

JCMS Symposium: EU Governance After Lisbon

KENNETH ARMSTRONG

Queen Mary, University of London

IAIN BEGG

London School of Economics

JONATHAN ZEITLIN

University of Wisconsin-Madison

Introduction

The Lisbon Strategy was launched by the European Council in March 2000 with the goal of making 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’ by 2010. Following widespread criticism of the Union’s progress towards these objectives, the incoming Barroso Commission relaunched the Lisbon Strategy in January 2005 as the Partnership for Growth and Jobs. The three contributions to this symposium focus on the evolving governance architecture of the Lisbon Strategy and the EU’s role in co-ordinating the policies of the Union and its Member States.¹ The articles centre around three broad themes.

The first concerns the substantive scope, boundaries and balance of the Lisbon Strategy as a whole. In its early phase, the metaphor of the ‘Lisbon triangle’ was often used to delimit the Strategy’s boundaries and signal a new balance between social, economic and employment policies in European integration. With the emergence of the EU’s ‘Sustainable Development Strategy’ (SDS) at the Gothenburg summit in 2001, the Lisbon triangle became a quadrilateral with environmental policy as its fourth leg. These geometric metaphors disappeared with the 2005 Lisbon relaunch, which also

¹ This symposium was developed out of an ESRC-funded seminar series on ‘Implementing the Lisbon Strategy: Policy Co-ordination through Open Methods’ (RES-451-26-0030). They were originally presented at a workshop held at the Europa Institute, University of Edinburgh in April 2006 and revised for the EUSA Biennial Conference, Montreal, May 2007.

reopened the Strategy's boundaries. On the one hand, the prioritization of 'growth and jobs' explicitly narrowed Lisbon's focus to economic and employment policy co-ordination through a new set of integrated guidelines. EU social policy co-ordination, organized around a new 'streamlined' open method of co-ordination (OMC) on social protection and social inclusion, looked increasingly like a 'satellite' process orbiting the core of the Lisbon Strategy, while the SDS was redefined as a long-term 'complement' to Lisbon's medium-term goals. On the other hand, Lisbon became practically co-extensive with the totality of EU economic, social and environmental governance, covering everything from energy to maritime policy linked to the achievement of the Strategy's goals (with a new open-ended timeframe as the 2010 deadline was quietly dropped). Especially significant has been the changing balance of economic and social values and objectives to be pursued through Lisbon's governance processes. The influential Kok Report (2004) together with the arrival of the Barroso Commission seemed to shift the balance achieved in 2000 away from 'competitiveness' and 'social cohesion' as complementary aims towards a view of social progress as the product of economic growth. The subsequent period has witnessed repeated and at least partially successful attempts by a variety of actors within the EU policy-making process to reinstate and reinforce the original balanced Lisbon agenda.

The second theme concerns whether the Strategy as a whole, or any given co-ordination process, has a clearly articulated rationale. The 2005 relaunch signalled the Barroso Commission's desire to prioritize 'bilateralism' (EU institutions steering Member States to implement certain policies) over 'multilateralism' (a more 'open' and interactive learning process) as a basis for co-ordination. Yet, such a shift begs multiple questions about the nature and purpose of co-ordination and whether different processes are motivated by different rationales. The articles make evident the need to ground policy co-ordination processes in better analytical and normative foundations.

The final theme of the contributions concerns the future direction of the Lisbon Strategy and what form EU co-ordination processes might take. By the spring of 2008 a new cycle of processes – both the integrated Lisbon economic and employment guidelines and the 'streamlined' OMC on social protection/inclusion – will have begun. By then the shape – if not the ratifiability – of the new 'Reform Treaty' will also have become apparent. The articles consider what the future holds for policy co-ordination processes inside both the Lisbon Strategy and a reformed constitutional architecture for the EU.

The individual contributors advance a range of critical perspectives on the evolving governance of the Lisbon Strategy and offer a series of concrete

proposals for its reform. Iain Begg questions whether the elaborate arrangements of the Lisbon Strategy are justified given the diversity of reform challenges faced by EU Member States, while considering the possible rationales for such a co-ordinated approach, including policy learning and external incentives for overcoming internal opposition to reform, as well as more traditional spillover arguments. Jonathan Zeitlin analyses the relaunched Lisbon Strategy, identifying a number of major weaknesses in its governance architecture and proposes a set of reforms aimed at correcting the problems experienced under the relaunch by strengthening Lisbon's social dimension and restoring the autonomy of the European Employment Strategy. Kenneth Armstrong uses the Lisbon Strategy as a vehicle for exploring the relationship between governance and constitutionalism within the EU. He analyses how post-Lisbon governance is both constrained and animated by key frames of EU constitutionalism such as competence, subsidiarity and fundamental rights, while also suggesting that new forms of governance have a potential if limited ability to transform these constitutional frames.

Governance and Constitutionalism After Lisbon²

Introduction

Gatherings of the heads of state and government in Lisbon have a habit of heralding 'reform'. Meeting in the European Council in 2000, the governments of the EU Member States signed up to a programme of economic, employment and social reform with the launch of the Lisbon strategy. Seven years later – and convened as an informal European Council and a meeting of the Intergovernmental Conference – the leaders met and agreed a new Reform Treaty as a successor to the defunct Constitutional Treaty and as the new institutional – and constitutional – basis for an enlarged EU. But what is striking about the latter meeting was the sense of the need to move on from the constitutional issue and to get on with the task of governing. This is emblematic of the course of these great reform projects: they have tended to be conceived and advanced in parallel, as distinct and often unrelated ventures.

In this contribution I suggest that there is instead a necessary interconnection between 'constitutionalism' and 'governance'. This relationship was suggested more than a decade ago in Weiler's metaphor that: 'Constitutionalism is the DOS or Windows of the European Community [. . .] It is the operating system conditioning the process of governance itself' (Weiler,

² The author would like to thank all those who have commented on this for their helpful comments and suggestions. The usual caveat applies.

1997, pp. 97–8). Here, I explore the possible relationships between the new programmes of governance emerging in the post-Lisbon context – in particular, the ‘open method of co-ordination’ (OMC) – and the operating system of EU constitutionalism.

I. The Unsettled Constitutional Space of New Governance

The relationship between operating system and programme is such that it tends to be the programme – governance – that is required to change to the demands of the operating system – constitutionalism. Oftentimes constitutionalism will impose constraints upon governance. These constraints, however, also create spaces for new forms of governance to emerge and develop. Moreover, constitutionalism can animate and orientate governance, infusing governance modes and instruments with constitutional values. More radically, new forms of governance may, to coin Weiler’s metaphor, provoke a ‘reformation’ or a ‘transformation’ in constitutionalism by unsettling and changing its constraining/animating functions.

Yet, as Weiler acknowledged, constitutionalism has often been treated as coterminous with a more restrictive interpretative prism: constitutionalism as ‘constitutionalization’ with its emphasis on the structural doctrine of EU constitutional law – supremacy and direct effect – and the central role afforded to lawyers, litigants and courts as actors elaborating this doctrine in material spheres – particularly the Treaty-based economic freedoms (Weiler, 1991; Armstrong, 1998). When constitutionalism is reduced to the metaphor of constitutionalization, the relationship between constitutionalism and post-Lisbon governance tends to be viewed as a singular relationship characterized by, at best, a distance (failure to run), or at worst, an antagonism (corruption) between the constitutional operating system and new forms of governance.

I suggest instead that new forms of governance simply pose a challenge to EU constitutionalism: they occupy an unsettled constitutional space. This space is characterized by a range of possible encounters between constitutionalism and governance (see especially Walker, 2006). I characterize these as involving ‘accommodation’ – an ability of one to co-exist with the other without change to either – ‘adaptation’ – an encounter which alters in a limited manner one and/or the other – and ‘transformation’ – a more fundamental change to either governance or constitutionalism – as well as ‘antagonism’ – manifested as either incompatibility or irritation.³

³ These categorizations are inspired not only by discussions in the literature on the relationship between law and ‘new governance’ – on which see de Búrca and Scott (2006) and the articles published in the *Columbia Journal of European Law* (2007) Vol. 13, No. 3 – but also by the taxonomies used in the ‘Europeanization’ literature: for example, Radaelli (2003).

In what follows, I explore these mutual encounters between constitutionalism and new forms of governance, focusing on key developments in Lisbon policy co-ordination processes since 2000. Illustrated by reference to three constitutional frames – competence, subsidiarity and fundamental rights – and their relationship to the emergent OMC, I suggest that these encounters offer both an explanatory framework for, and critical perspective on, the evolution of post-Lisbon governance. Issues of ‘competence’, ‘subsidiarity’ and the protection of ‘fundamental rights’ are often implicit in discourses surrounding post-Lisbon governance or made explicit only in an *ad hoc* manner. The intention here is to reflect more directly on the manner in which these key aspects of EU constitutionalism constrain or animate new governance or are themselves reformed by their encounter with new governance.

II. Competence

The issue of ‘competence’ is at ‘the heart’ of post-Lisbon governance debates (Szyszczak, 2006). More precisely, competence concerns manifest themselves at both the systemic level – illustrated by the difficulties encountered in ‘constitutionalizing’ the OMC in the ill-fated Constitutional Treaty and the proposed Reform Treaty – as well as at a more micro-level in terms of whether the Treaties provide a solid legal basis for the substantive evolution of policy co-ordination processes.

Of course, some of the political and academic discourse has treated OMC processes as occupying a constitutional hinterland *beyond* competence. But at the same time, governance through OMC has often been considered as threatening to EU constitutionalism by facilitating ‘creeping competence’, either because OMC serves to soften up issues for some future EU grab for power, or because it seeks policy convergence but by means other than the constitutionalized legislative process.⁴ One approach to the disruptive effects of new governance might then be to attempt their constitutionalization in order to tame and limit their impact. For others, constitutionalization would be less about containment and more about placing these emerging governance techniques on a surer constitutional and legal footing in order to facilitate their development.

In a rare moment of explicit interconnection between constitutionalism and governance, the processes of Treaty reform – the ‘Constitutional’ and later Reform treaties – provided an opportunity to consider the constitutionalization of the OMC. The Convention Working Group on Simplification

⁴ See for example the European Parliament’s 2007 resolution on ‘soft law’ in which it is stated that the OMC ‘should not be misused to replace the Community’s lack of legislative competence and in this way to impose de facto obligations on the Member States that are tantamount to legislation but arise outside the legislative procedures laid down in the Treaty’ (European Parliament, 2007).

announced that '[C]onstitutional status should be assigned to the open method of co-ordination' by which it meant including a provision in the Treaty setting out what OMC entailed: constitutionalism as legal 'textualism' to use Walker's phrase (2006). Yet even in endorsing such a horizontal clause, the Working Group on Social Europe was keen to constitutionally constrain the use of OMC by limiting its application to areas in which no Union legislative competence was enshrined. This containment reflects what Trubek and Trubek highlight (2005, p. 89) namely a view of OMC as a sort of 'virus that needs to be quarantined': the OMC as potentially corrupting the operating system on which the attribution and division of competence is determined.

The result was a failure to accommodate a singular competence to co-ordinate within the Constitutional Treaty. Instead it appeared to produce three different species of co-ordination. While the Constitutional Treaty did recognize a new category of 'supporting, co-ordinating and complementary' competence – a transformation from the traditional exclusive/shared *legislative* competence dichotomy – this was expressed as supplementary to the specific competence to co-ordinate economic and employment policies, implying some qualitative difference between these and other examples of policy co-ordination. But even this new category of competence appeared to be expressed in two different ways: 'co-ordination' in areas such as trans-European networks and research and development was defined in explicitly OMC terms, while 'co-operation' in the social sphere – where the current practice is OMC – was legally expressed in less explicitly OMC language.

The draft Reform Treaty also distinguishes between economic and employment policy co-ordination – the core elements of the 'integrated' and revised Lisbon process – as a category of competence from a competence to 'support, co-ordinate or supplement' the actions of Member States (Article 2 of the Treaty on the Functioning of the Union). However, and unlike the Constitutional Treaty, it treats the social policy co-ordination processes as at least belonging to the same species of co-ordination as that of economic and employment policy co-ordination, albeit that the social co-ordination processes are not mandatory (see Article 5 of the Treaty on the Functioning of the Union). This may be reflective of a desire to adapt the Treaty framework to give more express legal recognition to the social co-ordination processes as a symbol of a stronger commitment to these processes as part of the Lisbon governance architecture. Nonetheless, the encounter between constitutional reform and new governance is a rather functional and pragmatic one: a desire to accommodate and adapt rather than to transform.

Aside from the macro-level treaty reforms, competence questions frame the evolution of the post-Lisbon governance architecture in more micro ways. Two examples illustrate the point. The first concerns the idea of integrating a

social dimension into the Lisbon 'Integrated Guidelines' (see Zeitlin, 2008). These Guidelines currently cover the Treaty-based co-ordination processes for economic and employment policy. The question then arises whether the existing legal bases covering these processes could include social objectives (and if so, which ones) or whether the Treaty provisions covering EU social policy (which establish tasks and objectives but do not elaborate any particular type of co-ordination process) alone, or in combination with Article 308 EC, could provide a supporting legal basis for a revised over-arching co-ordination process that included social objectives. While we typically think of legal basis questions as primarily arising in respect of legislation, similar sorts of competency arguments can be raised even as regards co-ordination processes. Therefore, on the one hand, we can see a constraining influence of the constitutional frame of competency on the evolution of governance, but on the other hand, the challenge of new forms of governance requires us to re-frame how we think about legal basis issues.

The second example concerns what has become known as 'active inclusion'.⁵ In 2006, the Commission launched a consultation on active inclusion and, in particular on the 'common challenge' of the effectiveness of minimum income schemes (Commission, 2006c). Given the current wording of the Treaties and the Member States' reluctance to cede greater legislative competence to the EU it was never very likely that the Commission would propose legislation in this area. Previous efforts had resulted simply in the adoption of two Council Recommendations on the convergence of social protection systems in 1992. What the Commission has proposed is to 'deepen' the OMC process operating in this area by the adoption of common principles to be enshrined in a new Recommendation (Commission, 2007b). So in one sense this is a familiar story of a lack of legislative competence in the social sphere leading to a 'soft' outcome. But in another sense, we find novel experimentation with new governance techniques. This highlights that post-Lisbon governance creates opportunities to deploy a range of instruments – Recommendations and OMC – as means to advance the competencies conferred upon the Union, and in a number of policy domains 'hybridity' may increasingly be the norm (Kilpatrick, 2006; Hervey, 2007; Trubek and Trubek, 2007). Hybridity expands our conceptualization of 'competence' beyond narrow connotations of the power to act with the power to legislate.

Nonetheless – and while accepting the unsettling nature of the OMC for how we think about competence – it is not apparent that the emergence of new forms of governance is resulting in a fundamental constitutional

⁵ Defined by the European Commission as combining 'income support at a level sufficient for people to have a dignified life with a link to the labour market through job opportunities or vocational training and through better access to enabling social services' (Commission, 2007b).

transformation of the existing attribution and division of legislative competence. The collective experience of successive cycles of policy co-ordination and the potential limits to the utility of co-ordination has not translated into a serious debate about extending EU competence. While the Sapir Report suggested that a case could be made for resort to 'the traditional instruments of the Community method' (2004, p. 191) where co-ordination encounters significant spillovers, and while the *Notre Europe* (Collignon *et al.*, 2005) analysis of Lisbon also called for something 'harder' than co-ordination in areas where externalities are high, neither account questions the constitutional feasibility of this shift from new governance to the Community Method. In this way, experimental governance – by which I mean a flexible deployment of a range of instruments and techniques – remains heavily constrained by a constitutionalism which not only continues to place the Community Method at its architectural core, but also restricts the ability of new forms of governance to call that constitutional settlement into question.

III. Subsidiarity

The Lisbon European Council in 2000 presented OMC as being an expression of the principle of subsidiarity,⁶ suggesting a happy accommodation of post-Lisbon governance within this constitutional frame. In many ways this is a rather strange assessment given that the scope of application of the subsidiarity principle has been largely limited to the realm of policing the exercise of the EU's *legislative* powers in areas of shared competence: a point emphasized even more strongly in the Reform Treaty's proposed Protocol No. 2 on the application of the principles of subsidiarity and proportionality. But even if we extend its scope of application to the emergence of new forms of governance like the OMC, simply to treat OMC as an expression of subsidiarity denies the principle the very critical work it is supposed to undertake. Here it is suggested that the subsidiarity principle can be deployed to raise important questions about the nature of governance through OMC, but that in practice its critical potential has not been fully realized.

One avenue of enquiry relates to participation within OMC processes. As presented at Lisbon, the essence of the decentralized approach – upon which the subsidiarity claim was premised – lay in its engagement with regional and local actors as well as with civil society and social partners. And yet the strategy has been described as missing a regional dimension (Scott, 2005), while the participation of social partners and civil society has varied across

⁶ 'A fully decentralized approach will be applied in line with the principle of subsidiarity in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership.' Presidency Conclusions, Lisbon European Council, March 2000.

processes, across Member States and across time. To that extent, one aspect of subsidiarity – the participative dimension – has animated debates about the OMC governance architecture.

A rather different line of enquiry, and arguably a more core dimension of subsidiarity, concerns substantive justification for EU co-ordination. It is striking that in the evaluation of the social inclusion OMC processes, for example, when asked to explain the ‘added value’ of policy co-ordination, respondent states and stakeholders gave rather general accounts, tending to emphasize more the manner in which the process had placed social issues on the European agenda than in explaining the value of then co-ordinating such issues, with few direct references to the impact on domestic policy development (Commission, 2006c). It is the weakness of policy co-ordination as a governance tool that its very openness permits very different rationales for co-ordination to co-exist (Begg). Particularly as regards the social inclusion process, too much of the debate has been dominated by an all-or-nothing approach – to be in favour of EU social governance is to remain committed to the OMC processes – rather than a bolder assessment of whether the EU is best placed to co-ordinate a multitude of candidate policies that may fall within the ‘multi-dimensional’ approach to social inclusion. Indeed, the sort of reforms which Zeitlin (2008) suggests – particularly as regards what sort of social dimension to integrate into, and prioritize within, a reformed integrated Lisbon process (and its relationship both to the existing social OMC processes and supporting ‘Action Programme’) – ought to be guided by a clearer articulation of the rationale(s) for EU intervention.

Hodson and Maher (2001), in one of the most influential initial assessments of the OMC, considered OMC not simply to be an expression of subsidiarity, but indeed as a ‘radicalization’ of subsidiarity. On this view, the constitutional frame can be transformed by freeing the principle from the limited constitutional role assigned to it in respect of the legislative process, allowing the principle to animate and orientate debates about post-Lisbon governance. However, contrary to the optimism of Hodson and Maher, it has almost been enough that OMC is not EU legislation for it to escape a subsidiarity-guided enquiry as to its substantive rationale and purpose. The radicalization of the principle in light of new governance, and as a means of demanding justification for EU policy co-ordination has been far from fully realized.

IV. Fundamental Values, Fundamental Rights

Much like the frame of ‘competence’ it is easy to position new forms of governance outside of, or beyond, debates about fundamental values or

fundamental rights: they appear to occupy distinct universes. But when analysed more closely there are two types of interconnection. The first relates to whether new forms of governance in the sphere of social policy can contribute towards the rebalancing of constitutionalism in the EU at the substantive level of values. The second concerns whether the architecture of new governance can be utilized as a means of taking forward constitutional commitments to fundamental social values and rights.

For Scharpf (2002), governance techniques like the OMC are corrupted by the operating system of economic constitutionalism and cannot, therefore, achieve the goal of rebalancing EU constitutionalism at the level of substantive values. That is to say, 'constitutionalized' EU economic law constrains the very social policy sovereignty through which co-ordination processes are intended to operate (see also more generally Leibfried, 2005). Space does not permit an extended exploration of this view, but I want to intimate both that this common perception is remarkably overstated (see also Ferrera's critique, 2005) and that if there is a threat to domestic social sovereignty it may lie less in constitutionalized economic values and more in the Court of Justice's elaboration of a form of EU social citizenship. Of course, I do not suggest that domestic social policy is unaffected by EU economic law: I simply take issue with the specific claim that in areas covered by extant social OMC processes – poverty, pensions and healthcare – Member States are significantly restricted by judicial application of directly effective Treaty law relating to the internal market and/or competition law. Indeed the European Court of Justice has often found either that there was no economic connection justifying the analysis of national policies in light of either free movement or competition rules, or it has restricted their application in light of the social purposes served by the national policy. Although there have been significant rulings on cross-border access to healthcare, they place relatively limited constraints on the domestic organization of healthcare (see further Hervey, 2006). Rather, if there is an erosion of social policy sovereignty that limits the potential of OMC it may well be coming from the constitutionalization of 'social' principles. Thus, in its complex decision in *Mangold*,⁷ the wide discretion afforded to Member States in the conduct of their employment policies was held to be limited by fundamental principles such as the right to equality and the right of non-discrimination on grounds of age. There is an activist court at work but not in the way that either Scharpf or Leibfried suggest.

If Scharpf tends to view economic constitutionalism as a threat to OMC processes, then for Offe (2003), such processes may serve as the vehicle for the promotion of economic values via a 'modernization' agenda that

⁷ Case C-144/04, *Mangold v. Rüdger Helm* [2005] ECR I-9981.

destabilizes and even demolishes 'entrenched institutional patterns' within domestic social welfare systems. Whether the aim of co-ordination is to dismantle domestic social protection schemes or to preserve and enhance them in the face of competitive pressures is open to debate. Certainly, the balance between the 'competitiveness' and 'social cohesion' faces of Lisbon has shifted over time, as Zeitlin's contribution eloquently articulates. But accounts other than Offe's suggest a more nuanced interpretation of the relationship between economic and social integration and the contribution of social policy co-ordination to the balance between economic and social values (see Wincott, 2003; Daly, 2006).

Arguably, the Lisbon social co-ordination processes have occupied a symbolic space through which debates about the fundamental values of European integration might actually be articulated. Indeed, the commitment of social NGOs to the OMC is understandable less in terms of a commitment to OMC as a governance technique and more as a vehicle to keep social values alive within political discourse. Struggles over the future of the social OMC processes engendered by the relaunch of the Lisbon strategy were not merely a contestation over the future of OMC as a governance technique, but were also deeply imbued with concerns as to the representation of social values and social rights within the EU's constitutional architecture. But while the political discourse and rhetoric has been infused with commitments to the European Social Model as an expression of fundamental social values, what has been much less apparent is how the Lisbon governance architecture might accommodate, adapt to, or be transformed by, these values, and how the symbolic space occupied by OMC might be turned into an architecture in the service of fundamental social values.

The idea of using OMC to take forward fundamental values and rights has become a theme of recent academic scholarship (see de Búrca, 2005; de Schutter, 2005; Ferrera, 2005). Inspired by this scholarship it is possible to suggest ways in which fundamental social values might be used to animate EU social governance. Treating social commitments as expressions of fundamental rights within a revised integrated Lisbon process could facilitate the rebalancing of economic and social values. It would support the mainstreaming of social concerns into economic and employment policies at a programmatic level. But of equal importance is the manner in which fundamental rights might transform OMC processes into strong accountability processes. Fundamental rights could support an accountability dimension by acting as standards against which to judge policy performance. Indicators – whether existing or new – could be used as a basis for articulating those standards and for monitoring and comparison across states. The Fundamental Rights Agency – consistent with its mandate – could be brought into the monitoring

and evaluation process together with civil society organizations, thereby breaking the Commission/Council duopoly on evaluation that has produced little by way of useful conclusions. The conclusions of the research community – funded under the PROGRESS initiative with strands to support the OMC processes – might also be better integrated into this form of monitoring and evaluation rather than being somewhat distant from it as was the case before.

Emphasizing the accountability dimension may also help clarify the hitherto ambiguous status of the documents – National Action Plans (NAPs)/ Strategic Reports/National Reform Programmes (NRPs) – produced by Member States under the various co-ordination processes. The Lisbon NRPs produced on a triennial basis ought to set a strategic course for the content of national policies. There is, however, an argument for something like the old NAPs to be produced on an annual basis which have no ambition other than to serve as reports through which Member States account for their policies and from which monitoring and evaluation might develop.

The sort of reformed Lisbon process suggested above treats fundamental rights and new forms of governance not as incompatible and distant from one another but as potentially mutually transformative. Fundamental rights are transformed beyond a narrow constitutional role – as individual entitlements to be enforced by courts against states – to reach into the policy-making process by stimulating governmental actors to reflect upon, and to develop policy in a manner which advances social goals as fundamental rights and mainstreams these concerns in a range of policy fields. Simultaneously, techniques like the OMC can develop a stronger accountability dimension in holding policy-makers to account for their performance through systematic and periodic analysis and review.

There is every reason to be sceptical about the willingness of political actors to reconceptualize the social OMC processes as a means for promoting fundamental social rights. Nonetheless, it is noteworthy that the Commission's 2007 Communication on active inclusion (2007b) – in proposing a deepening of the OMC – suggests that one of the principles to be advanced through OMC is the 'basic right of a person to sufficient resources and social assistance to live in a manner compatible with human dignity'. This principle reflects Article 34(3) (Title IV) of the Charter of Fundamental Rights, which in turn draws on the provisions of the Council of Europe Revised Social Charter. There is, then, a connection being made between fundamental rights and the OMC. In that regard, it is also interesting that the Reform Treaty's Protocol No. 7 on the application of the Charter to the UK and Poland only restricts Title IV of the Charter from creating 'justiciable rights' applicable to the UK or Poland. This would not then prevent Article 34 of the Charter being

advanced via the OMC and applied in the UK and Poland.⁸ All of which indicates not only a harnessing of new governance towards the ends of fundamental rights (Armstrong, 2003; Bernard, 2003), but also the possibility of new governance to challenge attempts to constitutionally constrain and confine social rights in the EU: a rather different conclusion from that suggested by either Scharpf or Offe.

Conclusion

Conceptualizing post-Lisbon forms of governance like the OMC within the language and register of constitutionalism poses a challenge for lawyers and political scientists. For the lawyers the emergence of new forms of governance have often been viewed as functioning in a hinterland beyond law and constitutionalism and/or in need of taming and disciplining by, or quarantining from, EU constitutionalism (see Hatzopoulos, 2007). For political scientists, the objection might be that this focus on new forms of governance is simply a distraction from the more significant processes of judicialization and legalization going on elsewhere (Idema and Keleman, 2006). Or, there may simply be a sufficient supply of constitutionalism for the demands of 'regulatory governance' (Moravcsik, 2002), with the atypicality of alternative forms of EU governance treated as a reason not to extend the constitutional enquiry much further (for a powerful critique of this position see Wincott, 2006).

The proposition advanced here is that, notwithstanding the intellectual difficulties in seeking to reconcile constitutionalism and new forms of governance, the task is unavoidable. The response to Idema and Kelemen is that instruments like the OMC have emerged in part as a reaction to the constitutionalization process and now occupy an unsettled constitutional space characterized by a range of potential encounters between constitutionalism and new governance. And while regulatory governance may well remain a dominating form of EU governance – even within the Lisbon strategy itself (Commission, 2005b) – nonetheless, new policy co-ordination techniques are operating in important policy fields. If de Búrca (2006) is correct that technocratic 'regulatory governance' produces discontents and legitimacy problems, then the creation of new governance techniques in sensitive areas may well be seen as an attempt to manage those legitimacy problems, even if they then create legitimacy problems themselves. The challenge, therefore, lies in narrowing the conceptual gap between constitutionalism and new forms of governance rather than staring forlornly into the abyss or simply gazing off in

⁸ Neither state has ratified the 1996 revised Social Charter.

a different direction. As this contribution has attempted to demonstrate, there is much in the Lisbon governance architecture that can be analysed and critiqued through the lens of constitutionalism. And at the same time, there is much that can be understood about the constraining and animating dimensions of EU constitutionalism by reflection on the constitutional space which new governance occupies.

The proposed Reform Treaty would not install a new operating system of EU constitutionalism: it would reboot the system with a revised version. In part this system adapts to the emergence of new governance and yet at the same time, it remains largely preoccupied with constitutionalizing governance through the legislative process. Meanwhile, the Lisbon strategy is set to move into another phase of development. Therefore, we can look forward to a continuing range of encounters between post-Lisbon constitutional and governance architectures.

Correspondence:

Kenneth Armstrong
School of Law
Queen Mary, College University of London
London E1 4NS, UK
email k.a.armstrong@qmul.ac.uk

Is there a Convincing Rationale for the Lisbon Strategy?⁹

Introduction

The Lisbon strategy, launched in March 2000 at the peak of the last economic cycle in the EU-15, was intended to be a comprehensive attempt to transform the supply-side of the European economy. It also had the ambition of boosting European competitiveness, especially in the knowledge-based sectors of economic activity while preserving core elements of the European social model. It was complemented, at the Gothenburg European Council in 2001, by the articulation of the sustainable development strategy in which environmental objectives were added to the economic and social.

Five years on from its launch, it had become evident that the Lisbon strategy was struggling, as noted in the Kok report (Commission, 2004) and the annual scorecards produced by the Centre for European Reform (Murray and Wanlin, 2005, was the last one to cover 'Lisbon I'). Criticisms centred not only on the desultory record of certain Member States, but also on the lack of focus and of embedding in national policy-making procedures. The Kok report was pretty trenchant, noting problems of implementation, an overloaded yet poorly co-ordinated agenda with incompatible priorities and a lack of political commitment. Across a range of economic policy areas, open methods, action plans and other initiatives of varying impact had proliferated since the creation of the European Employment Strategy in 1998. With hindsight, the major weakness of the Lisbon strategy was that its governance simply had not been thought-through. Though there is little dispute about the broad aims of the Lisbon strategy, the Kok report and other criticisms made it clear that implementation failings, especially, had weakened its impact.

In the circumstances, it is hardly surprising that the in-coming Barroso Commission sought to re-launch the strategy (Commission, 2005) and to place it at the centre of its economic programme. An amended strategy was duly endorsed by the European Council in March 2005, albeit with one of the key recommendations of the Kok report (naming and shaming) left out. The re-launch (alongside reform of the Stability and Growth Pact) afforded an opportunity to rethink the EU's approach to policy co-ordination. Hence, rather than questioning whether the lack of delivery from 'Lisbon I' might indicate that co-ordination was a wrong approach, the Commission plainly decided that the solution is a different form of co-ordination.

Its main innovation was to push Member States to take 'ownership' of Lisbon, by obliging them to develop a single National Reform Programme

⁹ The research on which this paper draws is part of the Integrated Project 'New Modes of Governance' (<<http://www.eu-newgov.org>>), financially supported by the European Union under the 6th Framework programme (Contract No CIT1-CT-2004-506392). The customary caveats apply.

(NRP), based on a set of 'integrated guidelines' that spell out broad orientations for reform. These guidelines bring together what were previously the Broad Economic Policy Guidelines (put forward under Art. 99, TEC) and the Employment Guidelines (Art. 128, TEC). The consolidation of Member State responses into a single programme is designed to instil greater coherence into the policy-making process and to ensure that the different agencies and levels of governance act in a more united way in pursuing reform, making for a less fragmented political and administrative 'ownership' of the different policy areas.

A complementary Community Lisbon Programme (CLP) was also drawn up with the result that much more is now included under the Lisbon agenda, which now encompasses various regulatory activities and forms of hard law. For example, the Community guidelines for one of the EU's flagship expenditure policies – the Structural and Cohesion Funds – have been written to take much greater account of Lisbon aims. Within the Commission, too, responsibilities are now more widely distributed, with a prominent role now being taken by DG Enterprise and Industry under the overall co-ordination of the Secretariat-General.

The upshot is that the strategy is now a much more comprehensive one. A question that is surprisingly little discussed, though, is 'what is the added value from it?' This paper starts by asking what problem(s) the Lisbon strategy is intended to resolve, and goes on to discuss the principles behind policy co-ordination, focusing on the merits of the Lisbon approach. The re-launched Lisbon strategy is then appraised and a concluding section considers what the implications are for EU economic governance.

If the Lisbon Strategy is the Answer, What is the Question?

Slow growth in the EU in recent years, with the core economies of Europe – especially France, Germany and Italy – going through a difficult phase, has highlighted structural weaknesses. Alesina and Giavazzi (2006, p. 3), for example, observe that 'without serious, deep, and comprehensive reforms Europe will inexorably decline, both economically and politically', and their work implies above all that there has been too great a reluctance within the EU to acknowledge that a half-hearted approach to genuine market-oriented reforms will not suffice. Some commentators argue there is a systemic problem to address, rather than just a need for ad hoc reforms (Eichengreen, 2006), with established institutions that had underpinned economic performance having become obstacles to it.

The emergence of the Lisbon strategy can be seen partly as a response to a relatively deteriorating economic performance, potentially aggravated by

demographic trends, and partly as an attempt to emulate US success in the knowledge-intensive industries. Latterly, it has come to reflect the fact that the EU has been slow to come to terms with globalization, implying a more defensive, co-ordinated response to intensifying competition and pressures to re-calibrate the European social model. It was also seen as an attempt to revitalize economic policy-making by reforming areas of governance that exhibit shortcomings. There is, too, some suggestion that economic integration is no longer enough and that broader transformations are needed if the EU is to compete more effectively on the global stage, especially in the knowledge economy. The quality of investment as well as application of market principles have to go together.

The remedy that underlies the Lisbon strategy is 'structural reform', an expression that manages simultaneously to be ill-defined, obvious and accepted in most quarters as a 'good thing'. Yet it is also a source of contestation, implies losers as well as winners, and often has a delayed or uncertain pay-off. It is widely accepted that the main objective of structural reform is to enhance longer term performance by acting on productivity and the employment rate. These are microeconomic changes that may not immediately lead to improved growth or employment, and the initial impact may well be depressing to growth or employment. Yet without reform, the economy would be locked into a trajectory of sluggish performance and might even see a tailing-off as weaknesses on the supply-side became progressively more debilitating. It is only when the medium- to longer-term benefits of the reform start to outweigh the short-term costs that the reform shows its value. In addition, structural reform tends to be cumulative, with the prospect of individual reforms reinforcing one another, though equally of piecemeal changes having less impact than a concerted programme. Timing and sequencing are, thus, also of the essence. Whether fiscal restraint hampers or facilitates structural reform is also disputed – Buti *et al.* (2007) show that the time perspective adopted by governments is critical.

What these debates underline is that there is no settled view about the policy agenda that underlies the Lisbon strategy. But reform is also to do with governance and the capacity of institutions to convince different interests of the virtues of the case. These observations suggest that structural reforms or changes will be most intense either when there is a sense of severe crisis¹⁰ in the economy or when it is performing well. For countries with lacklustre growth, radical action may be taken only when a tipping-point is reached at which a consensus forms to say '*genug*', '*ça suffit*' or '*basta*'. The indecisive

¹⁰ An extreme variant of 'enough-is-enough' is the transition from central planning to market economies that occurred throughout central and eastern Europe after 1990.

election results in Germany (2005) and in Italy (2006) partly reflect the fact that there was no obvious champion of comprehensive reform among the larger political parties, though the much more decisive result in France in 2007 may tell the opposite story. At least in part, these are problems of economic governance that reflect, simultaneously, difficulties in establishing a direction for change in previously successful 'models'. Against this backdrop, the Lisbon strategy purports to offer a recipe for accelerating structural reform and re-vitalizing the EU economy.

I. The Rationale for Policy Co-ordination

What is less evident is that structural reform can be more rapid or effective as part of a co-ordinated process. Indeed, there are heated disputes amongst economists about whether or not policy co-ordination is useful at all. Some take the view that while governments should 'keep their houses in order' (Issing, 2002), there is little merit in attempting to achieve wider co-ordination either between policy areas or across national boundaries. Others take the opposite view and go so far as to call for European-level economic government (Collignon, 2003). As Sinn (2004) points out, Member States can be tempted to engage in various forms of 'system competition', seeking to manipulate the regulatory environment to boost competitive advantage and co-ordination could be seen as a way of preventing excesses of such competition.

Conceptually, there could be quite diverse reasons for seeking to co-ordinate policy. A first is simply to steer economies in similar directions, above all to forestall national adjustments that have damaging spillover effects on other countries. The case for cross-border co-ordination in much of the economic literature is predominantly based on the extent of spillover, but there may also be some advantages from economies of scale (Debrun and Pisani-Ferry, 2006). Co-ordination in certain areas, such as pension reform, may also bear on interdependencies in conventional areas, such as fiscal policy – a form of 'functional' spillover. By contrast, in mainstream arguments against co-ordination of structural policies, it is often argued that spillover effects will probably be small and may well be negative. Moreover the reforms needed differ substantially from one country to another, casting doubt on a common agenda (Tabellini and Wyplosz, 2004).

However, Debrun and Pisani-Ferry (2006) suggest that in the euro area, the mere fact of having a common currency reinforces the benefits of co-ordination and they therefore argue that it is ironic that the euro area dimension of Lisbon has been largely neglected. In much the same way as fiscal co-ordination, co-ordination of appropriate structural reforms may

result in lower interest rates as a collective benefit from co-ordination. Debrun and Pisani-Ferry note, further, that where there is a risk that structural reforms in one euro area member might cause complications for others or for the euro area as a whole, there may be a case for co-ordinating the timing, sequencing or intensity of reform efforts. If so, a governance process capable of reconciling priorities would be needed, embracing firm decisions as well as dialogue.

An entirely different rationale is that co-ordinated policy can facilitate policy learning and push governments to adopt best (or better) practices. Most of the policy areas subject to the open method of co-ordination (OMC) can, at least in part, be justified on these grounds, although access to the relevant knowledge about what does and does not work could be obtained without the time-consuming paraphernalia of National Action Plans or Reform Programmes, monitoring, peer review, targets, indicators and so on. An aspect of learning as a rationale for co-ordination is that it may reduce uncertainty about the impact or value of reforms, because a country can draw on evidence from elsewhere. Political advantages may simply come from acting together, as suggested by Debrun and Pisani-Ferry (2006, p. 7) who observe that there may be '*political economies of scale*' [emphasis in original].

A third rationale for co-ordination is that the mere existence of a common programme creates a lever that governments can use to counter opposition to policies that it believes to be in the national interest, but lacks the power to impose unilaterally. This will be reinforced if it engenders a commitment that enables the Member State to go further or faster than it would otherwise, especially where longer-term gains are slow to emerge. The external factor then becomes a crucial factor in shaping policy choices. Italy in the mid-1990s used this tactic to pursue policies conducive to attaining the EMU convergence criteria (Dyson and Featherstone, 1999). Similarly, the pace of transition in much of central and eastern Europe was partly motivated by the promise of EU membership, with conditionality in the background as the ultimate sanction.

A fourth justification for co-ordination has more to do with the process of policy-making. Having a common methodology for policy-making may enable countries to put in place a coherent reform strategy that they would find more difficult to construct on their own, either because they fail to see the relevant policy connections or lack the analytic capability. There are several ways in which a co-ordinated process could enhance the quality of economic reform. The first is by providing a template for reform that draws on the collective experience of partners and shows Member States how to analyse their shortcomings, as well as to structure a reform package. Here again, however, the question arises of whether a one-size-fits-all approach is optimal

and there may be tensions around how much or how rapidly the template should evolve. A second potential gain comes from demonstrating the advantages of differing approaches to governance, such as engaging diverse interests (social partners, NGOs) in the reform process. Third, a monitoring and scrutiny function can help to identify shortcomings in Member State approaches and, thus, contribute to keeping reform on course. In addition, in a system in which several levels of government have to act together to assure reform, policy coherence is more readily achieved, and in all these ways the process itself may reinforce the learning rationale referred to above.

II. Justifying the Lisbon Strategy

To what extent do these conceptual justifications vindicate the Lisbon strategy as it has evolved in the EU? At one level, a spillover argument is unassailable. If the economies of partner countries become more productive, their rising prosperity should increase demand everywhere, although followers of the *délocalisation* and Polish plumber debates will recognize a flip-side. For the spillover argument to hold, however, it would have to be demonstrated both that the common programme is necessary for reforms to take hold and that the pay-off to reform in one Member State is diminished by inappropriate or delayed reform in another.

By having an organized procedure for sharing experience and so on, it may be that countries open themselves to a far greater degree than they would otherwise to policy innovation and if the *vincolo esterno* argument also applies, then it may be that the resolve of governments to tackle problems can be stiffened. Here too, though, the opposite case can be argued, namely that pressure from Brussels proves to be counter-productive by creating a common enemy against whom diverse interest can unite. Confusion about the aims of the different co-ordination processes and the fact that Member States face different reform challenges, coupled with the lack of political engagement by Member States or of means of motivating them, also raise doubts about whether co-ordination can be effective.

Irrespective of the conceptual case for Lisbon-style policy co-ordination, it could be argued that if it leads to convincing results the ends would justify the means. Member States have developed programmes that respond at least adequately to the IGs, but these programmes differ markedly from one Member State to the next and several have evident shortcomings. This is unsurprising – after all, it is to be expected that there will be pronounced differences in what needs to be done. Yet, if countries differ so much that the IGs have limited resonance, it is hard to see what the point of co-ordination is. Big differences can also be seen in the degree to which the NRPs concentrate

on analysis of what needs to be done, reporting of initiatives already underway and announcement of new proposals, as well as in the attention paid to certain 'sexier' elements of reform, such as R&D (Begg, 2006).

A core aim of the re-launched Lisbon strategy is to improve governance by better engagement with national actors and making Member States more accountable to their various stakeholders. 'Ownership' by national actors is considered vital, but there is little evidence that Lisbon has moved to centre-stage in national policy-making (for a critique, see Pisani-Ferry and Sapir, 2006). Although the 2000 Lisbon Presidency conclusions specified a catalytic role for the Union in making the Lisbon strategy work, there have been doubts about how the Union should carry out this role, not least because of the dearth of funding from the EU budget. Oversight and scrutiny have also been tentative. In the 2005–06 cycle, it appeared to have been politically expedient for the Commission – especially – to adopt a fairly soft attitude towards the Member States both in assessing their NRPs and in choosing (in the 2005–06 cycle) not to issue any country-specific recommendations (Commission, 2006a). National recommendations were made in the 2006–07 cycle, but remained rather blandly expressed, even when the criticisms were pretty severe, yet there are signs that scrutiny procedures are proving more effective in pushing Member States to deal with shortcomings – see Begg (2007).

To be justified, Lisbon II has to offer Member States more than they could obtain from informal contacts with their partners or meetings at the OECD. Based on developments during the 2006–07 cycle, a first, straightforward observation about the Partnership for Growth and Jobs as a governance process is that it has done what was expected of it, at least in procedural terms. The value added of these procedures in terms of accelerating economic reform is far from established, but a reasonable verdict on Lisbon II is that it seems to have succeeded in engaging the various actors to a considerably greater extent than Lisbon I. Hence, following the March 2005 re-launch, 'Lisbon' has become a more comprehensive approach to economic governance: a partnership between the Community and Member State levels and less of a loose agreement among Member States.

But the question that then arises is whether these more effective procedures are delivering results. As regards the Community Lisbon Programme, it is clear that real advances have been made and that the Programme overall is likely to be completed (Commission, 2006b). The National Reform Programmes, as ever, are more mixed (Begg, 2007). Some Member States have clearly gone a long way towards achieving the sorts of reforms envisaged, but others are barely out of the starting-blocks. This conjunction does prompt doubts about whether a common format is appropriate. Merely

announcing a policy is not always the same as pursuing it with vigour and to good effect.

Concluding Remarks

The Lisbon approach may have emerged because of a lack of alternatives. Majone (2005) argues that Member States, even if they are sympathetic to common aims, increasingly wish to act outside the traditional framework. Co-ordination can, therefore, be said to be undertaken because of the weakness of EU institutions, rather than as a means of assuring the best governance. But governance also implies choices: in domestic politics, it is normal for the balance of policy effort to shift as different political constellations gain or lose power. In the Lisbon strategy, however, reform is presented as being orthogonal to distributive issues: the message tends to be 'here is what needs to be done', with no regard to how it affects different constituencies. Equally, most, if not all, EU Member States governments have a pretty good idea of the reforms that are needed, but struggle to find the right sequence in which to implement them or a coalition to support them. As a result, reform may well be botched.

It has been argued in this paper that the rationale for Lisbon as a co-ordination process is poorly articulated. Although reform efforts have become more extensive and central to economic governance in all Member States, it is far from obvious that the reforms that have taken place have occurred *because* of the Lisbon strategy. Despite progress in some areas, there is still a long way to go on others, and there is also a risk that a sharp focus on some targets (such as the employment rate) will divert attention away from other, more complex aims such as boosting productivity. The problem is not so much to identify the priorities for reform as to find ways of advancing it. It has constantly to be repeated that the principal difficulty is not one of diagnosis or analysis, but of implementation. Lessons from elsewhere may well be applicable to how policy is conducted as much as to the choice of reforms and there are striking examples of avoidable failures in implementation, such as the French attempt to reform employment contracts in 2006.

While it has to be recalled that reforms only show their effects after a considerable lag, it is hard to identify extensive changes in the approaches of Member States, and those which are most lauded for their Lisbon track-record tend to be those that have been most reform-orientated for some time. It is, consequently, hard to say that Lisbon has made the difference. One of the first independent assessments to be done, by the Centre for European Reform scorecard (Wanlin, 2006), offered only a 'C' grade to the process in its first year after the re-launch and that barely advanced in the 2007 version when the Centre awarded a C+ grade (Barysch *et al.*, 2007).

Equally, a parallel can be drawn between Lisbon and the Stability and Growth Pact. Many regard the latter as having been ineffective prior to its reform in 2005, and so watered-down as to be meaningless since that reform. But an apparent paradox is that although the letter of the fiscal rule has repeatedly been breached, it has not been by much, implying that it has exerted quite a strong disciplinary impact. In a similar way, Member States may pay only limited attention to the letter of the integrated guidelines and be somewhat cavalier in their reporting on progress, but if they are nevertheless acting to achieve reforms consistent with the Lisbon approach, then it may be that the strategy is percolating into policy thinking to a greater extent than is apparent.

There may, though, be a risk that once the initial NRP has been produced, interest wanes rather than being sustained – a form of ‘Lisbon fatigue’. On the other hand, it is results that matter, and it could be argued that a lack of consultation of social partners or media interest in Lisbon *per se* does not matter if worthwhile consultation does take place around particular reform-initiatives and, more importantly, the ‘right’ reform is successfully achieved. The jury is out.

Correspondence:

Iain Begg
European Institute
London School of Economics and Political Science
London WC2A 2AE
email iain.begg@lse.ac.uk

The Open Method of Co-ordination and the Governance of the Lisbon Strategy¹¹

I. The Open Method of Co-ordination and the Relaunch of the Lisbon Strategy

The Lisbon Strategy, launched in March 2000, marked a double departure for the EU. First, it committed the Union to an ambitious new set of medium-term goals for economic competitiveness, employment and social cohesion, embracing many policy areas primarily within the competence of the Member States. Second, to advance this ambitious agenda, the Lisbon Strategy inaugurated a new approach to EU governance, the open method of co-ordination (OMC), based on iterative benchmarking of national progress towards common European objectives and organized mutual learning. Extended across an ever broader set of policy fields in the wake of the Lisbon Summit, the OMC appeared for a time to have become the EU governance instrument of choice in complex, domestically sensitive areas where Member State diversity precludes harmonization and strategic uncertainty encourages mutual learning at the national as well as the European level (Zeitlin, 2005).

Yet within a few years, the EU's slow progress towards the Lisbon targets had become the subject of widespread controversy, and the 2004–05 Mid-Term Review sharply criticized both the Strategy's overarching design and the OMC's role within it. Thus the report of the High Level Group chaired by Wim Kok (2004) lambasted the OMC for the weakness of benchmarking and peer review as incentives for Member State delivery of policy commitments, while also noting the ineffectiveness of the Community Method in ensuring timely implementation of directives. To remedy these weaknesses, the Kok Report called for a refocusing of the Strategy's objectives, targets and indicators on growth and jobs, supported by intensified peer pressure on Member States through a process of 'naming, shaming and faming'. The incoming Barroso Commission's Lisbon Strategy New Start communication echoed the Kok Report's critique of OMC for failing to mobilize Member State commitment to the implementation of the Lisbon Agenda and endorsed its recommendation to refocus the strategy around growth and jobs. But the New Start communication rejected the idea of advancing the revised Lisbon Strategy through 'naming, shaming and faming' in favour of a new set of reform partnerships between the Commission and Member States on the one hand, and between national governments and domestic stakeholders on the other.

¹¹ This article draws on a paper prepared for the Portuguese Presidency of the EU. Earlier versions were presented to seminars and conferences in London, Edinburgh, Florence, Roskilde, Lisbon, Madison and Montreal. I am grateful to the participants for helpful comments and suggestions.

These new reform partnerships were explicitly designed to shift the focus of the Lisbon Strategy away from 'co-ordination through multi-lateral discussions between 25 Member States and the Commission, on individual policy themes (the OMC)' towards 'a bilateral in depth dialogue between the Commission and Member States on a commitment based national action programme' (Commission, 2005, p. 31).

The mid-term review of the Lisbon Strategy was a surprisingly non-evidence-based process. Unlike the 2003 Employment Task Force previously chaired by Wim Kok, the 2004 High Level Group was dominated by political appointees, business people and academic economists, with limited expertise on social and employment policies, and did not systematically review the available evidence on the performance of OMC processes in these areas.¹² Similarly, the Commission's Lisbon New Start communication appears to have neglected both internal and external evidence on the successes and failures of different OMC processes, such as an official evaluation by the Tavistock Institute (2005), which concluded that OMC in fields such as information society, enterprise promotion and innovation policy 'cannot yet be said to be a success or failure', because it 'simply has not been fully implemented'.

The architectural core of the relaunched Lisbon Strategy was the fusion of the European Employment Guidelines and the Broad Economic Policy Guidelines into a single set of 24 Integrated Guidelines for Growth and Jobs, divided into separate macroeconomic, microeconomic and employment chapters. The first cycle of integrated guidelines for 2005–08 preserved the main thrust of the preceding employment guidelines, including the linkage to the overarching objectives of the European Employment Strategy (full employment, improving quality and productivity at work, strengthening social and territorial cohesion), but only at the cost of increased complexity and continuing overlap with the economic policy chapters. In line with this architectural shift, the National Action Plans for Employment (NAPs/empl) and Joint Employment Report (JER) were replaced by sections within Member States' National Lisbon Reform Programmes (NRPs) and the Commission's Annual Lisbon Progress Report.

On the social side, following an effective EU-level campaign led by social NGOs with support from key Member States and the European Parliament, social cohesion objectives, including the commitment to a decisive reduction of poverty and social exclusion, were formally reinstated in the Lisbon Strategy by the 2005 Spring European Council, a decision reaffirmed by successive Spring European Councils in 2006 and 2007. At the same time, the

¹² For an overview of such evidence, see Zeitlin and Pochet (2005).

three 'strands' of the social OMCs (inclusion, pensions, health and long-term care) were 'streamlined' into a single overarching open method of co-ordination on Social Protection and Social Inclusion (OMC/SPSI), with both common and sector-specific objectives.

According to the conclusions of the 2006 Spring European Council, the relaunched Lisbon Strategy is designed to provide 'a framework where economic, employment and social policy mutually reinforce each other, ensuring that parallel progress is made on employment creation, competitiveness, and social cohesion in compliance with European values'. This mutually reinforcing dynamic within the revised Lisbon Strategy is supposed to be achieved by a reciprocal relationship between the streamlined OMC/SPSI and the Integrated Guidelines at both national and European levels, whereby the former 'feeds in' to growth and employment objectives, while the latter 'feed out' to advance social cohesion goals.

II. Closing the Implementation Gap through Better Governance?

A central objective of the relaunched Lisbon Strategy was to close the implementation gap through better governance. But the experience of the first two years (2005–06) of the Integrated Guidelines and NRPs suggests that the revised governance architecture for the Lisbon Strategy remains problematic in a number of major respects.

First, the integration of the European Employment Strategy with the Broad Economic Policy Guidelines, the enhanced freedom for Member States to set their own priorities with the NRPs, and the concomitant disappearance of the JER and NAPs/empl have reduced the visibility of employment policy co-ordination at both EU and national levels. No less significantly, the revised arrangements have led to greater unevenness in national employment policy reporting and a loss of European-level monitoring capacity. Most Member States do not structure their NRPs around the integrated guidelines, only six of 25 include full data on the existing European employment indicators, and few report progress on the activation targets of the European Employment Strategy (EES), the Gender Pact agreed at the 2006 European Council, or the Lifelong Learning Strategies requested by the 2004 Spring European Council. Although the Employment Committee (EMCO) has stepped up its Mutual Learning Programme through thematic review seminars and national follow-up activities as well as peer reviews of good practices, the variable and uneven format of the NRPs has made it more difficult to feed back and mainstream the results of this mutual learning into national policy-making.

Second, in the absence of any specific institutional mechanisms to ensure a mutually reinforcing feedback between the social, economic and

employment dimensions of the relaunched Lisbon Strategy, the practical effectiveness of such feedback has remained decidedly limited, with wide variations across Member States. Thus, for example, the 2006 Commission paper on Further Steps in Implementing the Revised Lisbon Agenda (Commission, 2006d) made no reference to the EU's social objectives in laying out an authoritative roadmap for the preparation of Member States' Progress Reports, together with a methodological framework for their assessment. Unsurprisingly, in the 2006 NRP Implementation Reports, only ten Member States included social cohesion/inclusion objectives (including gender equality) among their national priorities or referred extensively to them, while the remainder briefly cross-referenced the OMC National Reports on Strategies for Social Protection and Social Inclusion (NRSSPSI) submitted the previous month (nine Member States), referred exclusively to labour market inclusion (four Member States), or omitted any mention of social cohesion altogether (four Member States). There also appear to be few direct linkages between the social cohesion/inclusion objectives and Member States' plans for the use of the structural funds, which are supposed to be tied increasingly tightly to the Lisbon Agenda, accounting for 60–75 per cent of expenditures. Nor has there been much evidence so far of explicit 'feeding out' from the integrated guidelines and NRPs to the OMC/SPSI, for example, through systematic impact assessments of the actual or prospective effects of Member States' economic and employment policies on social cohesion/inclusion outcomes (Begg and Marlier, 2007).

Third, a key goal of the Lisbon Strategy relaunch was to enhance national ownership and participation by non-governmental actors in the reform agenda. Most independent assessments, including an official report by the European Economic and Social Committee (2006), concur that these ambitions were not realized during the drafting of the 2005 NRPs, which arguably represented a backward step in terms of participation by civil society actors compared to previous NAPs/empl, or still more so for social inclusion (Begg, 2006). In response to such criticisms, the Commission undertook a major push for increased national ownership in the 2006 NRP implementation process, resulting in the creation of new consultative/co-ordination bodies, the upgrading of the political status of Lisbon co-ordinators, and wider involvement of national parliaments, social partners and local/regional authorities in many Member States. Yet according to a variety of independent sources, the NRP implementation process has continued to lack public visibility in most Member States, while involvement of non-state and subnational actors was often confined to formal consultation and/or information exercises, with limited opportunity to influence substantive policy direction or content. By all accounts, civil society actors, such as NGOs and voluntary

associations, were much less involved in most Member States, often because of difficulties in obtaining access to consultation and co-ordination processes dominated by finance or economics ministries with whom they had little previous contact (Begg and Marlier, 2007; European Anti-Poverty Network 2007; Begg, 2007).

Fourth, it has proved extremely difficult to sustain the simplified focus of the revised Lisbon Strategy and the shift from multilateral policy co-ordination to bilateral reform dialogue between the Commission and Member States. Both at EU and national level, growth and jobs objectives are closely linked to those of other policy areas subject to separate co-ordination processes, such as social protection/inclusion, education/training and environment/sustainable development. The effort to increase the effectiveness of the Lisbon Strategy by focusing on a narrower range of objectives and enhance national commitment by allowing Member States to set their own reform priorities has been accompanied by a loss of the specificity and detailed reporting against common indicators needed to monitor, evaluate and co-ordinate complex policy areas, as can be seen in the case of employment. Incorporating key objectives and indicators from other sectoral policy co-ordination processes such as the OMC/SPSI into the Lisbon Strategy is not like adding unnecessary ornaments to a Christmas tree, as a widely used metaphor has suggested, but rather like equipping the cockpit of a high-speed aircraft with the full set of instrumentation systems needed to avoid flying blind.

Unsurprisingly, the European Council has been unable to resist adding new priorities to the 24 Integrated Guidelines as circumstances change, such as the four cross-cutting priority areas for more growth and jobs agreed at the 2006 Spring European Council.¹³ Unsurprisingly, too, the European Council and the Commission have also launched new co-ordination processes and reporting obligations for Member States in response to these and other emergent priorities such as the integration of immigrants or the reduction of administrative burdens. Finally, the Commission itself appears to have recognized the limits of bilateral dialogue with Member States on their NRPs, as can be seen, for example, from its efforts to organize mutual learning workshops within the Network of National Lisbon Co-ordinators on issues such as one-stop shops for setting up new enterprises, business–university co-operation and extending working lives of older workers – albeit at some risk of duplicating the work of the sectoral OMCs.

¹³ These four cross-cutting priority areas are: investing more in knowledge and innovation; unlocking the business potential, especially of SMEs; greater adaptability of labour markets based on flexibility; and energy and climate change.

III. Reorienting the Relaunch

The advent of a new cycle of integrated guidelines for 2008–11 provides a welcome opportunity to reorient the relaunched Lisbon Strategy in order to correct the principal deficiencies of its governance architecture revealed by the experience of the past two years. As the preceding analysis suggests, reforms to the relaunched Lisbon Strategy are urgently needed in two main areas, which will be addressed in turn: strengthening the social dimension and reviving the EES.

*Strengthening the Social Dimension of the Lisbon Strategy*¹⁴

Since 2005, the European Council has repeatedly reaffirmed that greater social cohesion and the fight against poverty/social exclusion remain core objectives of the Lisbon Strategy. Yet this political commitment to the social dimension of the Lisbon Strategy has not been reflected in the guidelines provided to Member States for the preparation of their NRPs, nor in the assessment of the NRPs themselves. The 2007 Spring European Council accordingly stressed that ‘the common social objectives of Member States should be better taken into account within the Lisbon Agenda [. . .] in order to ensure the continuing support for European integration by the Union’s citizens’. This goal likewise figures prominently in the joint programme of the German, Portuguese and Slovenian ‘Trio’ Presidencies (2007), and in the February 2007 declaration calling for ‘*Un Nouvel Élan pour l’Europe Sociale*’,¹⁵ now signed by ten EU labour ministers.

European welfare states stand in ongoing need of reform to ensure their adequacy, sustainability and adaptation to new social risks in the face of changing employment patterns, household/family structures and demographic trends. From the very beginning, the OMC/SPSI was specifically designed to pursue these multiple but equally indispensable goals in a balanced and coherent way incorporating both social and economic perspectives, e.g. through collaboration between the Social Protection Committee and the Economic Policy Committee (2005) in pension reform. Indeed, the OMC more generally can be seen as an iterative discipline for reconciling apparently contradictory objectives (such as more and better jobs, adequate and sustainable pensions, or accessible, high-quality and sustainable health/long-term care) by discovering synergies and win-win solutions through comparison of different national approaches to achieving them.

¹⁴ For a fuller analysis and recommendations, see Zeitlin (2007).

¹⁵ ‘Un Nouvel Élan pour l’Europe Sociale – Déclaration du 7 février 2007’. Available at: <http://www.rpfrance.eu/article.php3?id_article=665>.

But by excluding the EU's social objectives from the integrated guidelines, the Union has effectively returned to the one-sided co-ordination of Member States' social policies in pursuit of financial sustainability and employment promotion which the OMC/SPSI was developed to overcome. Thus, for example, in the 2007 joint recommendations, based on the Commission's Annual Progress Report, eight Member States received formal recommendations to accelerate the reform of their pensions and/or health-care systems in order to ensure the sustainability of the public finances, while three further Member States were exhorted to step up implementation of overdue pension and/or health care reforms as additional focus points.

No less importantly, most innovative EU approaches to the modernization of the European Social Model(s) require systematic integration and co-ordination of reforms across multiple interdependent policy domains, such as labour market activation, lifelong learning, occupational health and safety, anti-discrimination rights and pension/disability schemes in the case of 'active ageing', or contractual arrangements, activation, lifelong learning and social security systems in the case of 'flexicurity'. Such horizontal policy integration and joined-up governance can only be hindered by the failure to incorporate social cohesion/inclusion objectives – and the actors associated with them – into many Member States' NRPs.

Three broad policy options for strengthening the social dimension of the Lisbon Strategy may be envisaged:

1. Incorporating both the EU's common social objectives and the OMC/SPSI into the integrated guidelines and the NRPs.
2. Incorporating the EU's social objectives more explicitly into the Integrated Guidelines, while retaining the OMC/SPSI as a distinct policy co-ordination and reporting process.
3. Leaving unchanged the existing structure of the integrated guidelines and OMC/SPSI, while improving the arrangements for 'feeding-in' and 'feeding-out' at both national and EU levels.

Each of these policy options for strengthening the social dimension of the Lisbon Strategy has both advantages and disadvantages. There are also some areas of potential overlap between them. Thus, for example, the reinforced participation, reporting and impact assessment requirements proposed below to make 'feeding-in/out' work better under Option 3 would also be necessary to secure the effectiveness of full or partial incorporation of the EU's social objectives into the integrated guidelines and NRPs (Options 1 and 2).

In terms of advantages and disadvantages, Option 1, full incorporation of the EU's common social objectives and the OMC/SPSI into the integrated guidelines and NRPs is, at first glance, the cleanest and most coherent

solution. This approach would, in principle, place the EU's social objectives on an equal footing with its commitments to the pursuit of growth and jobs within the Lisbon Strategy, create an integrated institutional framework for reconciling conflicts and discovering synergies between these objectives at both national and European levels, and reduce the number of separate policy co-ordination and reporting processes. Yet as the experience of the EES suggests, such full incorporation of the OMC/SPSI into the Integrated Guidelines and NRPs would carry grave risks of weakening EU social policy co-ordination by reducing its visibility and autonomy at both national and European levels.

Option 3, improving arrangements for 'feeding-in' and 'feeding-out' between the OMC/SPSI and the Integrated Guidelines without changing the structure of the latter might thus seem to be the simplest and least risky solution. This option could involve formal injunctions for Member States to involve social actors (both governmental and non-governmental) in the drafting of their NRPs, to discuss explicitly how their NRPs advance the EU's social objectives (including gender equality), and to incorporate in their NRPs systematic impact assessments of the actual and prospective effects of economic and employment policies on social cohesion/inclusion outcomes. These latter two requirements could be similarly extended from the national to the European level as components of the Commission's Annual Progress Report.¹⁶ Such reinforced social participation, reporting and impact assessment requirements are desirable in themselves and would be necessary for the successful operation of any full or partial incorporation of the EU's social objectives into the integrated guidelines and NRPs (Options 1 and 2). But without formal changes to the integrated guidelines, proposals for improvements in 'feeding-in' and 'feeding-out' are likely to prove ineffective. Thus most Member States have so far largely ignored exhortations from the European Council to highlight 'feeding-in' and 'feeding-out' in their NRPs/implementation reports, as has the Commission itself in its Annual Progress Report and there is little reason to think that this pattern will improve significantly in the future so long as the social objectives remain outside the integrated guidelines themselves.

Hence some version of Option 2 appears to be the most promising approach to strengthening the social dimension of the Lisbon Strategy while preserving the visibility and autonomy of European social policy co-ordination. This option would involve the incorporation of more explicit references to the EU's social objectives into the integrated guidelines

¹⁶ For a fuller discussion of such proposals for mainstreaming social objectives into domestic and EU policy-making through systematic impact assessment (both *ex ante* and *ex post*), see Marlier *et al.* (2007).

(whether in the form of a new social chapter or a greater emphasis on social cohesion goals within the existing set of guidelines), while maintaining the OMC/SPSI as a distinct policy co-ordination and reporting process based on the existing set of 12 common objectives for social protection and social inclusion. There are undoubtedly some risks of reducing the autonomy of the OMC/SPSI by incorporating social objectives into the Integrated Guidelines. Yet retaining procedural autonomy while sacrificing political influence by remaining outside the core of the Lisbon Strategy is the greater danger currently facing the OMC/SPSI, since Member States are already subject to country-specific recommendations on the reform of their social protection systems under the Integrated Guidelines insofar as these may be deemed necessary for public financial sustainability and/or employment promotion.¹⁷

But incorporation of the EU's social objectives into the integrated guidelines should be accompanied by organizational changes to the Lisbon Strategy aimed at preserving the integrity and effectiveness of the OMC/SPSI (including that of its three constituent strands) as a distinct sectoral policy co-ordination and reporting process. Thus the integrated guidelines and the NRPs should be reconceived as the twin apexes of an overarching policy co-ordination process built up from sectoral OMCs (including those concerned with macro- and micro-economic objectives), as sites where conflicting priorities and approaches can be provisionally reconciled, rather than as unified, centralized replacements for the sectoral co-ordination processes themselves. In this spirit, the NRSSPSI should be retained as distinct documents preceding and flowing into the NRPs. This might be seen from some perspectives as an undesirable multiplication of planning and reporting processes, but as argued earlier, such sectoral specificity is indispensable for effective monitoring, evaluation and co-ordination of complex policy fields such as social protection/inclusion.

Reviving the EES

These organizational changes to the integrated guidelines and NRPs are needed not only to safeguard the autonomy of European social policy co-ordination, but also to improve the effectiveness of the relaunched Lisbon Strategy as a whole. In particular, such organizational reforms would provide an opportunity to redress many of the problems experienced by the EES, which has lost visibility, monitoring capacity and participatory impetus under

¹⁷ This impetus from the Lisbon Strategy for the reform of national social protection systems will be intensified by current proposals to adopt a set of common flexicurity principles, which 'should then inspire and contribute to the implementation of the Integrated Guidelines' (European Commission, 2007).

the relaunched Lisbon Strategy. Thus as in the case of the OMC/SPSI and the NRSSPSI, it would be beneficial to revive the EES and the NAPs/empl as distinct policy co-ordination processes and planning documents preceding and flowing into the NRPs, in conformity with the provisions of the Amsterdam Treaty. This revival of the EES and the NAPs/empl should be accompanied by broad opportunities for participation by non-state and subnational actors (including civil society organizations and local/regional authorities as well as the social partners and national parliaments) at all stages in the process.

To maximize opportunities for mutual learning in the social and employment fields, Member States should be obliged to report consistently on progress towards each objective and guideline, using common European indicators as far as possible. In keeping with the methodological principles outlined by the Indicators Sub-Group of the Social Protection Committee, such common indicators should be outcome-oriented, responsive to policy interventions, subject to a clear and accepted normative interpretation, timely and revisable. They should also be sufficiently comparable and disaggregable to serve as diagnostic tools highlighting areas for improvement and self-corrective action by national and local actors, rather than as soft sanctions or shaming devices to enforce Member State compliance with European targets.¹⁸ Such diagnostic monitoring is entirely consistent with the approach recently adopted by Member State representatives in EMCO, who rejected detailed mutual surveillance of each other's National Reform Programmes in favour of a thematic peer review of policies in key priority areas (people at the margins of the labour market, flexicurity, lifelong learning for older workers) aimed at fostering mutual learning.

Taken together, these proposed reforms would enable the next cycle of the Lisbon Strategy to build on the achievements of the EES over the past decade in improving the governance of national employment policies, while enhancing Member States' capacity to feed back and mainstream the results of their mutual learning into national policy-making. With these organizational changes in place in the next cycle of the Lisbon Strategy, European social, economic and employment policies could at last begin to work together in a mutually reinforcing way to deliver faster sustainable growth, more and better jobs and greater social cohesion – as originally envisaged by its architects eight years ago.

¹⁸ For in-depth discussions of the appropriate design and use of indicators in OMC processes, see Marlier *et al.* (2007) and Atkinson *et al.* (2002).

Correspondence:

Jonathan Zeitlin
 Robert M. La Follette School of Public Affairs
 University of Wisconsin-Madison
 1225 Observatory Drive
 Madison, WI 53706, USA
 email jzeitlin@wisc.edu

References

- Alesina, A. and Giavazzi, F. (2006) *The Future of Europe: Reform or Decline* (Cambridge, MA: MIT Press).
- Armstrong, K.A. (1998) 'Legal Integration: Theorizing the Legal Dimension of European Integration'. *Journal of Common Market Studies*, Vol. 36, No. 2, pp. 155–74.
- Armstrong, K.A. (2003) 'Tackling Social Exclusion Through OMC: Reshaping the Boundaries of European Governance'. In Borzel, T. and Cichowski, R. (eds) *The State of the Union*, Vol. 6 (Oxford: Oxford University Press).
- Atkinson, T., Cantillon, B., Marlier, E. and Nolan B. (2002) *Social Indicators: The EU and Social Inclusion* (Oxford: Oxford University Press).
- Barysch, K., Tilford, S. and Wanlin, A. (2007) *The Lisbon Scorecard VII: Will Globalization Leave Europe Stranded?* (London: Centre for European Reform).
- Begg, I. (2006) *Lisbon Relaunch: What Has Changed? Is it Working Better?* CEPS Special Report (Brussels: CEPS). Available at «<http://shop.ceps.eu>».
- Begg, I. (2007) *Lisbon II, Two Years on: An Assessment of the Partnership for Growth and Jobs* CEPS Special Report (Brussels: CEPS). Available at «<http://shop.ceps.eu>».
- Begg, I. and Marlier, E. (2007) *Social Inclusion 2006: Second Semester Report. Independent Overview Based on National Report of Independent Experts* (Brussels: European Commission, DG EMPL). Available at «<http://www.peer-review-social-inclusion.net/policy-assessment-activities/reports/second-semester-2006/synthesis-report-2006-2/>».
- Bernard, N. (2003) 'A "New Governance" Approach to Economic, Social and Cultural Rights in the EU'. In Hervey, T.K. and Kenner, J. (eds) *Economic and Social Rights under the EU Charter of Fundamental Rights: a Legal Perspective* (Oxford: Hart Publishing).
- De Búrca, G. (2005) 'New Modes of Governance and the Protection of Human Rights'. In Alston, P. and de Schutter, O. (eds) *Monitoring Fundamental Rights in the EU* (Oxford: Hart Publishing).
- De Búrca, G. (2006) 'The European Constitution Project after the Referenda'. *Constellations*, Vol. 13, No. 2, pp. 205–17.
- De Búrca, G. and Scott, J. (eds) (2006) *Law and New Governance in the EU and the US* (Oxford: Hart Publishing).

- Buti, M., Röger, W. and Turrini, A. (2007) *Is Lisbon Far from Maastricht: Trade-Offs and Complementarities between Fiscal Discipline and Structural Reforms* (Brussels: DG Ecfm, European Commission).
- Collignon, S. (2003) 'The European Republic: Policy Proposals for a Future Constitution'. C.A.P. Working Paper 10/2003 (Munich: Center for Applied Research, Universität München).
- Collignon, S. *et al.* (2005) 'The Lisbon Strategy and the Open Method of Co-ordination'. *Notre Europe*, Paper no. 12.
- Commission of the European Communities (2004) 'Facing the Challenge: The Lisbon Strategy for Growth and Employment. Report from the High Level Group chaired by Wim Kok' (Luxembourg: OOPEC).
- Commission of the European Communities (2005a) 'Working Together for Growth and Jobs: A New Start for the Lisbon Strategy. Communication to the Spring European Council from President Barroso in agreement with Vice-President Verheugen', COM (2005) 24.
- Commission of the European Communities (2005b) 'Common Actions for Growth and Jobs: The Community Lisbon Programme', COM (2005) 330.
- Commission of the European Communities (2006a) 'Time to Move up a Gear: the New Partnership for Growth and Jobs', Communication from the Commission to the spring European Council (Luxembourg: OOPEC).
- Commission of the European Communities (2006b) 'A Year of Delivery', Communication from the Commission to the Spring European Council, COM (2006) 816 final.
- Commission of the European Communities (2006c) 'Communication Concerning a Consultation on Action at EU Level to Promote the Active Inclusion of the People Furthest from the Labour Market', COM (2006) 44.
- Commission of the European Communities (2006d) 'Working Together for Growth and Jobs: Further Steps in Implementing the Revived Lisbon Strategy'. SEC (2006) 619.
- Commission of the European Communities (2007a) 'Towards Common Principles of Flexicurity: More and Better Jobs through Flexicurity and Security', COM (2007) 359.
- Commission of the European Communities (2007b) 'Modernizing Social Protection for Greater Social Justice and Economic Cohesion: Taking Forward the Active Inclusion of People Furthest from the Labour Market', COM (2007) 620.
- Daly, M. (2006) 'EU Social Policy after Lisbon'. *JCMS*, Vol. 44, No. 3, pp. 461–81.
- Debrun, X. and Pisani-Ferry, J. (2006) 'Economic Reforms in the Euro Area: Is There a Common Agenda?' *Policy Contribution*, Issue 5 (Brussels: Bruegel).
- Dyson, K. and Featherstone, K. (1999) *The Road to Maastricht: Negotiating Economic and Monetary Union* (Oxford: Oxford University Press).
- Economic Policy Committee (2005) 'Report on the Lisbon National Reform Programmes, 2005', ECFIN/EPC (2005) REP/55392 Final.

- Eichengreen, B. (2006) *The European Economy since 1945: Coordinated Capitalism and Beyond*, Princeton: Princeton University Press.
- European Anti-Poverty Network (2007) 'Making Lisbon Deliver for People Experiencing Poverty: EAPN Response to 2006 Implementation Reports on the National Reform Programs' (Brussels: EAPN). Available at http://www.eapn.org/module/module_page/images/pdf/pdf_publication/EAPN%20Publications/reports/Employment/EAPN%20Response%20-%20%20Implementation%20Reports%20on%20National%20Reform%E2%80%A6.pdf.
- European Economic and Social Committee (2006) 'Implementation of the Lisbon Strategy: Summary Report for the European Council' (23 and 24 March 2006). 1468/2005 rev.
- European Parliament (2007) Resolution of 4 September 2007 on Institutional and Legal Implications of the Use of 'Soft Law' Instruments. P6_TA-PROV(2007)0366.
- Ferrera, M. (2005) *The Boundaries of Welfare: European Integration and the New Spatial Politics of Social Protection* (Oxford: Oxford University Press).
- German, Portuguese and Slovenian Presidencies of the EU (2007) '18 Month Programme of the German, Portuguese and Slovenian Presidencies'. Available at <http://www.mne.publinet.com.pt/wp-content/uploads/presidenciasue-en.pdf>.
- Hatzopoulos, V. (2007) 'Why the Open Method of Coordination Is Bad For You: A Letter to the EU'. *European Law Journal*, Vol. 13, No. 3, pp. 309–42.
- Hervey, T. (2006) 'The European Union and the Governance of Health Care'. In de Búrca, G. and Scott, J. (eds) *Law and New Governance in the EU and the US* (Oxford: Hart Publishing), pp. 179–210.
- Hervey, T. and Trubek, L. (2007) 'Freedom to Provide Healthcare Services within the EU: an Opportunity for a "Transformative Directive"'. *Columbia Journal of European Law*, Vol. 13, No. 3, pp. 623–47.
- Hodson, D. and Maher, I. (2001) 'The Open Method as a New Mode of Governance: The Case of Soft Economic Policy Co-ordination'. *JCMS*, Vol. 39, No. 4, pp. 719–46.
- Idema, T. and Keleman, D.R. (2006) 'New Modes of Governance, the Open Method of Co-ordination and other Fashionable Red Herring'. *Perspectives on European Politics and Society*, Vol. 7, No. 1, pp. 108–23.
- Issing, O. (2002) 'On Macroeconomic Policy Co-ordination in EMU'. *JCMS* 40, pp. 345–68.
- Kilpatrick, C. (2006) 'New EU Employment Governance and Constitutionalism'. In de Búrca, G. and Scott, J. (eds) *Law and New Governance in the EU and the US* (Oxford: Hart Publishing), pp. 121–51.
- Kok, W. (2004) 'Facing the Challenge: The Lisbon Strategy for Growth and Employment. Report from the High Level Group Chaired by Wim Kok'. (Brussels: European Commission).
- Leibfried, S. (2005) 'Social Policy: Left to the Judges and the Markets?' In Wallace, H., Wallace, W. and Pollack, M. (eds) *Policy-Making in the European Union* (Oxford: Oxford University Press).

- Majone, G. (2005) *Dilemmas of European Integration: the Ambiguities and Pitfalls of Integration by Stealth* (Oxford: OUP).
- Marlier, E., Atkinson, A.B., Cantillon, B. and Nolan B. (2007) *The EU and Social Inclusion: Facing the Challenges* (Bristol: Policy Press).
- Moravcsik, A. (2002) 'Reassessing Legitimacy in the European Union'. *JCMS*, Vol. 40, No. 4, pp. 603–24.
- Murray, A. and Wanlin, A. (2005) *The Lisbon Scorecard V: Can Europe Compete?* (London: Centre for European Reform).
- Offe, C. (2003) 'The European Model of "Social" Capitalism: Can It Survive European Integration?' *Journal of Political Philosophy*, Vol. 11, No. 4, pp. 437–69.
- Pisani-Ferry, J. and Sapir, A. (2006) 'Last Exit to Lisbon'. *Bruegel Policy Brief* 2006/02.
- Radaelli, C.M. (2003) 'The Europeanization of Public Policy'. In Featherstone, K. and Radaelli, C. (eds) *The Politics of Europeanization* (Oxford: Oxford University Press).
- Sapir, A. (2004) *An Agenda for a Growing Europe: the Sapir Report* (Oxford: Oxford University Press).
- Scharpf, F. (2002) 'The European Social Model: Coping With Diversity'. *JCMS*, Vol. 40, No. 4, pp. 645–70.
- De Schutter, O. (2005) 'The Implementation of Fundamental Rights Through the Open Method of Co-ordination'. In de Schutter, O. and Deakin, S. (eds) *Social Rights and Market Forces: Is the Open Co-ordination of Employment and Social Policies the Future of Social Europe?* (Brussels: Bruylant).
- Scott, A. (2005) 'The (Missing) Regional Dimension to the Lisbon Strategy'. *Scotland Europa Papers*, Paper 27, Brussels.
- Sinn, H.-W. (2004) 'The New Systems Competition'. *Perspektien der Wirtschaftspolitik*, Vol. 5, pp. 23–38.
- Szysczak, E. (2006) 'Experimental Governance: The Open Method of Co-ordination'. *European Law Journal*, Vol. 12, No. 4, pp. 486–502.
- Tabellini, G. and Wyplosz, C. (2004) 'Réformes structurelles et co-ordination en Europe' Rapport du CAE No. 51 (Paris: Conseil d'analyse économique).
- Tavistock Institute (2005) 'The Analysis of Impacts of Benchmarking and the eEurope Actions in the Open Method of Co-ordination. How the eEurope OMC worked: Implications for the Co-ordination of Policy under i2010'. Final report prepared for DG Information Society by the Tavistock Institute, London, Net Effect Ltd., Helsinki, and Istituto per la Ricerca Sociale, Milan.
- Trubek, D.M. and Trubek, L. (2005) 'The Open Method of Co-ordination and the Debate over "Hard" and "Soft" Law'. In Zeitlin, J. and Pochet, P. (eds) *The Open Method of Co-ordination in Action: The European Employment and Social Inclusion Strategies* (Bruxelles: Oxford), pp. 83–103.
- Trubek, D.M. and Trubek, L. (2007) 'New Governance and Legal Regulation: Complementarity, Rivalry and Transformation'. *Columbia Journal of European Law*, Vol. 13, No. 3, pp. 539–94.

- Walker, N. (2006) 'EU Constitutionalism and New Governance'. In de Búrca, G. and Scott, J. (eds) *Law and New Governance in the EU and US* (Oxford: Hart Publishing).
- Wanlin, A. (2006) *The Lisbon Scorecard VI* (London: Centre for European Reform).
- Weiler, J.H.H. (1991) 'The Transformation of Europe'. *Yale Law Journal*, Vol. 100, pp. 2403–83.
- Weiler, J.H.H. (1997) 'The Reformation of European Constitutionalism'. *JCMS*, Vol. 35, No. 1, pp. 97–131.
- Wincott, D. (2003) 'Beyond Social Regulation? New Instruments and/or a New Agenda for Social Policy at Lisbon?' *Public Administration*, Vol. 81, No. 3, pp. 533–53.
- Wincott, D. (2006) 'European Political Development, Regulatory Governance, and the European Social Model: the Challenge of Substantive Legitimacy'. *European Law Journal*, Vol. 12, No. 6, pp. 743–63.
- Zeitlin, J. (2005) 'Social Europe and Experimentalist Governance: Towards a New Constitutional Compromise?' In de Búrca, G. (ed.) *EU Law and the Welfare State: In Search of Solidarity* (Oxford: Oxford University Press).
- Zeitlin, J. (2007) 'Strengthening the Social Dimension of the Lisbon Strategy'. Paper presented to an informal meeting of the EU Social Protection Committee, Erfurt, Germany, 23 May; forthcoming in the *Belgian Review of Social Security*, No. 2. 2007. Available at <<http://www.socialsecurity.fgov.be/bib/rbss.htm>>.
- Zeitlin, J. and Pochet, P. with Magnusson, L. (eds) (2005) *The Open Method of Co-ordination in Action: The European Employment and Social Inclusion Strategies* (Brussels: P.I.E.-Peter Lang).