



Università degli Studi di Catania
Facoltà di Giurisprudenza

*Jürgen Kohl
and
Tobias Vahlpahl*

The 'Open Method of Coordination' as an Instrument for Implementing the Principle of Subsidiarity?

WP C.S.D.L.E. "Massimo D'Antona" .INT – 33/2005



© Jürgen Kohl and Tobias Vahlpahl 2005
University of Heidelberg - Germany
juergen.kohl@urz.uni-heidelberg.de
tobias.vahlpahl@urz.uni-heidelberg.de

ISSN – 1594-817X
Centro Studi di Diritto del Lavoro Europeo “Massimo D’Antona”
Via Crociferi, 81 – 95124 Catania (Italy)
Tel: + + 39 095 230464 – Fax: + +39 095 313145
centrostudidantona@lex.unict.it
www.lex.unict.it/eurolabor/ricerca/presentazione

The ‘Open Method of Coordination’ as an Instrument for Implementing the Principle of Subsidiarity?

**Jürgen Kohl and Tobias Vahlpahl
University of Heidelberg***

1. Federalism and subsidiarity in the European context.....	2
2. The development of the Open Method of Coordination	4
2.1 The Procedure of the OMC	4
2.2 Historical Development.....	6
The European Employment Strategy	8
Social Inclusion.....	10
OMC in the field of pensions	11
OMC in the field of public health care	11
2.3 Classification of the OMCs	12
3. A critical appraisal of the Open Method of Coordination.....	15
4. Conclusions	21
5. References	23

* Paper prepared for the EISS 2004 Conference “Federalism and Subsidiarity in Social Security” - Rome, 23-25 September 2004.
A revised and enlarged version of the paper has been published in *European Journal of Social Security*, vol. 6, no. 4, December 2004, pp. 363-390.

1. Federalism and subsidiarity in the European context

Since the Treaty of Maastricht (1992), later incorporated in the Treaty of Amsterdam (1997), the concept of 'subsidiarity' has become a prominent part of the constitutional order of the European Union. Since 1992, the Commission publishes a report each year on the application of the principle of subsidiarity. Also, in the recent debates about the Constitutional Treaty, reference has often been made to this principle for or against certain proposals how the relations between the Union and the Member States should be regulated. Indeed, in a multi-level political system like the European Union, it is an issue of crucial importance how competences are divided and shared between the different levels of government (European, national, regional, communal).

At least for someone who comes from a federal state like the Federal Republic of Germany, it is somewhat surprising that the notion of 'federalism' is not mentioned in this context, and is almost banned from the official vocabulary of the EU. For the very same problems of an adequate division of responsibilities and powers between the different levels of government pose themselves in every federal political system (Scharpf 1985).

It is also somewhat surprising that the notion of 'subsidiarity' has been adopted instead, because this concept – as it was first used in the Papal Encyclical "Quadragesimo anno" of Pope Pius XI (1931) – originally referred to the relationship between the individual and the various social communities to which individuals belong (family, church, other associations). So it can be said to refer primarily to the relationships between state and non-state actors, rather than to the relationships between different territorial levels of government.

In essence, the principle of subsidiarity stipulates a social order where any activities which can be satisfactorily performed by the individuals themselves or by the smaller (primary) communities to which they belong should *not* be transferred to larger and more comprehensive communities. And the state is conceived as the most comprehensive community. Thus the principle of subsidiarity circumscribes the role of individual self-responsibility versus the collective responsibilities of smaller or larger communities.

The regulative idea of subsidiarity, however, has two components (which is often overlooked): On the one hand, it aims to protect the individual and the smaller communities against unwarranted encroachment by the larger (political) communities. On the other hand, it constitutes an obligation on the part of the larger communities to assist and support the individual and the smaller communities if and to the extent they cannot

help themselves. Striking a balance between these two seemingly contradictory demands depends largely on how concrete social situations are perceived and interpreted. What should be done, for instance, if the majority of citizens can perform their tasks reasonably well, while the socially weaker members of the community cannot? Who has the right (and the power) to decide whether certain tasks are well, at least satisfactorily performed or not?

This general idea of subsidiarity is now being transferred to the political sphere, in order to provide guidelines for the division of legislative and executive competences between the European Union and the Member States. In principle, there are three solutions to this problem: certain policy areas can be assigned to the exclusive competence of either the Union or the Member States, or the competences can be shared between the Union and the Member States. (In the German context, exactly these three types of competences can be found as legislative provisions in the Basic Law). But which policy areas should fall into which category? Can general rules be found which policy issues are best dealt with at the Community level or at the national (or sub-national) level, respectively? The evidence of a large variety of existing patterns that can be found in federal and more centralized political systems raises some doubts about the fruitfulness of such efforts.

Here the same ambiguity surrounding the meaning and interpretation of the general principle of subsidiarity, when applied to concrete social situations, re-appears on the scene. What to do, if some Member States – according to their own judgment or to the judgment of Community institutions – perform their tasks well, while others don't and eventually call for assistance by the Community? The situation becomes even more complicated when we distinguish between the *formulation* of policy goals and the *implementation* of policies and consider the possibility that these two tasks may be performed at different levels.

While we believe that the principle of subsidiarity plays a valuable role in the political discourse as a regulative idea, we are less convinced that it can provide clear-cut (analytical, technical) solutions to the problems of an optimal allocation of responsibilities among different levels of government. For the economists, this is mainly, if not exclusively, a question of economic efficiency. For a political or social scientist, however, more is at stake: namely the legitimacy of a political system and its acceptance by the citizens. In the final analysis, it therefore remains a matter of political assessment how the balance is struck, taking proper account of national traditions, but also of changing socioeconomic conditions in the contemporary world. From a political and

sociological viewpoint, it is important to recognize that this is not a “once and forever” decision based on some abstract logic, but is bound to be a *dynamic* balance subject to changes in social conditions as well as in socio-political consciousness.

As has been stated by the Commission, “in a multi-level system, the real challenge is establishing clear rules for how competence is shared – not separated” (2001c: 35). It is in this context that the “Open Method of Coordination” has been designed and developed as a device for sharing responsibilities between the European Union and the Member States in some core areas of economic and social policy.

2. The development of the Open Method of Coordination

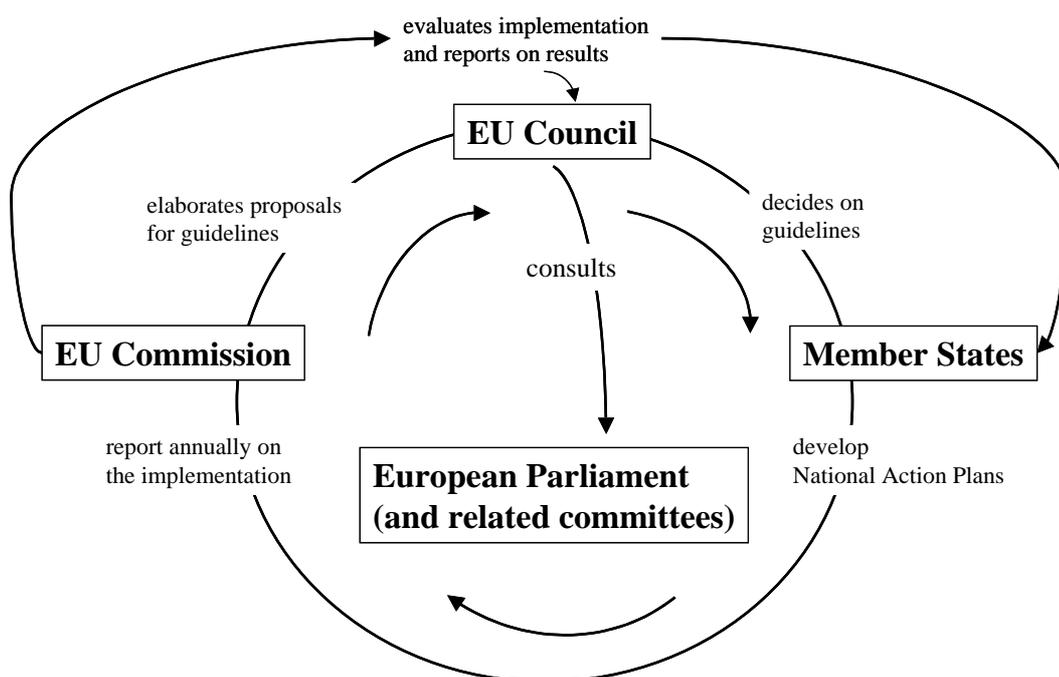
The first part of this section shows the typical procedure of the OMC as it is used in its different applications. Next, a short historical overview of the development of the OMC is given. Then the areas of application of the OMC will be described under certain analytical aspects, and finally we will try to characterise the OMC in relation to other forms of European Governance.

To characterise the development of the different OMCs in a more analytical way, we stress their varying distance to the issue of economic integration. It should thus become clear that those policy fields where the use of the OMC has been adopted later are less and less closely connected with the Common Market.

2.1 The Procedure of the OMC

The OMC as a relatively young instrument of policy coordination in the EU is applied in a number of different fields. Taking account of this diversity of policies, the procedure of the OMC is not exactly the same in every case. Despite this fact, certain common elements and principles can be identified. These are shown in Figure 1.

Figure 1: The policy cycle of the 'Open Method of Coordination'



Source: Adopted from Schmid (2004)

The European Council in Lisbon defined the OMC procedure as follows:

Implementation of the strategic goal will be facilitated by applying a new open method of coordination as the means of spreading best practice and achieving greater convergence towards the main EU goals. This method, which is designed to help Member States to progressively develop their own policies, involves:

- fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;
- establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practice;

- translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
- periodic monitoring, evaluation and peer review organised as mutual learning processes.

(European Council 2000a: point 37).

In other words, the basic structure of the OMC is to define goals at the level of the Council of the European Union, on a mandate by the European Council and following proposals of the Commission, which are to be pursued by the respective national governments within their own responsibility. These goals are formulated in relatively general terms, which is easily understandable if one considers that on this level the consensus needed for reaching an agreement is highest (Scharpf 2002a).

As a next step, these goals set by the Council are translated into a system of indicators, which should allow an accurate evaluation of the performance of the Member States concerning the common objectives. After the evaluation of the national *status quo*, National Action Plans are to be submitted by national governments, which specify by which instruments and within which time-frame the goals should be accomplished. The Commission, as a central information and coordination centre within this process, collects and systematizes the information about national strategies and their outcomes. This feed-back process of the OMC provides that the Council may issue recommendations to the national governments how to improve the policy performance, if shortcomings in the goal achievement are revealed by the evaluation process.

In almost all cases, no strict sanctions are intended to penalize a violation of these recommendations. Rather it is left to the Member States to choose measures deemed suitable (the recommended ones or others in each individual case) in the context of their respective possibilities. The expected integration effect is supposed to result primarily from the information and learning process regarding different strategies and their success, and *not* from explicit legislation from above.

2.2 Historical Development

With respect to the development of the OMC, three important dates are to be mentioned:

- 1997: Treaty of Amsterdam

- 2000: European Council meeting in Lisbon
- 2001: European Council meeting in Laeken

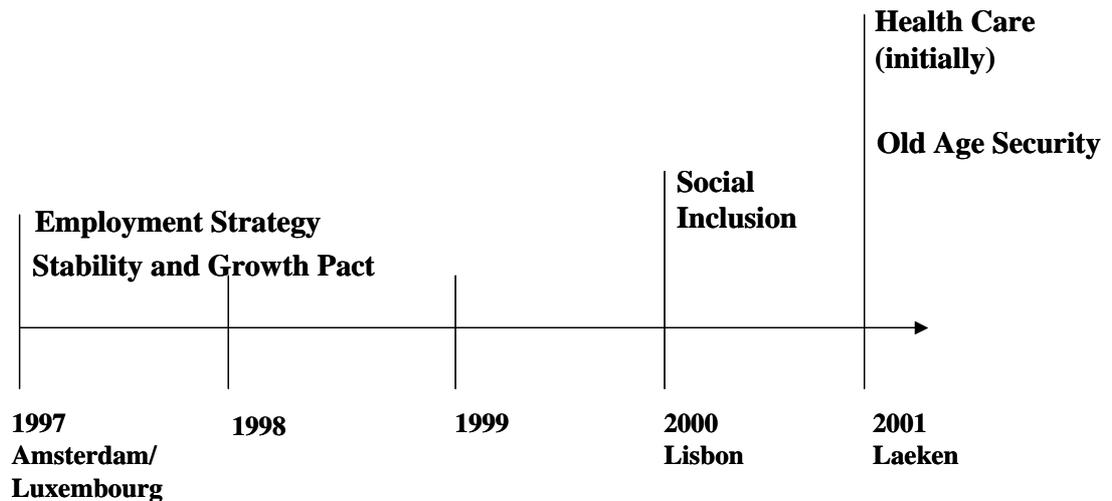
With the Treaty of Amsterdam in 1997, the European Employment Strategy (EES) as well as the Stability and Growth Pact (SGP) were integrated into the common legal basis of the European Union, respectively the European Community. On the one hand, the goals of this strategy were a stronger economic cohesion between the participants of the European Monetary Union (EMU) and a more stable currency. This should be achieved through the SGP. On the other hand, the EES should help to complement the economic integration with a stronger focus on social issues, as well as to face the common problems of growing unemployment in the Member States.

Although the procedure of the SGP is not explicitly defined as such, it resembles in its arrangements that of the OMC within the policy areas of employment, social inclusion and pensions. Common goals are specified, translated into indicators and the goal attainment examined regularly. One special characteristic of the SGP is that here a sanction mechanism is provided, in case that one or more Member States fail to achieve the common goals. Such a sanction mechanism is usually *not* part of the OMC in the other policy areas.

Here, above all, those applications of the OMC will be dealt with, where explicit reference is made to OMC and which are part of the common social policy. So the SGP is not further discussed here. The strongest focus will be on the EES, because the OMC in this field is the most firmly established and developed case so far. So we can learn most about the results and consequences of this method here. In other fields the OMC is still in its starting phase, and we have to wait for further empirical evidence before we can reach a deeper understanding and conclusions. This is especially true for health care policy.

After the implementation of the EES, the next policy area where the OMC came to be applied was the strategy to fight poverty and social exclusion, launched at the summit meeting of Lisbon in 2000. And finally, at the Laeken summit meeting in 2001, pensions and health care were selected as the fields, where the OMC should also be applied. Except for health care policy, we can examine at least the first steps in the process of coordination to the present day.

Figure 2: Steps in applying the 'Open Method of Coordination'



The European Employment Strategy

The first two applications of the OMC (SGP and EES) are very closely connected with the goals of the economic integration and the creation of the Common Market. The EES can be seen as a first step to an active labour market policy of the Union¹, which partly became necessary because of the market failures caused by the economic integration process itself. Of similar importance were the political motivations for cooperation, caused by the commonality of the problems of continuous unemployment and the difficulties in financing the social security systems, which the governments tried to alleviate by improving the employment situation in the entire community. We can see the transfer of employment policy into the European arena as a typical case of spillover that is caused by the economic integration.

In June 1997, the EES was launched in the treaty of Amsterdam and concretised at the special European Council conference on

¹ Neither the goals of the OMC, nor the execution are carried out by the community organs alone, but the goal definition takes place particularly within and between European bodies (Commission, Council and European Council). For this reason one can speak of a Community policy – in contrary to purely intergovernmental agreements.

employment in November of the same year in Luxembourg. In the year 2000 it was further developed and integrated into the Lisbon strategy². This strategy contains the goal to make Europe "[...]the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion." (European Council 2000a: point 4). The central empirical target is an average employment level of 70% for the year 2010.

The goals of the EES were formulated for the first time in 1997 and accepted by the Council³. Here four goals were emphasised:

- Improving Employability
- Developing Entrepreneurship
- Encouraging Adaptability in Business and their Employees
- Strengthening the Policies for Equal Opportunities

(Council 1997)

Partly, quantified targets were set for these goals, which should be achieved in a certain period of time. For example it was specified:

"Each Member State will endeavour to increase significantly the number of persons benefiting from active measures to improve their employability. In order to increase the numbers of unemployed who are offered training or any similar measure, it will in particular fix a target, in the light of its starting situation, of gradually achieving the average of the three most successful Member States, and at least 20%." (Council 1997: 3).

In the subsequent years until 2003, the goals were extended and amended twice. On the one hand, a higher degree of integration of the different focal points into an overall strategy was aimed at by the introduction of the 'cross-sectional' objective of 'building conditions for full employment in a knowledge-based society' (Council 2001a: 20). And on the other hand, in 2003, the Council agreed on a greater differentiation of the objectives (extension from four to nine main points)⁴.

The annual National Action Plans (NAP's) and progress reports are constantly monitored by the Commission. In cooperation with the Council, the Commission issues regular recommendations to the

² European Council 2000a.

³ Council 1997

⁴ Council 2003

individual Member States, how the common goals could be further and better realised. The number of recommendations varies significantly depending upon the national level of goal attainment.

Social Inclusion

On an initiative of the Commission⁵, the strategy against social exclusion was accepted on the European Council in Lisbon (2000). This field can be seen as a component of the integrated approach of the 'Lisbon strategy'. Here the problems of social exclusion are brought together with other concerns of social, employment and economic policy, in order to take account of the interdependencies between these areas.

The fight against poverty and social exclusion can still be regarded as closely linked to the economic sphere and above all to the Common Market. So the strategy on social inclusion is also to a certain extent connected with the EES, since it concentrates on the integration of disadvantaged persons into the labour market, as well as on employability, which is regarded as the key to avoid of social exclusion.

The goals which the Council suggested in 2000 and which the European Council in Nice (Dec 2000) finally approved were:

- to facilitate participation in employment and access by all to the resources, rights, goods and services;
- to prevent the risks of exclusion;
- to help the most vulnerable;
- to mobilise all relevant bodies.

(Council 2000b: 5)

Here, on the one hand, the high importance of the improvement of employability becomes visible, but also - particularly in the second and fourth goal - the openness of the strategy, which can be understood as an integrated approach, that recognizes the interdependencies between different policies. This approach goes far beyond past integration efforts in the economic sphere and cuts deeply into the field of social policy which is formally strictly under national control.

Until 2003, the OMC in the area of the social inclusion led to two common reports concerning the situation in the Member States, which were accepted by the Council following suggestions of the Commission (Council 2001b and Council 2004). These common reports discuss primarily the NAPs and also evaluate these regarding the most successful practices. In

⁵ Commission 2000

this policy area, recommendations to individual states have been given only to a limited extent so far. These are included in the common reports.

OMC in the field of pensions

Already in the year 2001, the application of the OMC in the field of pensions was discussed at the meeting of the European Council of Stockholm⁶. Finally the introduction of the OMC was decided in December 2001 at the meeting of the European Council in Laeken⁷ following a suggestion of the Commission concerning the procedure⁸.

Whereas the strategy for the fight against social exclusion is still closely connected with the employment situation and thus with the economic integration, this is not the case in the field of pensions in such a clear way. Indeed, the European Union member states share the same problems in old age security systems, caused by an ageing process of the national populations and an unfavourable economic development. However these difficulties cannot be directly compensated by modifying the labour market organization. Rather some substantial questions with respect to the organization of the social security systems are raised, which are so far explicitly in the competence of the national governments.

At the European Council of Barcelona (2002), the OMC was formally adopted for the field of pension policy, however, without setting clear targets:

[The European Council] likewise confirms the importance of implementing the Social Protection strategy as regards the quality and viability of pensions, which supports the reform of pension systems, in the framework of the open method of coordination, with the aim of safeguarding the capacity of systems to fulfil their social objectives, ensuring financial sustainability, and adapting their capacity to meet the new needs of society. To fulfil these objectives, it considers the common objectives and the working method developed with a view to their confirmation by the European Council in Barcelona to be very valuable and useful.

(European Council 2002: 48)

OMC in the field of public health care

⁶ European Council 2001a

⁷ European Council 2001c

⁸ Commission 2001a

The OMC in the field of health care is the least developed so far. It was mentioned in the Presidency Conclusions of the European Council of Laeken in 2001⁹. But only the first steps of implementing the OMC were taken so far. The Commission proposed goals for 'The future of health care and care for the elderly: guaranteeing accessibility, quality and financial viability'¹⁰, and the Council published a first report on the issue¹¹. It is important to note that in this report an application of the OMC is not explicitly mentioned, but only that '[...] it would be worthwhile to engage in a co-operative exchange in these fields' (Council 2002b: 4). So we have to wait for the further development before we can analyse the process of coordination in this area.

2.3 Classification of the OMCs

Concerning the different OMCs, a first distinction can be drawn according to whether they are codified in the treaties or not. If the application of the OMC is written down in the treaties, we can speak of a *higher level of institutionalisation*. This is important because we can consider the application of the OMC to a policy field as a step towards deeper integration in this area. This interpretation rests on the view of integration as a ladder with several stages and 'steps in between'. From this point of view, the application of OMC could be the first step in an integration process, which provides the essential basic consensus in policy fields where integration seemed not to be possible before.

Besides the inclusion in the treaties, the OMCs can be differentiated according to the following aspects¹²:

- Are there precise goals to be achieved by the OMC?
- Are there guidelines, which regulate the process?
- Are there National Action Plans (NAP's) to be prepared?
- Are there joint reports to be made?
- Are there recommendations in case a country underachieves the common goals?

⁹ European Council 2001c

¹⁰ Commission 2001b

¹¹ Council 2002b

¹² Sakellariopoulos 2004: 68

Table 1: Institutionalisation of OMC in different policy areas

	Growth and Stability Pact	Employment	Social Inclusion	Pensions	Health
Treaty based	+	+	loose		
Objectives / Targets	+	+	+	+	
Guidelines		+			
National Reports (NAPs)	+	+	+	+	
Joint Reports		+	+	+	+
Recommendations	+	+			
Sanctions	+				
Action Programs			+		

Source: Adopted from Sakellariopoulos (2004: 68)

The results of this systematisation are shown in Table 1. One can see, that the deeper the OMC penetrates into the core of social policy and social security, the weaker is the statutory institutionalisation. This is no surprise, because pensions and health policy are likely to be the most path dependent areas of national welfare policy at all. On the other hand, the stability and growth pact and the employment strategy are closely linked to the common market and therefore much easier to connect with the economic integration project.

The OMC is applied to policy fields in which supranational regulation or even centralisation ('hard governance') is not feasible, because presumably the necessary political consensus cannot be achieved. Another argument against supranational legislation in those fields is the path dependency and interconnectedness of social policies, as well as the high amount of legitimation national governments derive from economic and social politics, because these are relatively easy to communicate to the citizens and observable in their results. In addition, the level of redistribution is a point which distinguishes these fields from

those open to *Europeanisation*. It is easier to achieve integration of social policy by *regulative* in contrast to *redistributive* measures (examples are the regulations for safety at workplaces or the social dialogue)¹³, or if the supranational policy complements national programs (in the case of the social and structural funds), without changing national policies in substantial degree. In contrast, the fields of social inclusion, pensions, health and employment weigh heavy in the national budgets and are closely connected with traditional ideas of social justice. These ideas are central for the characterisation of different types of welfare states, because they shape the volume and structure of redistribution a welfare state is willing to allow or to achieve. It is exactly at this point where the process of the OMC comes in with the endeavour to reach a transnational consensus over the goals and principles of social policy.

With regard to established typologies of European Governance, the OMC could be located between uncoordinated adjustment of national policies based on the growing competition between the states, and the community method¹⁴. It entails definitively a higher level of integration than an uncontrolled process, where the Member States react separately to the challenges of the Common Market in order to gain advantages in the inter-European competition. But it means less integration than binding legislation on the community level (even if the national governments still play a vital role in the process of decision-making in the multi-level system). The typology suggested by Fritz Scharpf (2002c) includes the mode of intergovernmental negotiations between these two poles of uncontrolled adjustment (in the sense of lack of supranational control) and the community method. This mode comes to use primarily in the second and third pillar of the European Union, where supranational bodies do not have much power in the political process. But this type obviously is not really suitable to describe the OMC, because the power of the Commission to define the common goals is much too strong for a 'simple' intergovernmental agreement.

For a detailed theoretical classification of the OMC, we need to gather further knowledge about the results and consequences of this method. It is not obvious yet how the definition of common goals and the surveillance of the national performance affects national policy-making at all. Only then we can tell whether we really need new theoretical types of European governance, or whether we can use existing theories to deal with this form of European cooperation and coordination.

¹³ See Majone 1996

¹⁴ Scharpf 2002b; 2002c; Behning 2003

3. A critical appraisal of the Open Method of Coordination

In evaluating the impact of the OMC as a new 'soft' tool of European governance, attention is often focussed on the short-term effects on national policy-making in the Member States: Has the OMC led national governments to adopt policies and courses of action they would otherwise not have undertaken?

Another approach to evaluate the OMC is in terms of *policy outcomes*: Has policy coordination via OMC led to more adequate and effective policy responses with regard to the specific problems addressed in the various policy fields? In other words: Has it led to improvements in policy performance? And has it led (or will it lead) to *policy convergence*?

Such questions are difficult to answer for a variety of reasons:

First, the impact of the OMC may vary between countries. The OMC may not have changed policies in more advanced welfare states, but at the same time it may have led to significant policy changes in Member States where the respective policy area has been less developed.

Second, results may differ from one policy area to another. The OMC may have been applied and implemented more successfully, say, in employment policy than in policies to combat social exclusion.

Third, since the OMC has only been phased in for some years, it is probably too early to reach valid conclusions about its lasting impact. In particular, since the OMC has been conceived as a political learning process, it may have faced difficulties in the introductory phase which may be overcome in the longer run.

More fundamentally, because of the complexity of relationships existing in any policy field and the multitude of factors at work, it is extremely difficult to establish causal linkages between a single factor (e.g. a policy programme) and an aggregate outcome measure (e.g. a reduction in unemployment rates). As a rule, such outcomes are the combined effects of a variety of factors which are not easy to disentangle.

Last but not least, the impact of the OMC with regard to policy performance depends to a large extent on the adequacy of the policy instruments and strategies chosen, and on the implementation process at the national level. The mere fact that a consensus about policy goals has been reached, does by no means guarantee that the goals themselves will be achieved. One should, therefore, distinguish between the *procedural* and the *substantive* aspects of the OMC.

In the context of this paper (and the theme of this conference), our concern here is clearly with the procedural aspects. Is the OMC an adequate and viable mechanism of coordination between national and

European (economic and social) policies? Is it a suitable mechanism to achieve policy convergence among EU countries? The answers to these questions do not imply that the policies agreed upon are substantively correct or the best possible ones. Since, in the final analysis, the OMC is a political bargaining process, the outcome will, of course, be shaped by the interests and the power resources of the political actors involved. The substantive policies as the outcome of the negotiation process are, therefore, likely to change when the composition of the decision-making bodies will change. It is crucial, however, that the process of the OMC provides a rationally structured framework and a set of rules for such negotiations, and thereby limits the discretionary power of individual national governments.

Because of the contingency of the substantive policy choices (which may be more or less suited to solve the problems), our appraisal of the OMC is bound to be an evaluation of *potential* effects rather than the *actual* consequences of the application of the OMC in one or the other policy area. Furthermore, we look to the longer-term effects of the institutionalisation of the OMC rather than to the immediate, short-term effects of specific policies.

Methodologically, the evaluation of *actual* effects requires an empirical analysis of specific case studies from which - hopefully - generalizing conclusions may be drawn. The evaluation of *possible* or *probable* outcomes is of a more hypothetical nature and has to be based on assumptions about behavioural consequences of institutional rules. Nonetheless, such assumptions can also be inferred from empirical knowledge - as analyses following the institutionalist approach have demonstrated. Because institutional rules structure the behaviour of actors, but do not strictly determine it, it appears useful to spell out the potential consequences of certain institutional arrangements in terms of (best-case or worst-case) scenarios.

As a 'best case scenario', we can take the blueprint version of the OMC, as it is envisaged in the official documents of the EU, as a starting-point and try to extrapolate the consequences the continued and broadened application of the OMC may have on the EU policy-making process.

1. To begin with, the coordination mechanism of OMC presumes a political consensus about the goals to be achieved. These goal definitions may be vague and, therefore, may not seem to be suitable as guidelines for day-to-day political decisions. Nevertheless, they will in any case rule out certain courses of action (which some governments may have taken otherwise, in

the absence of such a procedure). This is particularly the case when the adoption of the goal definitions does not require unanimity and thus cannot be vetoed by any single national government. As past experience with the introduction of 'qualified majority voting' has shown, this has, indeed, facilitated decision-making in the EU Council and thereby allowed progressive steps towards further integration, without imposing undue obligations on countries in a minority position. As a rule, 'package deals' have been negotiated, but the threat of being overruled has facilitated to negotiate such compromises.

2. Moreover, once a political consensus about the goal definitions and policy guidelines has been reached (and has become the basis for consequential policy measures), this consensus is likely to last even in the case of governmental changes in some Member States. That is, such decisions – like other international treaties – exert some sort of binding character for successive governments, although not in a strictly legal sense. This is not to say that such agreements will become irreversible, but the burden of proof that certain changes are necessary lies with those actors who want to change them. They will have to mobilize the support of their colleagues and to convince them that eventual *changes in goals* (not merely in policy instruments!) are, indeed, necessary or at least desirable.
3. The vagueness of general goal definitions mentioned above is to some degree counterbalanced in the procedural arrangements of the OMC, because the political consensus about goals sets in motion a process by which these general goals will be translated, step by step, into operational policy objectives, eventually even with quantified targets ('benchmarks'). No doubt, the definition of economic and social indicators which should adequately reflect the 'softer' verbalized goal definitions and allow to monitor accurately the change of socioeconomic conditions as well as the performance of policies is of paramount importance here. It is a task which is intrinsically political - because it involves normative decisions about goals. At the same time, it poses an intellectual challenge for social scientists - because it calls for the application of certain methodological rules (regarding validity and comparability of indicators), regardless of the political value judgements (which, at this stage, are to be taken as 'given'). This process of operationalization and concretization has a twofold effect:

First, it aims at an *evaluation* of national policies to which degree they have been successful, i.e. reached their objectives and operational targets. Insofar as the same methodology is applied, it also allows a *comparative* evaluation of diverse national policies. Thereby, a process of 'policy learning' will be stimulated among the Member States which strategies and policies 'work best', i.e. achieve a higher degree of goal performance. In the longer run, such learning from 'best practices' elsewhere should lead to an improved goal performance in the EU countries in general. However, the adoption of 'best practices' and their adaptation to national circumstances is a very complicated and intricate process with many pitfalls (see below).

Second, it requires the systematic collection of empirical information (mostly statistical data) to monitor the actual development of a range of economic and social indicators. Such efforts will lead at least to improvements of the 'informational basis' of policies; moreover, they are likely to lead to a change in the *style* of political decision-making in the sense that they emphasize the rational calculation of resources needed to achieve desired outcomes, of means and ends.

4. The OMC procedures leave the choice of policy instruments to the national governments, in principle at least. In this way, an adaptation to institutional settings and administrative practices in the respective national political tradition and culture becomes possible. Nonetheless, the political autonomy of national governments is not unlimited because the policy instruments chosen must meet the condition that they are suited to achieve some progress towards reaching the goals agreed upon. Of course, in the political process controversial assessments of the suitability of certain policy instruments may come up, but in any case the pro's and con's of certain policy proposals have to be legitimized with reference to the broader goals. In doing so – and this is an important latent function of the OMC –, the goals themselves will be confirmed time and again and more firmly entrenched in the minds of the political actors.
5. Although the OMC arrangements are based on a political consensus among national governments (in the EU Council) and leave the choice of policy options largely to the discretion of national governments, they nonetheless provide an important role for the Commission. For it is the task of the Commission to elaborate the guidelines for the EU Council decisions, to collect the information submitted by the national governments (in the

National Action plans), and to prepare synthesis reports on the implementation of these plans, as a basis for further Council recommendations. So the Commission oversees the whole process and is instrumental in the day-to-day operations; both tasks are prerequisites for the political decisions and recommendations to take effect. So, the role of the Commission in the EU decision-making process will, in fact, be strengthened, despite the fact that no *formal* decision-making power is conferred to the Commission.

It can be expected that the crucial role of the Commission in the implementation of OMC will work out in favour of an increased consistency of policies, pursued at the national level. Likewise, it can be expected that the consultation of the European Parliament and its respective committees will also work out in favour of an "integrationist" approach in the policy areas concerned. Moreover, if the policy areas of employment, of poverty and social inclusion, of pensions and health policy, will appear on the agenda of the European Parliament more often and the evidence of the respective reports will be the subject of debates in parliament, this is likely to increase also public awareness of the commonality of social problems and policies among EU citizens.

6. Last but not least, once a political consensus about policy goals, however vaguely defined, has been achieved, this will have a lasting effect on the mindsets of the political actors involved, in the higher ranks of national governments as well as in the Community administration and among the members of the European Parliament. This is just what the institutionalist approach suggests: The institutional arrangements and rules shape the way how emerging political problems are perceived and treated on the political agenda. Of course, political debate and controversy about desirable solutions to these problems will not disappear from the agenda. But it is important to recognize that this debate takes place in a framework of a basic consensus that these *are* relevant problems and have to be dealt with at the *European* level (at least in addition to the national level).

Insofar as the logic and basic procedures of OMC will be extended to additional policy areas (a process that can already be observed, see above), an increasing number of government officials, Eurocrats and policy experts will be trained and 'socialized' in this way. It remains an open question, however, whether such socialization effects will be restricted to members of the European political elite, or will be spread also to the national policy arenas.

In a longer term view, such a process may lead to “harmonising ideas, visions, conceptions, knowledge and norms of action, in order to have policy goals converging towards ‘a common political vision’” (Palier 2003: 8). Such a consensus among the political elites about relevant policy goals in the field of economic and social policy, in turn, will help to give more substance to what is often referred to as “the European social model” and, by the same token, it will promote the commitment to the European Union as a “value community”, i.e. a political community sharing the same basic values.

Against such optimistic views, a lot of caveats have been raised in a more pessimistic mood. Most of them call into question the problem-solving capacity of the OMC. For instance, it is argued that – in order to reach ‘verbal’ consensus – goal definitions tend to be so vague that their operationalization becomes arbitrary and, hence, the evaluation of policy performance almost impossible. National governments will only agree to common goal definitions if these are not in conflict with the goals of their own national agenda. The National Action Plans will report on legislative and administrative changes which would have been undertaken anyway, even in the absence of the OMC requirements. National implementation and evaluation reports will tend to report ‘success stories’, but hardly any failures or shortcomings.

While we agree that there is a tendency of political actors to behave in this way, we also believe that such tendencies can be kept in check by appropriate institutional provisions. Above all, the strengthened role of the Commission in monitoring and evaluating the policy performance of the member countries can serve to counterbalance such tendencies. Perhaps the creation of independent evaluation agencies, composed of professional policy experts and analysts, who are not subject to instructions by national policy-makers, can fulfill the same function.

Other authors criticize that no effective sanction mechanisms are provided if national governments fail to meet the targets to which they have committed themselves. They point to the violation of the Maastricht criteria as a deterrent example. However, as evaluation research in other areas has often shown, providing positive incentives, for example, by exposing ‘best practices’, is probably a much better way to influence the behaviour of actors than punitive sanctions. This is especially true when causal mechanisms are so complex that a single actor (e.g. a national government) cannot reasonably be held accountable for an unfavourable outcome because he cannot control all the relevant factors. For instance, attaining a certain employment rate may be difficult,

despite massive governmental efforts, because of fluctuations of the business cycle, pressures of globalization, demographic effects, etc..

Other criticisms focus on the shortcomings of the political process by which the consensus about policy goals is to be achieved. On the one hand, the OMC calls for the participation also of non-governmental actors (such as interest groups, social partners, NGO's) in setting up the National Action Plans. While it can be argued that inclusion of such non-governmental actors is desirable to mobilize support for the political goals from within civil society, it is not always recognized that the difficulties of achieving consensus will increase with the number of actors involved (and their particular interests). This will at least cause delays, if not deadlocks, in the decision-making process. If the inclusion of non-governmental actors leads to goal formulations and policy recommendations which differ from the government's view, another problem arises: How can a government be held accountable for not attaining policy goals to which it has not committed itself?

On the other hand, it is also criticized that consensus-building takes place mainly between national governments (represented in the EU Council), but largely neglects the European Parliament as the democratically legitimized legislative institution of the EU. This would make a consensus more difficult because it would give undue weight to particular national interests. More legislative competences for the European Parliament would make it easier to overcome such obstacles arising from diverging national interests.

While the general issue of the legitimation of EU decision-making (the so-called "democracy deficit" problem) has to be taken seriously, such criticism seems to rest on certain assumptions which can also be called into question. For example, it can be argued that the national governments are also democratically legitimized and are, therefore, the legitimate representatives of the national interests of the constituent Member States – whereas the European Parliament is not fully legitimized because of the absence of a European *demos* (which is reflected in the fact that, in the election to this parliament, representation is biased in favour of the smaller nations, whereby the principle of 'one man, one vote' is violated). Moreover, a similar question like the one above can be asked with regard to the EP: When policy goals would finally be defined by the European Parliament, how can then national governments be held accountable for the policy results?

4. Conclusions

Considering the inherent tensions between 'supranationality' on the one hand and 'intergovernmentalism' on the other which gave rise to the

demand for subsidiarity as an organizing principle for the sharing of competences and responsibilities, our conclusions are the following:

- The OMC has the major advantage of being a policy instrument which does not require the transfer of legal responsibilities from the national to the European level. Instead, it builds on a voluntary political commitment of the governments of the Member States to coordinate their policies (in circumscribed areas), based on a consensus about common goals, in order to achieve a greater convergence in policy outcomes.
- The OMC has the further advantage of being a *flexible* policy instrument which can be extended to more policy areas (provided there is a political consensus). It can be pragmatically adapted to institutional settings and administrative procedures prevailing in the respective countries, as well as to the peculiarities of the various policy areas (for instance, with regard to the specificity of objectives, the (non-)binding character of its goal formulations, the inclusion of non-governmental actors, etc).
- The OMC thus provides a good example of a relatively cost-efficient regulative policy. The broader goals are defined at the Community level, but the governments commit themselves to pursue and implement them at the national level. In particular, this method aims at achieving a higher degree of policy convergence among EU member states, but does not require additional fiscal resources for the European Union as such.
- Because of the problems arising from the phasing-in and the experimentation with OMC procedures, one should not expect spectacular substantive results (improvements in policy performance) in the short run. But in a longer term perspective, OMC offers the prospects of achieving a normative consensus about the goals of EU policies and thereby developing a common European identity.
- For these reasons, we are cautiously optimistic that the "Open Method of Coordination" has the potential to be a suitable instrument for implementing the principle of subsidiarity, without losing sight of the necessity of achieving more convergence of policies and thereby promoting the political integration of the European Union.

5. References

- Behning, Ute (2003). Die "neue Methode der offenen Koordinierung": Versuche der integrationstheoretischen Klassifizierung einer neuen Form des sozialpolitischen Regierens in der Europäischen Union. ZeS-Arbeitspapier Nr. 12/2003. Bremen.
- European Council (2000a). Lisbon European Council 23 and 24 March 2000, Presidency Conclusions.
- European Council (2000b). Nice European Council 7 8 and 9 December 2000, Presidency Conclusions.
- European Council (2001a). Stockholm European Council 23 and 24 March 2001, Presidency Conclusions.
- European Council (2001b). Goeteborg European Council 15 and 16 June 2001, Presidency Conclusions.
- European Council (2001c). Laeken European Council 14 and 15 December 2001, Presidency Conclusions.
- Commission of the European Communities (2000). Proposal for a decision of the European Parliament and of the Council establishing a programme of Community action to encourage cooperation between Member States to combat social exclusion. COM/2000/0368 final. Brussels.
- Commission of the European Communities (2001a). Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee - Supporting national strategies for safe and sustainable pensions through an integrated approach. COM/2001/0362 final. Brussels.
- Commission of the European Communities (2001b). Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions - The future of health care and care for the elderly: guaranteeing accessibility, quality and financial viability. COM/2001/0723 final. Brussels.
- Commission of the European Communities (2001c). European Governance: A White Paper. COM/2001/428. Brussels.
- Council of the European Union (1997). The 1998 Employment Guidelines Council Resolution of 15 December 1997. In: Official Journal C 030, 28/01/1998 pp. 0001 – 0005.
- Council of the European Union (1999). Council Resolution of 22 February 1999 on the 1999 Employment Guidelines. In: Official Journal C 069 , 12/03/1999 pp. 0002 – 0008.
- Council of the European Union (2000a). Council Decision of 13 March 2000 on guidelines for Member States' employment policies for

- the year 2000. In: Official Journal L 072 , 21/03/2000 pp. 0015 – 0020.
- Council of the European Union (2000b). Objectives in the fight against poverty and Social Exclusion. SOC 470. Brussels, 30 November 2000.
- Council of the European Union (2001a). Council Decision of 19 January 2001 on Guidelines for Member States' employment policies for the year 2001. In: Official Journal L 022 , 24/01/2001 pp. 0018 – 0026.
- Council of the European Union (2001b). Joint Report on Social Inclusion. SOC 538. Brussels.
- Council of the European Union (2002a). Council Decision of 18 February 2002 on guidelines for Member States' employment policies for the year 2002. In: Official Journal L 060 , 01/03/2002 pp. 0060 – 0069.
- Council of the European Union (2002b). Initial Report on health care and care for the elderly. SOC 82. Brussels, 25 February 2002.
- Council of the European Union (2002c). Fight against poverty and social exclusion: common objectives for the second round of National Action Plans. SOC 508. Brussels, 25 November 2002.
- Council of the European Union (2003). Council Decision of 22 July 2003 on guidelines for Member States' employment policies for the year 2003. In: Official Journal L 197 , 05/08/2003 pp. 0013 – 0021.
- Council of the European Union (2004). Joint Report by the Commission and the Council on social inclusion. SOC 115. Brussels, 5 March 2004.
- Majone, Giandomenico (1996). Redistributive und sozialregulative Politik. In: Jachtenfuchs, Markus / Kohler-Koch, Beate (eds.): Europäische Integration. Opladen: Leske und Budrich, pp. 225-247.
- Palier, Bruno (2004). The Europeanisation of Welfare Reforms. Paper presented to the COST A 15 Conference "Reforming Social Protection Systems in Europe: Co-ordination and Diversity. Nantes.
- Sakellaropoulos, Theodoros (2004). The Open Method of Coordination: A Sound Instrument for the Modernization of the European Social Model. In: Sakellaropoulos, Theodoros / Berghman, Jos, (eds.): Connecting Welfare Diversity within the European Social Model. Antwerpen: Intersentia, pp. 55-92.

- Scharpf, Fritz W. (1985). Die Politikverflechtungs-Fälle: Europäische Integration und deutscher Föderalismus im Vergleich. In: Politische Vierteljahresschrift, 26. Jg., Heft 4, pp. 323-356.
- Scharpf, Fritz W. (2002a). The European Social Model: Coping with the Challenges of Diversity. In: Journal of Common Market Studies 40(4), pp. 645-670.
- Scharpf, Fritz W. (2002b). Was man von einer europäischen Verfassung erwarten und nicht erwarten sollte. Lecture on the occasion of the award of the Schader Prize 2002 on 7 November 2002. Darmstadt.
- Scharpf, Fritz W. (2002c). Regieren im europäischen Mehrebenensystem - Ansätze zu einer Theorie. In: Leviathan, Zeitschrift für Sozialwissenschaften, Band 1, pp. 65-92.
- Schmid, Günther (2004). Lernen durch „weiches“ Recht. In: WZB-Mitteilungen, Heft 104, June 2004, pp. 11-16.
- Schmid, Günther / Kull, Silke (2004). Die Europäische Beschäftigungsstrategie – Anmerkungen zur „Methode der offenen Koordinierung“. WZB Working Paper SP I 2004-103). Berlin.