community and financial incentives may provide a partial substitute to legally binding sanctions. Mutual learning has been discussed as an alternative way of influencing domestic reform processes thus contributing to the modernizations of national social and employment systems by taking into account the specific national institutional contexts and reform barriers. But it is still open whether, to what extent and in which dimensions such 'contextualized' mutual learning may contribute to the modernization of national employment and social security systems. It is also still open if initiatives within the framework of OMC might possibly pave the way to binding legislation in areas, where the political will to legislate was not evident before but where joint analysis and exchange of information showed that legislative initiatives on the European level could deliver better results than initiatives on the national level.<sup>3</sup>

<sup>3</sup> For instance in areas like childcare or gender pay gap.



*The Creation of a New Institutional Field and its Coupling with Domestic Reforms: A Conceptual Proposal*

The OMC processes create new, both national as well as European, arenas for bargaining, negotiation and exchange within the EU. We propose to analyse these processes as institutionalization processes in which new social fields are created at the intersection of the European and the national politics and administrations (Fligstein and Stone Sweet, 2002, p. 1211). These fields are characterized by specific actors, organizations, issues, interests and rules of interpretation and appropriateness, and by a relative autonomy towards external influences and issues. Often these social fields exert *isomorphic pressures* on the actors and organizations within them. This may lead to the standardization of organizational strategies and individual patterns of interpretation and behaviour (DiMaggio and Powell, 1991). The social fields in which the OMC processes take place are located at the intersection of the European and national levels. They involve the Commission and its officials, the European Council and its committees, national ministries and to some extent the European and national parliaments, different NGOs, social partners, municipalities and regions. The creation and institutionalization of these types of social fields is a major aspect of Europeanization processes (Olsen, 2002; Risse *et al.*, 2001; Radaelli, 2003).

The institutionalization processes induced by the OMC can be analysed in their strategic, normative and cognitive dimensions (Thelen, 1999; Scott, 2001, p. 52): the *strategic dimensions* of institutionalization processes refer to the rational calculations of nation-states and European actors. New institutions create new constraints and opportunity structures and facilitate credible commitments. These opportunities are exploited by rational actors who engage in bargaining and exchange processes thus defining and redefining the 'rules of the game'. In the case of the OMC, a rational interest of the nation-states in the creation of the new 'OMC fields' may be a result of the growing awareness of the close link between economic and social reforms: growth and competitiveness in Europe depend essentially on the successful reforms of employment, education and social security systems. In addition, the nation-states may try to increase the viability of institutional reforms by reference to European obligations. The Commission may try to increase the commitment of the nation-states towards the commonly agreed objectives by financial incentives.

The second dimension of institutionalization processes refers to social obligations and rules of appropriate behaviour, for example, to legal or professional *norms* (March and Olsen, 1998). Even if the treaty base of the OMC is – with the exception of the economic policy co-ordination and the European Employment Strategy – rather weak, the co-ordination processes may

contribute to the emergence of common bureaucratic or professional norms which facilitate the acceptance of OMC objectives (Jacobsson and Vifell, 2007b).

Thirdly, institutionalization processes also have a *cognitive dimension* because institutions are 'socially constructed, routine-reproduced (*ceteris paribus*), programme or rule systems (which are) accompanied by taken-for-granted accounts' (Jepperson, 1991, p. 149). The evolution of shared understandings is a crucial feature of institutionalization processes (Scott, 2001, p. 52). Alongside the strategic (domination/power) and normative dimension (legitimation/sanctions), this dimension is, according to Giddens (1984), the third dimension of social structures and human interaction. This dimension is crucial for the analysis of changing patterns of interpretation and perception, because 'learning', an improved mutual understanding and the emergence of common frames of reference are the principal rationales of the OMC (Lopez-Santana, 2006).

Therefore, in order to analyse the institutionalization of new social fields by the OMC, it has to be asked what types of actors with which interests and strategies are involved and what are the crucial opportunities, constraints, interests and rules of the power and exchange games in the OMC arenas. In the normative dimension, the contribution of the OMC to the creation, diffusion and institutionalization of formal and informal rules, norms and methods has to be discussed. Also, in the cognitive dimension, the emergence of new understandings and the formation of new 'epistemic communities' and frames of reference have to be observed.

A second crucial question for the successful institutionalization of the OMC is its impact on national arenas: how do the social fields created by the OMC influence national discourses, identities and policies? An answer to this question has to start with the assumption that national policies and the European co-ordination processes are two relatively autonomous social fields which cannot interfere directly with each other's operations. This is true even if national actors are closely involved in OMC processes. Social fields cannot be steered directly from the outside, because they operate according to their own logic, standards, criteria, languages, problem definitions, regulatory structures, patterns of interpretations and success criteria (Armstrong, 2006, p. 97). This is not only a specificity of soft law; it is also true for 'hard law' (Trubek and Trubek, 2005). The only possibility for bridging the gap between the national-supranational fields created by the OMC and the national fields or arenas in which the reforms of national employment and social systems are conceived is the creation of relatively stable patterns of interaction, obligations, sanctions and incentives facilitating a reciprocal irritation of the these different spheres.

One way for creating such a link may be the delegation of national high-ranking officials to serve on OMC committees. Much more important than such a personal coupling may be a close structural coupling between the OMC arena and the national political fields (Luhmann, 1997). Such a structural coupling between the European discussions, programmes, objectives and benchmarks and national patterns of action and interpretation can be institutionalized in the aforementioned three dimensions. *Strategic forms of coupling* refer to the interests of European and national actors; power and money are the principal media of communication and exchange: rational public actors will take into account attractive financial incentives or possible sanctions. The OMC also contains normative elements: the guidelines, progress reports, joint reports and best practices produced within a typical OMC cycle can be interpreted as the normative expectations the European actors address to national actors. Thirdly, a structural coupling between the EU and the Member State level may also have a *cognitive dimension*. The European discourses and the national-supranational communities created during the OMC processes may shape national discourses. The discussions on learning, on common frames of reference and on elite deliberation refer to these cognitive forms of structural coupling. The OMC objectives, therefore, may influence domestic reforms by imposing incentives and constraints on national policy-makers, by creating norms, standards and obligations and by shaping the cognitive patterns of the relevant actors.

## **II. The Institutionalization of the European Social and Employment Policies**

In the following, we will analyse the institutionalization of the OMC at European level in its normative, strategic and cognitive dimensions. Our hypothesis is: *the OMC contributes to a greater density of supranational regulatory structures in the field of European employment and social policy. This is the consequence of the contractual institutionalization of different OMC processes, of the development of intensive bargaining and exchange processes between the Council and the Commission, and most of all of the de-politicization, the professionalization and bureaucratization of the negotiations and of the continuous repetition of the co-ordination processes at European level.*

*In the normative dimension*, the different co-ordination processes institutionalize procedures and a sequence for the definition of common objectives and for the common evaluation of the initiatives with which the nation-states try to attain these objectives. These activities are documented in a multiplicity

of reports. The simple number of annual reports (300) already indicates a certain amount of bureaucratization. However, the 'co-ordination density' differs considerably in the different fields and with it the quantity and type of the required reports. These differences are first of all a result of their different treaty base: whilst the co-ordination of the economic policies and the European Employment Strategy (EES) have been introduced and regulated in detail in the treaties of Maastricht and Amsterdam, the other processes so far have either only been regulated in the EC treaty in a general way or are 'only' based on decisions of the European Council. This different institutional foundation influences the status and the development of the co-ordination processes: whilst there are concrete guidelines for economic and employment policies, only general target areas ('objectives') are defined in other fields (for example in the OMC inclusion). In some cases, the Commission 'proposes' guidelines; in other cases it can only submit a 'recommendation'. In the field of employment and inclusion policies, national action plans have to be produced (for EES in conjunction with economic OMC processes since 2005 national reform programmes), in other procedures only general reports are required. In some cases, the Member States have been able to agree on a multiplicity of quantitative indicators (employment), in other cases (pensions) hardly any indicators have to be provided. In the area of economic and employment policies, 'recommendations' are formulated for each country; in other fields not. These institutional differences are decisive for the highly regulated co-ordination processes since these regulations are the basis for different possibilities for influence and intervention (Table 1).

However, this does not mean that contractual obligations determine the course of action. An example of this is the restart of the Lisbon process by the new Commission in Spring 2005. On the basis of a very critical evaluation of the first five years,<sup>4</sup> in 2005 the Commission proposed triennial 'Integrated Guidelines' for macroeconomic, microeconomic and employment policies even if the Treaty envisaged separate annual guidelines for employment (Art. 128 EC Treaty) and economic policy (Art. 99 EC Treaty). In addition, the microeconomic perspective not provided for in the Treaty was included in the new integrated guidelines reflecting the focus on growth and employment of the Barroso Commission.

<sup>4</sup> In their 'mid-term review' of the Lisbon strategy, the Commission notes: 'Today, we see that progress has at best been mixed [ . . . ] [This] also results from a policy agenda which has become overloaded, failing co-ordination and sometimes conflicting priorities' (Commission, 2005, p. 24). On their website, the Commission adds: 'The implementation of reform in Member States has been quite scarce. The reform package consists of 28 main objectives and 120 sub-objectives, with 117 different indicators. The reporting system for 25 Member States adds up to no fewer than 300 annual reports. Nobody reads all of them.' Available at: <<http://europa.eu.int/growthandjobs>>.

Table 1: The OMC in the Field of Economic, Employment and Social Policies before the Streamlining Processes

<i>Policy fields</i>	<i>Lisbon Strategy</i>		<i>OMC Social Protection and Social Inclusion</i>	
	<i>Economic policy</i>	<i>Employment policy</i>	<i>Poverty and social inclusion</i>	<i>Sustainability of pension systems care</i>
Treaty basis	Art. 99 EC Treaty (since 1992)	Art. 125-130 EC Treaty (since the Treaty of Amsterdam); start 1997	Art. 136-137, 144 EC Treaty (since the Treaty of Amsterdam); start 2000	Art. 140, Art 144 EC Treaty; start since EC Lisbon 2000 Art. 152 as amended by new Lisbon Treaty, Art. 144 EC Treaty
Committee	Economic Policy Committee (EPC): two members from the Commission, the ECB and each Member State	Employment Committee (EMCO): 2 members from the Commission and each Member State	Social Protection Committee (SPC): two delegates from each Member State and the Commission	Social Protection Committee and Economic Policy Committee (EPC)
Policy goals and guidelines	Broad economic policy guidelines: growth and stability-oriented macroeconomic policies; economic reforms to raise Europe's growth potential; financial sustainability	Improving employability, entrepreneurship, adaptability of businesses and their employees, equal opportunities. Since 2003 10 guidelines. 2005: 8 integrated guidelines	Participation in employment and access by all to resources, rights, goods and services; prevention of the risks of exclusion; help for the most vulnerable; mobilization of all relevant bodies	Adequacy of pensions, financial sustainability, modernization of pension systems (11 objectives)
Involved actors (in Germany)	Federal government social partners	Federal government, federal states, social partners	Federal government, federal states, municipalities, social partners, non-governmental organizations (NGOs)	Federal government, federal states

Table 1: (Continued)

Policy fields	Lisbon Strategy		OMC Social Protection and Social Inclusion		
	Economic policy	Employment policy	Poverty and social inclusion	Sustainability of pension systems	Health and long-term care
National Action Plans (NAP)/ National Reform Plans	No, but implementation reports of the Commission for which the Member States can forward information, since 2005 triennial national reform programmes for growth and jobs, yearly updates	Since 1998 National Action Plans. Since 2005 triennial national reform programmes for growth and jobs – yearly updates	National Action Plans against poverty and social exclusion, every 2 years; 2001/3, 2003/5, now 1 joint report/year National reports on strategies for social protection and social inclusion 2006–08	No, only National strategy reports (every 3 years, 2002, 2005), now 1 joint report/year National reports on strategies for social protection and social inclusion 2006–08	No, only national preliminary reports (April 2005), now 1 joint report/year National reports on strategies for social protection and social inclusion 2006–08
Recommendations	Yes	Yes	No	No	No
Indicators <sup>a</sup>	Structural indicators (shortlist) currently 14, plus more indicators on long list (for country examinations)	Since 2006: 35 analysis indicators and 26 monitoring indicators	No (only joint evaluation and peer-review) 72 indicators altogether for OMC social protection	No (only joint evaluation and peer review)	No (only joint evaluation and peer review)
			21 indicators	27 indicators	So far 17 indicators

Source: Authors' own data.

Note: <sup>a</sup>The concrete number of indicators vary because there are different ways of counting the general indicators plus the different specialized indicators in the different fields (still work in progress).

*In the strategic dimension*, these institutional differences have to be interpreted as the result of power and exchange relations between the Member States, the Council and the Commission. A primary interest of Member States is the avoidance of a negative evaluation of the domestic situation in order not to offer the national opposition, the media or the public any platforms from which to attack. Thus, it is not just the fear of excessive demands on statistical systems that finds expression in the desire for a limitation or avoidance of quantitative indicators. Rather, some Member States are also interested in a limited transparency and comparability of national structures and processes.<sup>5</sup> However, other states – especially the Scandinavian and liberal ones – support the introduction of additional indicators if their performance on them is especially high. In the EES, the number of recommendations reflected the relative position of the country. In 2004, for example, three recommendations were directed to Ireland and nine recommendations to Germany and Greece. If recommendations are part of an OMC process, a crucial objective of national officials in the bilateral negotiations with the Commission is the adoption of the most ‘government-compatible’ formulation of these recommendations.

Scepticism towards a critical evaluation of the domestic situation can even prevent the introduction of new co-ordination procedures. For example, in 2000, the European Council had already planned the introduction of a co-ordination process in the field of health care. In 2001, 2003 and 2004 the Commission submitted corresponding suggestions. In 2006, the Council finally decided to start the OMC process on health and long-term care by integrating it in the OMC social protection and social inclusion – after a period of soliciting the opinions of the Member States, and set up a High Level Committee on Health as an informal body for the exchange of information.

The second important actor besides the Council is the Commission. Its interests and strategies have changed considerably since the Lisbon summit. The first years after the Lisbon Council (2000) were characterized by the extraordinary euphoria of the Commission by ‘taking advantage of its formal powers and responsibilities [. . .] by establishing and conscientiously upholding a fictitious sole right of initiative within the field of employment policy’ (Deganis, 2006, p. 21). On the basis of the experiences with the EES, the OMC was treated as a universally applicable instrument which could be used in different fields. The DG for Employment, Social Affairs and Equal

<sup>5</sup> A member of the employment committee reported: ‘The discussions focus often on the avoidance of quantifiable objectives, as through this the Member States are more easily comparable. Ideally, there would be clear objectives. The Commission has proposed considerably more precise, quantified indicators. The Member States are, however, very hesitant when it comes to precise objectives because the intensity of political pressure also depends on these indicators. Then the minister asks: “Why are we ranked last?”’ (interview on 7/1/2004).

Opportunities in particular considered the OMC as an instrument with which it could increase its influence in fields where it had no official role. In a phrase attributed to the Luxembourg Prime Minister Juncker, the Lisbon strategy was treated like a Christmas tree: 'Everyone puts a bauble on it and there were too many objectives.' However, during our interviews in 2004, a *clear disillusionment* could be observed. The limits of the OMC have already become obvious: the implementation, especially of the employment goals, was far behind the targets. The discussion within the Commission therefore concentrated on the question of whether the obligatory character of the OMC goals could be increased. This is also reflected in the report of the Kok commission (2004) which explained the disappointing results with a 'lack of determined political action'. Since 2005, after the mid-term review, the situation has changed. This new phase can be seen as the beginning of '*realistic co-operation*' between Member States and the EU. The Commission now concentrates on the fields where it has a clear authority and accepts and enforces the 'national ownership' of the OMC processes. This implies also that the performances of the nation-states will not be ranked even if the Kok Commission (2004, p. 43) has proposed such a ranking as a prerequisite for 'naming, shaming and faming'. It also seems that the first of the three Directorates General involved in the Lisbon process (DG Enterprises and Industry, DG Employment, Social Affairs and Equal Opportunities, and DG Economic and Financial Affairs) is now considerably stronger than before. It was the main institutional entrepreneur in designing the integration of the EES in the relaunched Lisbon Strategy in 2005.

In conclusion, the outcomes of the different OMC processes are the result of intensive bargaining and exchange relations mainly between the Council and the Commission. In these relationships, at least some Council representatives try to limit the comparability and the comparison of national performance. Examples of this strategy are the attempts to restrict the number of quantitative indicators, to avoid or to reformulate recommendations and to limit the development of new OMC processes.

In the *cognitive dimension*, first of all the crucial role of the committees has to be mentioned (Jacobsson and Vifell, 2007b). Most of the bargaining and negotiation processes take place within the Economic Policy, Employment or Social Protection Committees and their subgroups. The atmosphere in these committees has been described by our interviewees as depoliticized, businesslike and professionalized:

In comparison to other committees and Council organizations, discussions are more open and frank in the employment committee. The members know each other, it is a relatively stable circle, and there are closer personal



networks of labour market experts from many countries. There is complete freedom of discussion [ . . . ] In comparison to other committees, I think it is relatively frank, subjective and fact-orientated. (Interview with a representative of a Member State; 7/28/04)

However, this professionalism favours a *depoliticization of the decision processes*.<sup>6</sup>

The Employment Committee formulates a recommendation to the Council. Normally, the Council will make hardly any changes to the recommendation. This has the disadvantage that ministers hardly ever have to deal with the recommendations and the guidelines. This would increase their commitment to the process. (Interview with a participant of the Employment Committee; 7/1/2004)

These bargaining processes, which are both bureaucratic and routine, contribute to the formation of a transnational administrative elite within the social field created by the OMC. This is the major arena for the mutual learning processes which have already been described in the comitology debate (Joerges and Neyer, 1997, p. 620).

A crucial condition for these bureaucratic learning processes is the iterative structure of the OMC processes. The above-mentioned steps (for example, employment guidelines, national action plans, joint employment report, recommendations) are repeated at regular intervals. This regular repetition is an important prerequisite for reciprocal learning (Mosher and Trubek, 2003, pp. 76–7), because learning processes, just like structural changes, cannot be made from one year to the next. On the basis of the German action plans in the field of employment policy (NAP), for example, it can be shown that the co-ordination efforts have been taken more seriously in Germany only over the course of time; whilst in 1998 it was stated and emphasized that with regard to the priority of national competences, a reduction in the unemployment rates would be pursued only within the context of a general, stability-orientated economic policy, in 2003 it was emphasized that the Federal government had fully accepted the three general objectives of the revised European Employment Strategy (full employment, better working conditions and productivity, social integration and social cohesion) and had put them into practice within the framework of ‘Agenda 2010’ and through the various ‘Hartz laws’. The iterative structure of the OMC process is, therefore, a necessary – but not a sufficient – prerequisite for reciprocal learning.

<sup>6</sup> A parliamentary working group describes this depoliticization through transnational experts as a loss of legitimacy: ‘The OMC introduces an arcane technocratic process into the Community system at a time when the latter has severe problems with its public image’ (European Parliament, 2003, p. 13).

In 2005, the Lisbon Strategy was fundamentally reformed and focused on growth and employment. The direct impact was the integration of the two treaty-based instruments, the European Employment Guidelines (EEGs) and the Broad Economic Policy Guidelines (BEPGs) into common guidelines. The Employment Guidelines are now part of the 24 macroeconomic, microeconomic and employment guidelines of the Lisbon Strategy for a period of three years. This new three-year cycle – the first one covered 2005–08 – begins with a synoptic document of the Commission. On this basis, the Council decides on the Integrated Guidelines. The next steps are ‘National Reform Programmes’ (NRPs) which are co-ordinated by a new Lisbon national co-ordinator, the so-called Mr. or Ms. Lisbon and which replace the former National Action Plans for Employment. The ‘Community Lisbon Programme’ describes the actions to be undertaken at the appropriate level. The Annual Implementation or Progress Reports (from the Member States) and the Joint Employment Reports (from the Commission) follow the review of these reports and starts the new cycle (Zeitlin, 2007; for the history of these reforms, see Mailand, 2007).

In addition to the integration of the economic and employment policy co-ordination processes, the social protection OMCs (social inclusion, pensions and health and long-term care) were ‘streamlined’ from 2006, i.e. integrated into a single OMC on Social Protection and Social Inclusion (OMC/SPSI) with both common and sector-specific objectives. Instead of the previous inclusion and pension reports, since 2005 the Member States produce an annual ‘National Report on Strategies for Social Protection and Social Inclusion’, a comprehensive and forward-looking report.

The social and Lisbon OMCs should be closely linked by ‘feeding in’ and ‘feeding out’ processes: the OMC on social protection and social inclusion ‘should parallel and interact closely with revised Lisbon – on growth and employment objectives, while Lisbon programmes ‘feed out’ to advance social cohesion goals’ (Commission, 2005, p. 706). Zeitlin (2007) observes a weak influence of the OMC SPSI on NRPs, with some exceptions depending on national priorities, and sees little evidence for the monitoring of the Lisbon Strategy impact on social cohesion (‘feeding out’). Begg and Marlier (2007, p. 4) conclude: ‘In many cases, there is a disturbing lack of common ground between the NRPs and the National Reports on Strategies for Social Protection and Social Inclusion.’ The Spring Council of the EU (Brussels European Council, 2007) therefore stresses ‘that the common social objectives of Member States should be better taken into account within the Lisbon agenda’.

By these reform and streamlining processes, the Commission reacted to complaints concerning the multiplication and bureaucratization of ‘unco-ordinated co-ordination’ procedures implying heavy reporting obligations (Commission, 2002, p. 487). The aim of these reforms was the integration of

the different co-ordination processes into a common schedule thus increasing the link between the different policies. The temporal synchronization may therefore increase the substantial coherence of the economic, employment and social processes.

The procedural and substantial results of this integration of the economic, employment and social co-ordination processes are still unclear. The current, necessarily still preliminary, answers to this question caution against expectations of radical change (Chiattelli, 2006, p. 4). In a comprehensive evaluation of the EES, the OPTEM (2007, pp. 60–1) concludes that the ‘introduction of a single National Reform Plan (NRP) appeared to be the most significant aspect of the change [ . . . ] The most obvious efforts were raising awareness of the insertion of older workers into the labour market and the promotion of lifelong learning’.

In the medium term, possible results of the closer integration might be a much more integrated and dense European organization of employment, economic and social policies, that the Commission as the agency responsible for the ‘co-ordination of the co-ordination’ will be strengthened and that the European and national officials will learn to co-ordinate and balance increasingly the conflicting economic, employment and social objectives at European level. The intended synchronization and substantial integration of economic, employment and social policy procedures is due to the different objectives, challenges and interest groups in each field, an extraordinarily complex and risky undertaking. Instead of the planned simplification of the processes, the integration of the different OMC procedures could lead to more rules, a higher density of European regulatory structures (normative dimension) and a strengthening of the Commission and the above-mentioned committees (strategic dimension). The crucial question is who is entrusted with *the co-ordination of the co-ordination procedures*, i.e. with the definition of common objectives and indicators for different policy fields, and the co-ordination between the different interests and actors in the respective domains (Chalmers and Lodge, 2003). At the national level the emergence and strengthening of interministerial co-ordination bodies can be expected. At the European level the concertation between economic, employment and social goals and interests has increased the scope for bargaining, exchange, regulation and learning processes. The likely winner of such a new task will be the Commission – given its professionalism, its role as a policy-broker and facilitator and its capacity to set the agenda (Deganis, 2006, p. 33). This may lead to a further consolidation and expansion of the respective bargaining arenas and regulatory structures.

In conclusion, the OMC has contributed to a considerable intensification of the supranational regulatory structures in the field of European

employment and social policies – and this trend will presumably continue in future. In the normative dimension, this is demonstrated by the multiplicity of various targeting, monitoring and evaluation activities. In the strategic dimension, the institutionalization of increasingly dense regulatory structures in the field of European social policies is demonstrated by numerous negotiation and exchange processes between the national and European organizations involved, particularly between the Council and the Commission. In the cognitive dimension, the creation of different committees, where high-ranking officials decide on important aspects of the common social and employment policy, and the repetition of the co-ordination processes are important prerequisites for learning processes. The intended integration and synchronization of the co-ordination processes in the fields of employment, economic and social policies will, in future, presumably lead to a further intensification of the European co-ordination activities since the ‘co-ordination of the co-ordination’ is delegated to the EU.

The bargaining processes within the framework of the co-ordination procedures take place largely between the Commission and the respective Member States as well as in the various committees. Major decisions are taken by high-ranking national and European officials. The co-ordination procedures lead to the subsequent formation of a professional bureaucracy in the field of social and employment policies. Besides ‘markets and courts’, national and European administrations play an increasingly important role in the integration and consolidation of the field of European social policy.

### **III. Between Learning and National Ownership: The Implementation of Common Objectives**

The Achilles heel of the Open Method of Co-ordination is its effective implementation at national level. Up to now, it is open as to whether the objectives, guidelines and recommendations developed on the European level will be accepted on the national level. This refers to the question of what types of structural coupling can be created between the European and the national social fields. In the following, we will discuss the different forms of structural coupling between the European and the national fields effected by the different OMC processes. *Our hypothesis is that the present forms of coupling are currently based mainly on the cognitive dimension, especially on mutual learning, the impact on national discourses, the international exchange of experiences and the comparison and benchmarking of national performances.* Normative links between the European and the national level are of minor importance because the OMC is not based on legally enforceable

obligations (see section I). Strategic links, i.e. financial incentives for implementing the European guidelines are becoming increasingly more important.<sup>7</sup> In the following, we will analyse the links between the European and the national fields taking as an example the EES.

After five years (1997–2002), the Commission carried out a comprehensive evaluation of the EES. It concluded that an active and preventive approach, more employment-friendly taxation, more flexible working times and employment contracts, a better work–life balance, equal opportunities policies and lifelong learning have been implemented (Commission, 2002, p. 416; Employment Committee, 2002). In countries with extended early retirement schemes (Austria, Germany, Portugal) the EES may have contributed to the abandonment of such schemes (Meyer and Umbach, 2007).

In addition to these *substantive political changes*, the EES led in many countries (especially Belgium, France, Portugal, Sweden and the United Kingdom) to considerable *procedural innovations*. Co-operation within and between the ministries was improved – for example, through working groups, ad hoc meetings or even formal inter-ministerial co-ordination structures.

In some countries (especially in Austria, Germany, Italy and Sweden), the social partners are involved to a certain extent in the formulation of national action plans. In other countries, they are not involved, apparently without major regret, because the national action plans do not have a clearly defined role in the formulation of national employment policies (Meyer and Umbach, 2007).

However, there appear to be considerable differences between individual countries: according to the Commission, the employment policies in Denmark, Sweden, Finland, the Netherlands and the United Kingdom already correspond to the principles of the EES; therefore, hardly any changes can be attributed to the EES. In France, Portugal and Greece, and to some extent also in Belgium and Germany, the employment market reforms were shaped by the EES. Contrary to the assumption that the domestic influence of the OMC – especially the EES – is low in the continental and south European countries, where the misfit (Börzel and Risse, 2003) between national models and the European objectives is particularly high, these countries therefore also try to create more inclusive, flexible and more individualized employment structures – the conception underlying the EES. They try to evolve their labour market structures, which are currently still based on the relative

<sup>7</sup> The Kok Commission (2004, p. 42) has proposed to improve the effectiveness of the OMC through financial incentives. In 2005, the Barroso Commission fully integrated the Lisbon priorities into the cohesion policy for the period 2007–13. In addition, the 'Community programme for employment and solidarity' (PROGRESS), whose budget for the years 2007–13 is €743 million, provides financial support for the implementation of the EU objectives in the field of employment, social protection and inclusion, working conditions, diversity and combating discrimination, and equality between women and men.

exclusion from employment of younger and older persons, women and less-skilled persons (Heidenreich, 2004), in the direction of more inclusive labour market structures characterized by lifelong learning, active ageing, prevention and activation, gender mainstreaming and the avoidance of unemployment and low-wage traps ('make work pay'). The new overarching concept of 'flexicurity' – started by the European Commission in 2005, supported by common principles of flexicurity, decided by EPSCO-Council December 2007 and endorsed by the European Council in December 2007 – will also work as an amplifier for more inclusive labour markets. It can also exert leverage on the Member States for a better participation of social partners and other civil society actors.<sup>8</sup>

Focusing on two countries with exclusive employment regimes (Germany and France), we will present in the following some empirical evidence of a subtle, but nevertheless quite effective influence of the EES on the German and French employment strategies.

### *The Impact of the EES in Germany*

The evaluation of the impact of the EES on the German labour market policy has to start from an apparent contradiction: on the one hand, the official evaluation of the German EES could not detect any positive effects (RWI and ISG, 2002). In addition, the incorporation of the NAP processes into domestic policy-making procedures was deemed to be fairly limited (Büchs and Friedrich, 2005, p. 278). On the other hand, many features of the current reforms (for example, the easier access to part-time work, more child care facilities, a higher age of retirement and the integration of the unemployment assistance and social welfare benefits) correspond to the employment policy guidelines. Furthermore this was in justification of the JobAQTIV law (a reform of the German Labour Promotion Law) and in the report of the Hartz-Commission (2002) which designed the reforms of the German employment and social security systems which were at the centre of the second Schröder government of 2002–05 (Zirra and Buchkremer, 2007).

Since 2003, numerous reforms in the fields of labour, social security and innovation policies were realized under the label 'Agenda 2010' in order to combine increased obligations and incentives for unemployed persons to seek a job with improved employment or training possibilities (the different German Action plans for employment): the Federal Employment Agency was

<sup>8</sup> The Flexicurity-principle No. 7 states: 'Flexicurity requires a climate of trust and broadly-based dialogue among all stakeholders, where all are prepared to take the responsibility for change with a view to socially balanced policies. While public authorities retain an overall responsibility, the involvement of social partners in the design and implementation of flexicurity policies through social dialogue and collective bargaining is of crucial importance (EPSCO-Conclusions, Council Document Nr. 16201/07).

reformed, part-time work and fixed-term contracts were facilitated, the formerly curative and reactive approach of unemployment assistance had been shifted in the direction of a more preventive approach, the protection against dismissals was reduced especially for small enterprises. In addition, the so-called employment pacts widened the scope for wage determination at company level. The most controversial step – which finally contributed to the dissolution of the parliament and early elections in September 2005 – was the integration of the formerly separated unemployment assistance and social welfare benefits into one single means-tested benefit and the increased pressure, especially for the long-term unemployed, to find a new job (Hartz IV; Kemmerling and Bruttel, 2006).

One of our interview partners describes the influence of the OECD Jobs Strategy and the EES as a major source of inspiration for these reform projects. Crucial concepts of these policy recommendations shaped the German debate and policy formation:

The EES was developed in the discussions, which also took place within the OECD. In co-operation with both the OECD and the EU-Commission and additionally with other countries [...] there emerged some conceptions, which we tried to implement [...] the Agenda 2010 can be understood in part also as the translation of the Lisbon strategy into domestic policy [...] gender mainstreaming or life-long learning are concepts, which we always use. 'Make work pay' corresponds to the basic idea of Hartz IV: '*Fördern und Fordern*' (actively supporting and demanding) [...] Flexicurity is also an important concept: we want employment securities but not in the same profession or in the same workplace. People have to accept changes in their vocational life. The next point is 'active ageing'. There have been certain developments of consciousness. The legal requirements have already largely been created. There are numerous measures, with the objective to provide incentives for the employers to offer jobs also to older employees. (Director of the Department for European Labour Policy, Federal Ministry for Economics and Labour; 9/3/2004)

European and international proposals therefore have influenced the German reform projects; these proposals have provided the conceptual framework of the national discussions and policies. The report of the Hartz Commission refers extensively to the European Employment Strategy and the so-called Hartz reforms have been designed in collaboration with the Federal Ministry for Economics and Labour, created in 2002, which is also responsible for the German contribution to the EES. But this does not mean that the Hartz reforms are a direct translation of the EES. One of our interviewees summarizes the mostly indirect cognitive impact of the EES on the Agenda 2010 as follows:

Concerning the prevention approach, I would ascertain a direct impact of the EES at the national level. In the case of active ageing, there is probably more a mutual, positive reinforcement of parallel developments, because we had already dealt with that issue at the national level in 1998. The terms life-long learning, gender equality or gender mainstreaming can also be found in the EES, but they are part of the comprehensive re-orientation of social politics as well [ . . . ] A further important component is lifelong learning – an indispensable instrument for active ageing [ . . . ] From my point of view, the agenda 2010 was conceived relatively independently from the EES. (Interview with an official of the Permanent Representation of Germany to the EU, 7/28/04)

However, another interview partner asserted that the shift from curative policies to the concepts of prevention and activation was a direct result of the EES and underlined the catalytic role of the EES which may also increase the legitimacy of the national policies and which served at a critical moment as an important source of inspiration:

The EES provides suggestions for national measures. It does not replace national actions [ . . . ] The EES recommendations are not taken up, because the Commission so desires, but because the proposed policies are necessary. The EES is not the trigger of these reforms, but it has contributed to the process. It also justifies the reforms, which Germany would have to initiate anyway. (Interview with an official of the Confederation of German Employers' Associations, 9/15/2004)

Another interview partner mentioned an active and strategic use of one of the EES instruments, the peer review. While normally the peer review consists of the presentation of national projects and experiences deemed exemplary, in this case representatives from Scandinavian countries were invited to present some of their 'best practice' experiences in Germany – together with the social partners and officials of the Federal states. This demonstrates that an important effect of the EES is the creation of communication channels not only within the country (between different ministries, different political levels and between social partners and NGOs facilitating the consolidation of a formerly fragmented social field), but also between the administrative elites of different countries. It also became clear that 'best practices' cannot be transferred directly from other countries, as they have to be adapted to different environments, institutions, logics, actors and interests.

In conclusion, on the one hand we have to acknowledge the fundamental autonomy of the national political arena. In comparison with the numerous veto players of the German system (the Federal states, the social partners, the municipalities, the churches and other NGOs), the impact of European incentives, suggestions, obligations and constraints are relatively low. Effective



changes in the German employment and social policies are only possible when the challenges are recognized as such by the domestic actors. On the other hand, within the small administrative and political elite which designed the German labour market and social reforms, the cognitive impact of the national-supranational, highly professionalized 'EES-elite' was considerable in the perception, the conceptualization and the way of looking for solutions. However, this does not mean a direct transfer of concepts. Learning consisted more of a mutual 'irritation' of European and national patterns of perception and behaviour: it was an open process, in which it cannot be determined in advance if, how and to what extent the European suggestions were used by political, administrative and private actors in shaping national reforms. Nevertheless, it seems that such a '*learning by irritation*' has significantly shaped the German reforms.

### *The Impact of the EES in France*

In common with Germany, the French labour market is also characterized by an exclusive employment order: 'With high unemployment, low participation of specific groups such as the low-skilled and those nearing retirement age, and relatively low average working hours, France is far from using its full labour potential' (OECD, 2005, p. 95). The French labour market is strongly segmented into stable, permanent jobs, fixed-term, temporary and part-time contracts, internships, and other precarious forms of employment (self-employed, with subcontractors, publicly-subsidized jobs). The most important instrument in the last few years for dealing with this segmented and exclusive labour market was the 'Social Cohesion Plan' (2004). It focuses on the improvement of public employment services and on active labour market policies, for example, by the subsidized creation of temporary and/or part-time jobs for low-skilled or young people who have difficulty in finding jobs – sometimes combined with training. Two other French labour market policies have a much longer history – the reduction in working hours (since 1982) and the reduction of employers' social contributions, especially for low-wage jobs. In 2003, 601,000 employees were enrolled in government-subsidized jobs in the market sector and 394,000 in the non-market sector (French National Action Plan for Employment, 2004, p. 108).

Nevertheless, the current evaluation of French labour market policies is rather negative: 'The labour market therefore needs a global reform that should combine easing EPL (employment protection legislation) with a reduction in labour costs for the low paid, improvements in the efficiency of the public employment services and suppression of the incentives to withdraw from the labour market' (OECD, 2005, p. 126). Initially the French

administration was very reluctant towards recommendations to increase the flexibility of employment contracts, especially if this was a means to facilitate dismissals (Raveaud, 2007; Barbier, 2005, who distinguishes between Scandinavian, Anglo-Saxon and French ways of activating unemployed):

For example we have asked France to ‘facilitate the transition of people employed under fixed-term contracts into permanent contracts’, because France [. . .] has a disproportionately high number of people working on atypical contracts. Previously there was no way that this was going to be interpreted as: ‘we need to look at our labour laws again and we need to facilitate hiring and firing’. But this is what the French government is now doing in reply to [. . .] one key concept, the concept of flexibility. (Interview with an official of the Commission, 7/27/2004)

Nevertheless, the French government still insists on its own path for labour market reforms:

France uses the EES to design a ‘new start’, a programme intended to address also the groups which are far away from wage labour. A new start will not only be offered to those who are registered as unemployed, but France has also decided to attack the stock of unemployed thus also offering a new start to the long-term unemployed [. . .] and the recipients of the minimum integration income (RMI). Thus, we use this preventive policy of the fight against unemployment also a little bit *à la française* as an instrument of combating long-term unemployment and social exclusion. And the Commission will reproach us that this approach is too curative and not sufficiently preventive. (Interview with an official of the French Labour ministry, 7/27/2004)

This autonomy towards the European reform proposals includes also the re-interpretation of European concepts:

‘Making work pay’ – the French minister translated this concept as a request for the increase of the minimum wage. And this is also a very French approach. One adapts these concepts, but perhaps in a way which does not correspond completely to the intentions of Brussels. (Interview with an official of the French Labour ministry, 7/27/2004)

This relative autonomy of the national field does not prevent the production of a very good national action plan – a plan which is considered mainly as a bureaucratic exercise documenting the governmental policy and not as a strategic endeavour:

The French administration really has made a serious National Action Plan: exhaustive, with all the ministries agreed upon the figures. They were very proud of it and they said: ‘Look, this is how to make a good NAP!’ But it was ridiculous, because the strategy and the results are the real issue. And

the result is an unemployment rate of 10 per cent in France! (Official of a French employer association, 12/8/2004)

Our interview partners nevertheless ascertain an indirect effect of the EES – especially the shift of interest from the unemployment to the employment rate and an increased sensitivity to the low employment rates of older people.<sup>9</sup>

A positive effect of the EES is also the strengthening of a tripartite dialogue on employment issues between the unions, the employer associations and the state – especially in the framework of the Committee for Social Dialogue on European and International Issues (CDSEI). In addition, an inter-ministerial body, the *Secrétariat Général des Affaires Européennes* (SGAE) was set up in 2004 as part of the prime minister's administration. This unit is responsible for the NAP/NRP, while a department of the Ministry of Labour prepares the EMCO meetings. Thus, the political and administrative dimensions of the EES are separated. In addition to the strong resistance from the public and the social partners to different reform proposals, this organizational separation makes the effective translation of European experiences and recommendations into concrete political reforms difficult.

In conclusion, also in the French case, the fundamental autonomy of the national political arena has to be stressed: national policies are developed mainly in reaction to national challenges, discourses, opportunities and constellations. This also explains the inertia of the French employment regime; in particular the exclusion of younger, immigrant, unskilled and older people seems to be deeply rooted. The two most important labour market policies – the creation of temporary, subsidized jobs especially in the public sector and the reduction of employers' social contributions for low wages – even contributed to the defence of the exclusive employment regime avoiding the improvement of supply-side conditions and the reduction of the French minimum wage. It seems that the institutionalized ideal of French labour market policies is qualified, legally protected jobs paid according to or above the national minimum wage. This ideal does not correspond to the European activation policy which does not exclude the possibility that higher employment rates can also be obtained by lower employment and unemployment protection, higher employment flexibility and lower benefits thus avoiding unemployment and

<sup>9</sup> In the decade from 1997 to 2006, the employment rate for older workers (55–64 years) increased in France from 29 per cent to 37.6 per cent (and in Germany from 38.1 per cent to 48.4 per cent, according to Eurostat; see <http://epp.eurostat.ec.europa.eu>). This is a major success – but the level is still considerably below the level of the EU-27 (2006: 43.5 per cent). Therefore, one of the recommendations adopted in 2007 for France is 'The negotiation on pension systems scheduled for 2008 will have to build on the gains made following the introduction of the 2003 reform.' The OECD (2007, p. 132) therefore recommends the extension of the principles of the reforms of 1993 and 2003 to all the special pension regimes (such as the railways and the public gas and electricity companies, which have normal retirement ages of less than 60) and complete alignment of the civil servant schemes to the general system – a highly conflictual issue.

poverty traps. Given the fundamental discrepancy between the exclusive employment regime in France and the inclusive concept of the EU, the cognitive impact of the EES in the French case seems to be limited. Instead of a 'learning by irritation', the French situation can probably better be characterized as a merely symbolic or bureaucratic conformity to the European recommendations. Currently the EES does not seem to have contributed to effective changes to the French employment and social policies.

Firstly, these two examples show the relative autonomy of the national policy arenas. Secondly, the effectiveness of 'soft' co-ordination methods like the OMC is based on the diffusion of attractive and legitimizing concepts (for example, active ageing, flexicurity, lifelong learning, gender mainstreaming, making work pay and activation). Thirdly, international exchanges between the Member States, the systematic comparison and evaluation of foreign policies and the social construction of 'success stories' and convincing examples are major roads in influencing national policy-makers. Especially in open, ambiguous situations with a high degree of uncertainty about the best reform strategies, convincing models and visions for the national reform projects can help to overcome previous impasses, reform blockades and joint decision-traps (Jacobsson, 2004, p. 100). Fourthly, these learning processes currently seem to be limited mostly to the high-ranking national and European officials who are directly involved in the European co-ordination processes. Fifthly, sometimes the obligation to write a national action plan (or since 2005 a national reform programme) contributes to the integration of the respective national field because this task requires an improved co-ordination within and between different ministries and a closer co-operation with other actors (regions, municipalities, social partners, civil society). In France, the co-operation between unions and employers' associations in particular seems to be greatly improved by the requirement to include them in the process. Sixthly, the impact of the EES in Germany has been characterized as 'learning by irritation', while the French situation is characterized by a mostly symbolic conformity to the European objectives.<sup>10</sup>

In conclusion, to a large extent, the implementation of the OMC objectives is based on the cognitive dimension of institutionalization processes, i.e. on mutual learning processes, on the development of attractive models and on the inclusion of different actors from politics and civil society. In comparison to financial stimuli, legal norms and a higher political commitment (i.e. strategic and normative forms of structural coupling), the effectiveness of a mainly

<sup>10</sup> This may change incrementally. In reaction to the Communication of the Commission on 'Common Principles of Flexicurity' (Commission, 2007, p. 359), the French government opened negotiations with the social partners on labour market modernization and reached an agreement in January 2008 on new fixed-term contracts, an extension of trial periods and the voluntary cession of labour contracts.

cognitive link between the European and national fields is, in general, lower. This apparent weakness is an adequate reflection of the heterogeneity of the national economic, social and employment policies, the limited competences of the EU in these fields, the inertia and path-dependency of national institutions and the institutional heterogeneity and the low degree of co-ordination within many national fields characterized by fragmented competences between different administrative levels and organizations. The co-ordination policies of the EU therefore is not the central or even the only trigger for the modernization of national economic, social and employment policies. Nevertheless, they shape highly uncertain and extremely risky reform projects designed by national administrations in response to domestic and external challenges. There is some evidence that national debates and strategies on labour market reforms are influenced by crucial concepts of the EES even if direct learning takes place mainly within the small circles of the national administrative elites.

#### **IV. Limits and Possibilities of a Discursive Co-ordination of the European Social and Employment Policies**

The fifth enlargement of the EU, the integration and liberalization of the European markets and the failed ratification of the constitutional treaty refers to the necessity for a co-ordinated modernization of the national employment and social protection systems in Europe. The OMC methodology, which is based on the principle of subsidiarity, on commonly agreed objectives, reciprocal surveillance procedures and the integration of economic, employment and social policies, could support this modernization, because homogeneous or legally binding solutions are, in these fields, neither possible nor desirable. The procedural character of this method could create a dynamic that could facilitate the emergence of convergent national reform strategies.

In order to be implemented successfully, this method must be institutionalized on the one hand at the European level, whilst on the other hand, the commonly agreed objectives must effectively influence national policies. The first challenge was successfully dealt with by the bureaucratization, systematization, formalization and the legal anchoring of some processes in the EC Treaty. The employment and social OMC processes have become crucial pillars of the Lisbon strategy. Secondly, the effectiveness of the OMC presupposes a structural coupling between the European and national fields. Up to now, in the domain of employment and social policies these two social fields have been coupled mostly in the cognitive dimension – even if financial incentives are becoming increasingly important. Within the national and European administrative elites, the OMC contributed especially in the field of

employment politics to a convergence of perceptions, orientations, interpretative schemes and problem-definitions thus shaping the national reform projects. In the German case, this has been characterized as ‘learning by irritation’, while the French situation seems to be limited to a mostly symbolic conformity to the EES (and some procedural innovations).

At least until the reform of the Lisbon strategy in 2005, a stronger normative and strategic coupling of the European and the national fields – for example, by legal obligations or financial incentives – seemed to be highly unlikely (Table 2). At least until 2005 it was open as to whether a predominantly cognitive coupling of European and national levels was sufficient for

Table 2: The Strategic, Normative and Cognitive Institutionalization of the OMC

	<i>Institutionalization of the European field</i>	<i>Structural coupling between the European and national fields</i>
Strategic dimension	Crucial role of national interests, consensus-oriented bargaining processes; from supranational imperialism to disillusionment and a realistic co-operation between the European and the national level	Financial incentives: structural funds, new programmes for employment and social solidarity; Power: enhancement of the Member States’ ownership of the reform processes: ‘political ownership’ at the highest levels (Mr./Ms. Lisbon)
Normative dimension	Bureaucratization, professionalization, codification and formalization of co-ordination processes	No legal obligations; recognition of the limited role of sanctions
Cognitive dimension	Iterative character of the process facilitates mutual learning and exchange of experiences; ‘streamlining’ of the co-ordination processes facilitates the development of an integrated political agenda (and strengthens the role of the Commission)	Mutual learning limited to high-ranking national and European officials who are directly involved in the European co-ordination processes; change of policy outlooks and analyses; provision of convincing examples; bureaucratically-administered processes of participation; only limited involvement of national parliaments, social partners, civil society

Source: Authors’ own data.

overcoming the inertia of national systems and for supporting the path-dependent modernization of national employment and social policies.

In three important dimensions the relaunch of the Lisbon process and other subsequent developments might have reduced the relative implementation deficit of the OMC: the ‘national ownership’ of the co-ordination processes emphasized by the Barroso Commission was understood initially as a defensive strategy which would (re-)nationalize the responsibility for the modernization of the national welfare and labour market regimes. But given the common challenge of labour market and welfare reforms, there was an increased perception that the OMC might facilitate the development of solutions to new challenges, together with the fact that the repeated and increasing experience of the OMC and especially the EES might have facilitated the development of common problem definitions and frames in the limited community of labour market experts. Secondly, the EU has considerably strengthened the strategic dimension of the implementation processes by financial incentives (PROGRESS, Structural Funds). Thirdly, the EU has tried to improve the tools for the mutual learning processes. Thus, the OMC might gradually become an important arena for the search for solutions to new problems.

An additional, perhaps irreconcilable challenge is the ‘visibility’ and legitimation of the OMC processes. A stronger democratic legitimization would require a stronger involvement of the national parliaments, the European Parliament and other participants besides the national bureaucratic elites – for example, the social partners and actors from civil society. Here the flexicurity-approach offers new opportunities to involve the social partners systematically, possibly with effects on other political fields.

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