

Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy*

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Abstract

Recent actions by the European Union reveal a shift away from traditional, top-down, command and control governance. This can be seen in the structure of traditional tools like directives, as many recent directives, especially in social policy-making, tend to be more open and flexible. But the move to more flexible and participatory approaches can best be seen in areas like the European Employment Strategy (EES), which departs radically from traditional regulatory governance approaches. This article explores the increased use of alternative approaches to governance in the EU by examining the EES as an example of this shift.

Introduction

Recent actions by the European Union, especially in social policy and industrial relations, reveal an increased use of alternative approaches to governance that are more accepting of diversity and encourage semi-voluntary forms of co-ordination. This occurs under the traditional Community method, as many recent directives tend to be relatively open and flexible. But the move from top-down, uniform rules to more flexible and participatory approaches can best be seen in areas like the European Employment Strategy (EES), also known as the Luxembourg process, which departs radically from traditional regulatory approaches.

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The EU has endorsed the EES and similar new governance arrangements and dubbed them 'the open method of co-ordination'. They combine broad participation in policy-making, co-ordination of multiple levels of government, use of information and benchmarking, recognition of the need for diversity, and structured but unsanctioned guidance from the Commission and Council (Mosher, 2000; de la Porte, 2000a, b; de la Porte *et al.*, 2001; Hodson and Maher, 2001; Zeitlin, 2001). Because this new type of governance does not rely primarily on top-down command and control-type regulation backed by sanctions, its use has been described as a move from 'hard law' to 'soft law' (Snyder, 1994; Abbott and Snidal, 2000).

The use of the open method of co-ordination to deal with social policy in general, and employment in particular, is controversial. Where some see a creative breakthrough that will solve problems up till now considered intractable, others see another threat to Europe's generous social policies. For the optimists, the EES is not only a methodological breakthrough for the Union, but also an innovation with superior capacity to solve the many social problems Europe faces (Gerstenberg and Sabel, 2000; Vandenbroucke, 2001). Others, however, fear that by moving away from efforts to mandate uniform social and employment standards, the Union might contribute to the gradual erosion of social programmes and policies (Degryse and Pochet, 2000). For the pessimists, the move to soft law is at best a waste of time and at worst a smokescreen behind which the welfare state might be dismantled.

This article examines the EES as an alternative form of governance in the EU. We ask why the EU adopted this novel approach, describe its operation, and make an assessment of its impact on national policy-making, its capacity to promote learning and innovation, and its potential impact on the future of the European social policy.

I. Origins: The Crisis in European Social Policy

The EES emerged from a crisis that came to a head in the mid-1990s. Welfare states were under acute strain, and joblessness had risen dramatically. Defenders of generous social policies in Europe knew that action was needed to preserve a commitment to expansive benefits, relative wage and income equality, and co-ordinated bargaining by organized interest groups where it existed, and to spread it to where it was missing. This three-fold commitment has been described as the 'European social model'. Although the term underplays the diversity among west European states (Esping-Andersen, 1990), it is used in official and academic circles and represents a desire to maintain protection in those countries that have advanced welfare states and expand it in those that do not. Reformers recognized that something needed to be done

to sustain and diffuse the European social model but faced two challenges. The first was the number and magnitude of the tasks they faced: existing unemployment strategies were inadequate, and significant changes in social policy would be needed in most Member States. The second was the scope of the problem and the limits of existing governance methods: it was one thing to recognize unemployment as a common problem demanding a Europe-wide response; it was another to find an appropriate Union level mechanism in the face of substantial resistance to 'Europeanizing' employment policy.

The Magnitude of the Tasks to be Undertaken

By the mid-1990s, many Member States faced high levels of unemployment and/or low levels of employment participation as well as the need to restructure employment relations and welfare systems to take account of internal changes and external shocks (Esping-Andersen, 1996). These challenges coincided with a paradigm shift in thinking about progressive social policies as Europeans began to realize that the welfare state itself could contribute in some cases to the unemployment problem, and that increasing the employment rate was necessary in many places to sustain generous benefits. Two issues helped force this shift. First, in many countries, efforts to deal with unemployment by expansion of income maintenance programmes and early retirement had led to relatively low levels of workforce participation, thus weakening the fiscal base for the welfare state. Second, methods used to finance welfare state expansion had made it harder to create low wage jobs and make work pay. Flat rate social charges to pay for generous benefits deterred low- skill employment, and the interaction of benefit and tax systems created employment and poverty traps (e.g. Coron and Palier, 2002). Policy-makers began to move away from an exclusive focus on keeping unemployment rates low and started paying more attention to increasing the percentage of eligible workers actually employed. This drew attention to the low *employment* rates in many continental Member States where low labour force participation was part of a social equilibrium that kept unemployment rates lower, wage equality high, inactivity high and women at home. However, these low employment rates became increasingly unacceptable as more women wished to work, the welfare without work strategy became discredited and budget problems developed because of high social expenditures and lowered tax revenues.

For neo-liberals, the solution was simple: problems could be solved and budgets made more sustainable by radically cutting back on social protection systems. But this solution was unacceptable to many governments, and in the 1990s several Member States looked for ways to solve employment problems while preserving the social model. That meant finding ways to increase the overall level of employment, not just reduce the number of job-seekers who

could not find work. They had to recalibrate welfare state and employment policies to focus on employment rates, be sensitive to the impact of social policy on employment and poverty and adapt to changes in demography, society and productive organizations while dealing with potential external shocks and races to the bottom brought about by the creation of the single market and globalization. All these challenges had to be faced in a period of slow economic growth when most countries faced severe budget constraints in the run-up to EMU and in a political environment in which opponents of a generous social model were proposing to dismantle protection and reduce benefits.

The Limits of European Union Competence and Capacity

Faced with tasks of this magnitude, and recognizing the Europe-wide nature of the problem, many looked to the European level as the best place from which to mount an attack on unemployment and a defence of Member State social policies. For some, the solution lay in a strong centralized regime that would reproduce the main elements of the more generous national social models at the European level. Throughout the late 1980s and early 1990s, there were efforts to move in this direction. The Delors administration led some of these initiatives, and there were some very modest successes (Rhodes, 1995).

But an EU level solution would not be easy as the Union lacked competence and capacity for such a daunting task. The Member States had always been reluctant to cede even limited competence to the Union over social policy and industrial relations (Streeck, 1995). Moreover, the push for enhanced Europeanization in social policy came just when there was a growing anti-Brussels backlash in many countries and substantial resistance to expanding the EU's competence in *all* areas. This backlash, which led to the development of the subsidiarity doctrine and threatened the Maastricht Treaty itself, meant that it was difficult for the Union to expand its competence anywhere, let alone in a field so sensitive to national concerns as social policy.

But competence was not the only barrier. The nature of the problems to be faced, the great diversity of policies and practices within Europe, and the deep embeddedness of social policy in unique national institutions made it impossible to craft uniform policies for all of Europe. Added to that, the problems often cut across traditional governmental boundaries and required cooperation between local, regional and national authorities. It is hard for national governments to cope with such 'wicked problems' (Sabel, 2000). It would be harder still for the Union, with its limited resources, distance from local government, and circumscribed competence, to tackle such issues on its own.

Emergence of a Strategy in the 1990s

The European Employment Strategy developed in the late 1990s as a way for the Union to deal with daunting tasks in the face of the obvious limits of traditional methods for action at the Union level (Goetschy, 1999; Cameron, 2001; Kenner, 1999). It consisted of a 'soft law' governance mechanism to link the EU level to the national and local levels in policy areas not previously touched by EU policy and a strategy that embodied the new paradigm shift in employment policy. Several interrelated factors contributed to the EES's passage at the Amsterdam IGC in 1997. First, by the late 1990s, the already long-standing employment crisis worsened, and critics began to argue more forcefully that there was a link between European economic integration and layoffs. Second, deft lobbying and manoeuvring by the Commission put subtle pressure on Member States to use the EU to respond to the crisis. Third, under German pressure, the Member States agreed to sign the Stability and Growth Pact. Some leaders believed that this move could further alienate the public from the EU unless counterbalanced by action on the jobs front. This dovetailed with the need to respond to increasing criticism that the EU was not relevant to ordinary citizens. Finally, by the time of the IGC, three new Member States more favourable to EU action on employment (Sweden, Austria and Finland) had joined the Union and centre-left governments had come to power in several of the major Member States (Italy, the UK and France). The new French Socialist Premier Minister, Lionel Jospin, was particularly vocal in demanding that the EU focus on employment creation to counterbalance the effects of economic and monetary union (EMU).

Yet, while all these forces were moving the Union towards some action, many Member States continued to be reluctant to transfer real policy-making competence to the EU level. Facing a political impasse, the Member States forged a careful political compromise. The solution was to adapt the multilateral surveillance process developed for EMU to employment policy-making. This process was set up to monitor Member State economic policies and ensure economic convergence in the run-up to monetary union. Member States were required to submit national plans for convergence. The Commission and the other Member States vetted these plans. Peer review and recommendations for corrective action provided an additional push to Member States to pursue the difficult and politically controversial policies that would be necessary. By the time of the Amsterdam IGC, this system was a proven success and offered a model that could be adapted to deal with employment policy. The EU had already begun to play a modest role in co-ordinating employment policy in the Essen process (Goetschy, 1999; Cameron, 2001). By using some of the methods developed for EMU to shape employment policy at EU

level, it seemed possible to accommodate pressures for increased action at the EU level with contradictory pressure against expanding EU competence. The result was the employment chapter of the Amsterdam Treaty that formally created the EES.

EU leaders did not wait for the ratification of the Amsterdam Treaty to implement the employment chapter. In November 1997 the European Council, meeting in Luxembourg and acting by consensus, launched the process envisioned by the employment chapter.

In Luxembourg there was a heated debate on the scope of the guidelines. The Commission proposed a set of guidelines that was more comprehensive and detailed than most Member States were willing to accept. The Council used its power to reject or modify many elements in the guidelines. In the end, the European Council approved 19 guidelines organized into four pillars: *employability* policies to make unemployment systems more active and increase the skills of workers; *entrepreneurship and job creation* policies to encourage new, smaller and more innovative businesses and make tax systems more employment friendly; *adaptability* policies to increase the flexibility of workers and work organization arrangements; and *equal opportunity* policies to promote gender equality. Each pillar contained 3–7 guidelines. More recently, ‘horizontal objectives’ have been added to promote a coherent overall strategy.

II. The EES: Process and Strategy

In this section, we describe the overall process and outline key features of the actual strategy the EU has adopted to improve employment performance.¹ Important characteristics of the process are its iterative and multi-level procedures. As a strategy, the EES is focused on the supply side and supplements other EU and national policies that have a significant impact on employment.

¹ As this article went to press, a communication on the ‘future of the European Employment Strategy’ was released (Commission, 2003). This communication detailed some proposed updates in the EES process in response to the five-year review. These included: (1) simplifying the guidelines, including reducing their number, making them more general, and organizing them into a small number of overarching objectives; (2) increasing the stability of the guidelines by limiting the number of annual changes to them; (3) further emphasizing the use of result-oriented guidelines rather than guidelines to recommend specific methods or policies for reaching those results; (4) increasing the use of the recommendation process to provide specific policy guidance; (5) focusing on implementation through the NAPs; (6) building on the existing mutual learning and culture of evaluation; (7) ensuring greater consistency with the Broad Economic Policy Guidelines (BEPG), starting with the ‘streamlining’ of the EES process to co-ordinate it with the BEPG, as outlined in fn 2; and (8) deepening the level of participation by all stakeholders.

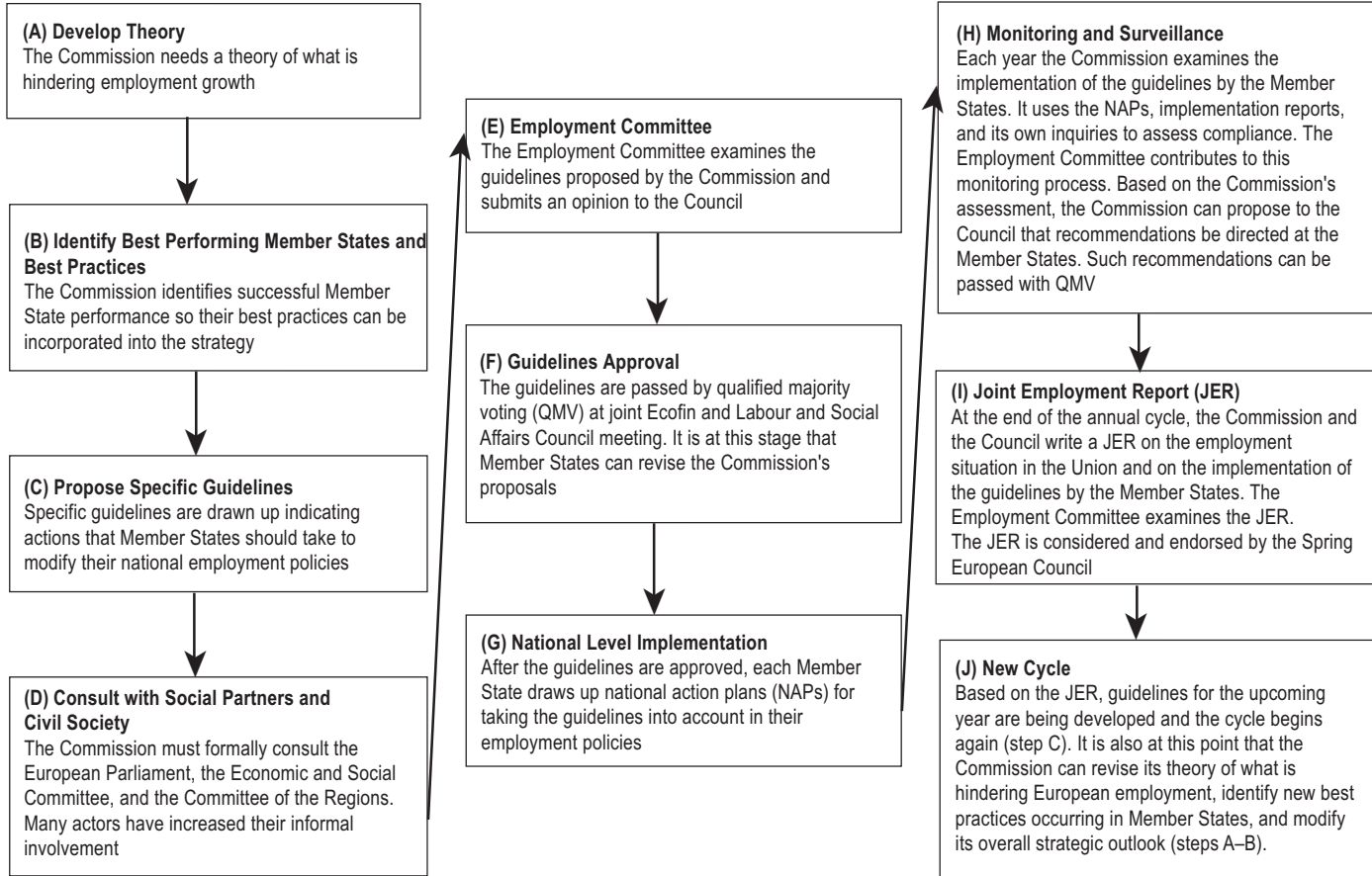


Figure 1: The European Employment Strategy Process

An Iterative Multi-Level, Multi-Actor Process

The implementation of the European employment strategy is outlined in Figure 1 and involves several steps (Biagi, 2000; Bercusson, 2000).² In discussions with the Council of Ministers, Member States, the relevant social actors such as unions and employers' organizations and academics, the Commission develops general ideas about the best employment strategy for EU Member States to pursue. These are detailed in annual guidelines proposed by the Commission and modified and approved by the Council of Ministers. Each year Member States draw up national action plans (NAPs) outlining their response to the guidelines and progress in the prior period. Then the Commission and Council review Member State actions, give recommendations and plan for a new set of guidelines. An Employment Committee with two members appointed by each Member State and two by the Commission contributes comments on the guidelines, the joint employment report and the recommendations and monitors Member State progress.

The EES is a 'soft law' governance mechanism because there are no 'hard' sanctions to ensure adherence by the Member States to the guidelines. Compliance rests on the assurances made by Member States to follow the guidelines, supported by multilateral surveillance of Member State activities, 'naming and shaming' mechanisms, the iterative elements of the process, and its capacity to shape the discourse of debate. In theory, the process can shape the discourse by defining the nature of the debate, providing a focal point for views to converge on, shaping the factual knowledge base used in the debate, and managing the diffusion of knowledge (Jacobsson, forthcoming). Some think that the 'softness' of the mechanism makes it more likely that Member States will make commitments to the strategy and submit to EU level co-ordination in these sensitive policy areas. And it is suggested by some that a 'soft law' mechanism is a superior way to co-ordinate diverse domestic systems that cannot be steered with overly rigid instruments as well as the best way to create an environment conducive to cross-national policy learning.

The process, if fully implemented, would have several aspects. Because it is iterative and conducted annually, progress can be closely monitored, new ideas introduced, and goals gradually ratcheted up. It should engage many levels of government and involve social actors as well as public officials.

² Some of the steps we describe are explicitly specified in EU documents. To complement these, we describe other steps that are implicit in the process. In addition, in early 2003 steps were being taken to change the timing of the process so that it would be more closely co-ordinated with the process of developing the Broad Economic Policy Guidelines. Under these proposals, the guidelines would come out beginning in 2003 and the rest of the process would be adjusted accordingly. Consequently the spring European Council would deal with all aspects of economic co-ordination in a comprehensive fashion.

Many levels and units of government should co-operate to produce the national action plans, and the social partners should have opportunities to participate. The annual review process involves discussion between Member State and Commission officials and creates contacts between officials and social partners from different Member States, thus fostering a transnational policy network or 'epistemic community'.

A Partial Strategy and A Political Compromise

The EES does not embrace all policies that affect employment. Important areas such as monetary, fiscal and wage policy that critically affect growth and job creation in the EU are outside the scope of the process. At the EU level, these are addressed in the Broad Economic Policy Guidelines, the Cologne process macroeconomic dialogue, and/or by the European Central Bank (ECB). As a result, the EES has had to develop largely as a supply-side strategy focusing on altering structural impediments to employment. Nonetheless, the strategy does touch on a much larger number of areas than ever has been addressed at the EU level through traditional social policy regulation. It could be said that the EES gives up the legal force of traditional regulations in order to allow the EU to deal with some core areas of social policy that were hitherto solely reserved for the Member States.

The overall goal of the strategy is to maintain generous European welfare states by reforming them. The Commission wrote in the preparatory documents for the extraordinary Luxembourg employment summit that 'meeting the challenge of insufficient growth and intolerable unemployment *requires a profound modernization of Europe's economy and its social system for the twenty-first century without giving away the basic principles of solidarity which should remain the trademark of Europe*' (Commission, 1997, emphasis added).

To do that, the guidelines seek to accomplish the following:

1. higher employment participation: because of the ageing of its population and the threat to pension systems, Europe needs to have a higher proportion of its working-age population employed;
2. more active unemployment systems: passive unemployment systems allow skills to deteriorate, fail to encourage workers actively to seek work and do not supply the skills the workers need to find work;
3. more skills: the increase in technological change means that workers need more skills at the outset and need to be able to develop new skills throughout life;
4. more employment intensive growth: Europe lags behind in the provision of services, which provide employment intensive growth;

5. fewer obstacles to low-skill work: tax systems, especially high, flat-rate social charges discourage low-skill workers from working and impede the hiring of low-skill workers;
6. flexibility with security: the model of a male worker working full-time on a normal working week for one company his entire life must be replaced by a model that allows companies more flexibility in terms of working time, envisions greater heterogeneity in the types of workers (men, women, full-time, part-time), and supports workers who will shift companies and careers much more often. This new flexibility must be fostered while providing new mechanisms for providing security to workers.
7. smaller companies and entrepreneurship: the most dynamic areas of the economy are small and medium-sized enterprises, and innovation will be driven by entrepreneurial companies.
8. gender equality: in order to increase employment participation by women and provide equal opportunity, the disadvantages that women face in the labour market must be addressed.

In addition to the individual strategy elements embedded in specific guidelines, the more recent 'horizontal objectives' specify a set of overarching goals that include: specific overall employment rate targets, with separate ones for women and older workers in 2005 and 2010; the promotion of quality of work; the promotion of lifelong learning; further incorporation of the social partners into the process; translation of the guidelines into action by the Member States in a balanced and integrated manner; and developing better common indicators to gauge progress.

While the EES rejects radical deregulatory approaches, it bears traces of a compromise between more traditional social democratic views and 'Blairite' ideas of a 'third way'. It avoids neo-liberal proposals for a radical reduction in income maintenance programmes. The stress on working, flexibility, and the role of entrepreneurship in creating jobs embodies the third way emphasis on overcoming dependency and shows acceptance of the need to promote risk-taking and adapt social protection to the need of business for flexibility (Kenner, 1999). Nonetheless, the guidelines foresee an important role for the state and for the social partners: they presume that the core of the welfare state will remain in force and do not envision major changes in the organization of industrial relations.

III. The Impact of the EES on Member State Policy

Although the EES operates at the EU level, its goal is to reduce unemployment by affecting policies and programmes at the national level. To assess its effectiveness, one must ask two questions: has the EES played a role in changing national policies, and have the changed policies reduced unemployment and raised the employment rate? Neither question is easy to answer. Where changes in policy can be found there are always multiple factors at work, including domestic forces and other external influences. And tracing the effect of any policy on macro-variables like employment and unemployment is a tricky business.

Data to answer these questions are difficult to come by, but an important resource for evaluation of the EES's impact is the five-year review of the EES process completed in 2002 that includes 'national impact evaluation studies' carried out by the Member States and an 'aggregate assessment of labour market performance at EU level' prepared by the Commission. In preliminary drafts of its five-year review, the Commission was generally encouraged, albeit with important reservations. It argued that:

The general perception is that the EES strengthened the national policy framework. The annual review and monitoring mechanism, based on indicators, has stimulated Member States to confirm their political commitment in the form of targets... It could be concluded that, over the years, the EES triggered a shift in approach from curative thinking towards longer-term thinking. (Commission, 2002, p. 3)³

On the key question of direct impact of the EES on changing national policies, the Commission was clearly guarded, saying:

A number of national reports stress the main employment policy features were already in place prior to the Luxembourg Summit, and that therefore the contribution of the EES to policy formation was limited. (Commission, 2002, p. 3)

But the Commission did point to some positive examples of EES influence, especially in France and Greece.

³ We cite the draft report because the final version of the report seems to have one important editing mistake. In the final version, the last line of this quote reads as follows with a proposed correction in brackets: 'It could be concluded that, over the years, the EES shifted its [*sic*] [Member States'] priority from a predominant focus on long-term unemployment towards a long-term approach of employment creation and access to employment'. Saying the EES changed its priority makes no sense since the EES has consistently pushed the long-term approach. The EES did contribute to changing the approach of some Member States or, at least, attempted to do this. This point is clear in the draft report. Other differences between the draft and final report are insignificant.

If we look at impact studies done by individual Member States, we find a wide range of reported effects. At the extremes, some countries, like the Netherlands, report little impact because they had already adopted many elements of the strategy while others, like Italy, report little impact because the guidelines do not fit their labour market. The Netherlands had adopted many aspects of the EES strategy before the first guidelines were written, and Dutch employment and unemployment levels were already improving when the EES started. Thus the Netherlands report suggests that the EES had no major effect on its employment policy. It does, however, acknowledge some changes as a result of the EES. These include: implementation of a preventative policy for medium-term unemployment of adults; an increased emphasis on lifetime learning; and improved statistical indicators and monitoring (Zijl *et al.*, 2002).

The Italian case makes for a strong contrast. Italy has high unemployment and a low employment rate. Its policies fall far short of those called for in the guidelines, and it would benefit tremendously from more effective employment policies. While the report acknowledges that the EES has helped stimulate reform in Italy, it makes a broad attack on the appropriateness for Italy of the specific strategy embodied in the EES, contending that

The EES, while highlighting the need for an organized strategy to support employment and the importance of policy mainstreaming, has simply given particular emphasis to certain concrete guidelines which were not very suited to the often fundamental nature of the Italian structural problems, with respect to the actual labour market. (Italy, 2002, p. 7)

The Italian report questions whether the EES is sufficiently flexible to accommodate very different national contexts and suggests a need for more emphasis on results and respect for subsidiarity. The report says that the guidelines are designed for very different conditions from those Italy faces. This reaction suggests a preference by Italian officials for more neo-liberal measures and more subsidiarity in the EES process.

The French five-year assessment is very different. Whereas the Dutch say they like the strategy but reject the idea that they adopted it because of EES, and the Italians question the strategy and thus the wisdom of following the guidelines at all, the French applaud the approach and report that EES has had a substantial impact on French policy and institutional structures: they also claim it has led to real employment gains (France, 2002). The French evaluation report argues:

French employment policies are not, in general, the same as they were before the Luxembourg process. To one degree or another, the framework for policy making, the content of policies, methods of implementation, and the role of different actors, especially the social partners, were modified. (p. 4)

The French report states that the EES has reshaped the policy-making process and led to numerous specific policy reforms. It shows how the EES has impacted on French policy-making. The guidelines and recommendations have both made a difference. Annual revision of the NAPs has created pressure for greater coherence in employment policy. Indicators have made it easier to monitor performance, and the alignment of the structural funds with the EES has helped reshape priorities, especially at regional level. The report indicates that France has learned from the good practices of others, citing what was learned from the Finnish programme for 'active ageing'.

The report goes on to note several changes in orientation and organization that can be traced to the EES. Thus, France believes that the EES has helped it shift from a short-term to a long-term perspective on employment, and begin to focus on the employment rate, not just the unemployment rate. At the same time, the EES has helped bring about greater co-operation between the various ministries that deal with the employment problem, promoted mainstreaming of gender and social exclusion policies, and reinforced tendencies to devolve employment policy to regional levels. Finally, the EES has expanded the social dialogue in France by adding new topics to the traditional labour relations agenda. All this, the report concludes, has led to substantial policy changes. These include expansion of activation policies, introduction of a preventative approach, more employment-friendly tax systems, more incentives for job creation in the service sector, better integration of employment and education policies and simplification of rules and procedures affecting job creation by smaller enterprises.

What is apparent is that the impact of the EES on Member State policy choices varies significantly across countries. Some countries made few changes either because that was all that was required based on their advanced starting point, or because many of the changes required were deemed inappropriate in the national context. Other countries made many more changes. The extent of the impact also varies significantly across policy areas covered by the guidelines. We see much more change under the guidelines that require a shift to a preventative unemployment policy and an increase in the use of active unemployment policies than we do in those that call for taxation systems to be more employment friendly. The explanation lies in both the structure of the guidelines and the politics of policy change. The guidelines on preventative employment policies and activation are specific, they include quantitative indicators, and there is less political opposition to these reforms. On the other hand, the tax reform guidelines are much more general, it is easier to make it appear as if some change has occurred even if it is not motivated by the EES, and mandates for tax changes by the EU often generate sharp political resistance by Member States. A general conclusion to draw is that an uneven

impact on Member State policy-making across countries and policy areas seems to be a key characteristic of the EES process.

The most difficult question of all is whether, to the extent that the EES is followed, it has helped lower the unemployment rate and increase levels of employment participation. The Commission's five-year review suggests that progress has been made during the past five years, noting that recent economic growth in the EU has been far more employment-intensive in the 1990s than it was in the 1970s and 1980s. But these effects cannot yet be directly traced to the EES. In addition, there is controversy about the direct impact of specific aspects of the strategy, such as its emphasis on activation, which may turn out to be less effective than proponents had hoped.

IV. Does the EES Promote Policy Learning?

One of the strongest claims made for the EES, in contrast to more traditional forms of governance, is that it will promote policy learning (Ferrara *et al.*, 2001; Esping-Andersen *et al.*, 2001). If the EES is a better way to generate new ideas for how to deal with the employment problem and diffuse those ideas from one part of Europe to another, it would clearly be an important addition to the EU's tool kit. There is an important literature promoting the view that governance systems that promote learning can be preferable to traditional regulatory approaches (Sabel, 2000; Dorf and Sabel, 1998; Teague, 2001). If the EES's adoption of a 'soft law' approach facilitates learning that might not otherwise occur, it would constitute a strong argument both for continuing this system and for employing its methods in other policy domains (Scharpf, 2001).

To assess this feature of the EES, we think it useful to identify three types of learning. Following Peter Hall (1993) we distinguish between learning that fine-tunes existing policy instruments, keeps goals intact but modifies instruments and leads to a change of the goals themselves. To see if the EES has promoted learning, and of what type, we employ three methods: we look at the process itself to see if it contains learning-producing mechanisms; we look at evidence of change within the strategy; and we review the only available study of the EES as a learning mechanism.

Assessment of Policy Learning in Process

The EES contains many features that could promote policy learning. The literature identifies a number of governance mechanisms that promote learning and innovation (Sabel, 1994; Easterby-Smith *et al.*, 2000). These include mechanisms that destabilize existing understandings; bring together people

with diverse viewpoints in settings that require sustained deliberation about problem-solving; facilitate erosion of boundaries between both policy domains and stakeholders; reconfigure policy networks; encourage decentralized experimentation; produce information on innovation; require sharing of good practice and experimental results; encourage actors to compare results with those of the best performers in any area and oblige actors collectively to redefine objectives and policies.⁴

The EES contains all these elements to one degree or another. The guidelines and the underlying strategy they reflect do, to varying degrees, challenge national policies in many countries and thus should destabilize prior understandings. The process is designed to create ongoing policy dialogues engaging diverse groups and crossing boundaries within government, between government and social partners, among actors from different countries, and between localities, national governments, and Union level actors and institutions. Member States provide detailed information on their unemployment-reduction efforts, share good practices, and comment on each other's annual plans. There are benchmarking mechanisms that encourage Member States to measure their performance against that of the best performers in the Union. Through peer review and exchange of good practices, each Member State directly confronts the plans and experiences of others, thus acquiring benchmarks by which they can measure their own performance. The Commission and the Council regularly review the national plans and provide comments and recommendations: these are often based on comparisons with the best performers and create additional benchmarks for each Member State.

Moreover, the EES process is iterative and iteration fosters deliberation. The guidelines can be and are changed from time to time so that new information and ideas can be incorporated. Since changes in the guidelines involve discussions with Member States and social partners, it sets in motion deliberations that may themselves bring new ideas and information to light. The process brings together actors from different parts of many national governments and social partners from various levels who interact with the Commission; in this way it could promote the further development of a community examining employment policy that links multiple levels of governance.

The existence of such learning-promoting mechanisms suggests that the EES has real potential. But the learning will not occur unless these mechanisms are used, and used effectively. A preliminary glance suggests that the EES has yet to realize the full potential of the learning mechanisms it has embraced. Look, for example, at the obligation placed on Member States to

⁴ The Commission has shifted from exclusively using the term 'best practice' and now commonly uses the term, 'good practice'.

share good practices. Beginning with the second annual cycle of NAPs, Member States have been required to present examples of good practice. But this dimension of the strategy is not particularly robust. While a few practices are highlighted in the joint employment report, the primary method for practice exchange is in review of the NAPs of other nations: these are circulated to all the Member States. Yet the section on good practices appears only in an appendix at the end of the reports, is usually only 2–3 pages in length, and normally provides only a few examples. After the first few years of the process, the Commission has begun to supplement good practice reporting in the NAPs with peer review conferences on good practices in individual Member States. By the fifth year of the EES process, a large number of these conferences were being held, but the participants differ in evaluation of their value.

Similar concerns can be raised about the peer review process, another learning method that on the face of it seems very promising. Each year Member States present their NAPs to all the others and are required to comment on each other's plans. Less than an hour is allocated for the entire session on each national plan, including a presentation by the Member State, comment by two other states and discussion. It is hard to imagine that so truncated a session could produce an in-depth assessment or offer very much useful feedback.

Evidence of Change

A second way to measure learning is to observe changes in policy over time and see if these changes can be attributed to new understandings brought about by learning-promoting mechanisms. If we look at the guidelines themselves, we see significant change taking place at least in part due to the learning-promoting mechanisms. While the Commission has been reluctant to make radical changes in the guidelines for fear of creating confusion, there were important shifts between the 1998 and the 2001 guidelines. Some of these changes can be seen as an effort to refine the original guidelines in the light of experience, the first level of learning, while others really introduce new objectives and set new targets, the second level of learning. In both cases, it appears that some of the changes came about because exchange of information and deliberation within the EES process brought new ideas to the fore. At the time of writing, there has been no change at the EU level in the overall goals or ranking of goals of the EES, so no third-level policy learning can be said to have occurred.

Of course, whether learning occurs at the national or local level is the crucial test. But comprehensive information about learning induced by the EES at these levels is not available. The Commission did not make an examination of EES-promoted learning an explicit part of the five-year national

evaluation studies – a clear sign that the Commission does not always place learning at the centre of its thinking about the EES, even if this may be its most important feature. However, the Dutch in their report did recognize the policy-learning potential of the process and made it an important and explicit part of its review. The Dutch report indicates that disentangling learning induced by the EES from the many other sources of learning is difficult. For example, ideas embodied in the EES have been discussed by the relevant actors in the Netherlands, but these ideas are also present in other sources. The report does indicate that the Netherlands is taking more of a comprehensive approach to employment policy and that the EES has played a significant role in this change. This represents the second type of more comprehensive learning.

From this analysis it seems clear that the EES includes significant learning-promoting mechanisms; these mechanisms are working to some degree, although limited to the first two levels of policy learning; and the learning that results is affecting policy development at the Union level and at least to a modest degree at the national level. But there are obstacles to the EES developing into an effective learning instrument. The number of domestic policy-makers involved in the EES process is limited in many Member States. Some Member States treat the NAPs as a bureaucratic reporting task, not an opportunity for policy reflection. While the process does produce a large amount of information allowing for cross-national comparison, it is not clear how often this information is being used.

While there has been a modest level of learning so far, it may be that the EES is only now reaching the stage of 'learning take-off'. For instance, the national evaluation studies and the EU level transversal studies that were completed in 2002 represent a dialogue with a diverse set of options and conclusions about both the structure of the process and the contents of the strategy. This might lead to important future policy learning and policy change, especially if the Commission were to pay more attention to this aspect of the EES.

V. Overall Assessment

In this final section, we ask two basic questions: how successful has the EES been in constructing a new form of governance, and to what degree is it likely to contribute to efforts to develop a European social model based on generous social benefits?

Assessing a New Governance Mechanism

The EES embraces five major governance objectives: promotion of learning; enhancement of co-ordination between levels of government; integration of

separate policy domains; enhanced participation; and promotion of convergence while allowing diversity. We have already analysed the first goal – promotion of learning – in Section IV above. Here we comment on the others:

1. *Co-ordination of actions at multiple levels of government.* Effective labour market reform, and other aspects of a successful employment strategy, must be implemented at local and national levels, which in turn must be aligned with European level programmes and policies. Thus, an effective strategy should include ways to engage multiple levels of government in a common enterprise.

The very existence of the EES, with its national plans and Europe-wide guidelines, is evidence that efforts are being made to integrate the several levels. It is clear that the EES has created a formal mechanism to co-ordinate the local, national and Union levels. The issue is how effective this co-ordination is in practice. We know it is far from perfect: some Member States have failed to respond to Union-led efforts to change national policies and there is concern that regional and local governments have not been adequately integrated into the process. But we have also seen that some change is occurring at all levels, thus suggesting that the new machinery offers promise.

2. *Cuts across policy domains.* A major feature of the employment problem, like many other social issues, is that it involves several policy domains and cuts across institutional boundaries. For example, to create more jobs, it is necessary both to foster entrepreneurship and upgrade workers' skills. And these efforts should be co-ordinated. But, traditionally, enterprise promotion and worker training have been handled by different agencies and operated independently. And as the guidelines themselves demonstrate, there are many other areas where boundary-crossing efforts are needed.

Even a casual look at the guidelines and the NAPs shows that the EES has successfully identified a number of important areas where agency and policy domain boundaries must be crossed, and set out policies that require co-operation by several agencies at the national level. But are they co-operating? Evidence is mixed. In 2000, the Commission expressed concern about the degree of real co-operation (Commission, 2000, p. 89). By 2002, things were looking up. In the five-year assessments, France and other Member States report substantial improvement in inter-ministerial co-operation, and the Commission review indicates that the EES has had an influence on such policy fields as social exclusion, education and training, fiscal policy and family policy. But these effects are not uniform across the 15 Member States.

3. *Enhanced participation and functional representation.* Since the development and effective implementation of successful policies will require the co-operation of, and action by, employers and worker representatives, and since policies will require public input and public support at the national level,

any successful employment strategy-making process needs to ensure broad public participation and effective representation of the social partners.

Initially, this was a problem in the operation of the EES. There is evidence that in the early years there was little participation by the social partners in the shaping of the guidelines and the NAPs.⁵ Recently, however, some efforts have been made to ensure broader and more effective participation at the European level. At the national level, some unions report favourably on their participation in the process of writing the NAPs, but many still complain of having only very minimal input (ETUC, 2001). At present, the EES still remains heavily driven by a bureaucratic core in the Commission and the national labour ministries.

4. *Encouragement of partial convergence while accommodating diversity.* Although all EU Member States share some common problems, the extent of the problems varies from state to state. Because the legal rules and institutional structures in industrial relations and social policy of the 15 Member States are extremely varied yet deeply embedded, any effort to demand uniformity would be unrealistic. Nonetheless, the Commission and the European Council have made it clear that the EES is designed to produce *convergence* at least in some areas. But what is sought at least so far is *partial convergence* on a *partial* strategy. Moreover, to the extent that the EES does seek convergence, it is often a convergence of outcomes, not of policies. Many of the guidelines set targets for results and let the Member States choose the best means to reach those results. Finally, the strategy is designed more to encourage Member States to change than to force them to do so and, while the Council does issue recommendations from time to time, there are no hard sanctions for failure to follow the guidelines. Nonetheless, the Commission's five-year review found clear evidence of some convergence. Member States that had already adopted the EES' active labour market principles continued down that path while other countries began to move in the same direction (Commission, 2002). The Commission noted that peer review of good practices and recommendations has contributed to the convergence process.

The EES, the Politics of the Welfare State and the European Social Model

The final question to consider is the potential effect of the EES on the debate on the future of the European social model. Views range from calls to deregulate labour markets and roll back benefit systems to demands that existing generous social systems be maintained largely intact. In between lie those who

⁵ The EES anticipates two types of participation by the social partners. The first is participation at the EU and national levels in writing the guidelines, EU reports and the NAPs. The second is participation in implementing the guidelines on work reorganization. The Commission has attempted to increase participation of both types, and in both areas has been only moderately successful.

support generous protection but recognize the need for some change. Modest reformers of this type accept the need to reallocate funds to serve previously excluded groups, rethink strategies to increase employment, find ways to accommodate new types of work and workers, combine security with flexibility and recalibrate benefits to avoid fiscal crises (Levy, 1999). Their agenda overlaps with the strategy of the EES. The issue is, to what degree will the presence of the EES help the efforts of the modest reformers in political struggles over the future of the welfare state?

This question will largely be decided at the national level. Despite some Europeanization in social policy, most of the final decisions on the future of the welfare state will be taken by national governments. So what are the prospects that this mechanism will have a significant impact on the outcome of national debates?

The EES cannot significantly affect the balance of power in a given Member State. True, Member States make some tentative commitments to a modest reform agenda by accepting the guidelines, but it is unlikely this would deter a powerful right-wing government intent on rolling back the welfare state. In other political configurations, however, ideas and strategies developed at the European level through the EES process can help bring about significant change in national laws, policies and budgetary allocations. In the easiest case, the EES may point to strategies that improve conditions for everyone and thus can gain very widespread support. But the EES could also have an effect in cases where there are some divisions on welfare state issues. Thus, in a country where political support for the welfare state is strong, but supporters are split between those who accept the need for recalibration and those who oppose any change whatsoever, the EES can strengthen the hand of the moderate reformers. Similarly, in situations where the dominant political actors accept the need for some reform, the EES can help shape the strategies that are selected.

Where the EES is more likely to have an impact is in cases where there is support for the welfare state and the political choices are between the *status quo* and modest 'recalibration'. The EES encourages states to redirect existing resources to women, the unemployed and other groups previously not well served. It promotes efforts to preserve the fiscal base needed for a generous welfare system by encouraging policies that will increase the percentage of working age adults who are in the workforce and paying into the system, rather than out of it. It encourages efforts to get more people into the workforce by upgrading skills across the board, but with special emphasis on new entrants, the unemployed and those in low-skill jobs. While all of these measures have substantial support, they will also meet resistance from those who are afraid that any change is likely to lead to more radical cuts, as well as

those who may lose from a redirection of welfare state services and resources. In such situations, the EES can provide domestic leaders and other domestic political actors in favour of moderate reform with arguments for the necessity of change as well as showing that other countries have successfully made these changes without having the whole system unravel.⁶

The EES can be especially effective if it were to lead to more efficient ways of using existing resources or provide guidance to people who accept reform but are unsure of how to proceed. Policy learning might produce win-win situations in which some can benefit at no cost to others, or where gains are so large that modest cost increases or losses to some can be accepted. And ideas contained in the EES can channel reform efforts when there is genuine doubt as to how best to accomplish reform goals, and reformers are uncertain how to proceed.

Conclusion

The establishment of the European employment strategy with its novel governance arrangements may represent the beginning of a substantial shift in both European social policy-making and European Union governance. It has been touted as a 'third way' in EU governance to be used when harmonization is unworkable but mutual recognition and the resulting regulatory competition may have unwelcome consequences (Mosher, 2000; Larsson, 2000; Ferrara *et al.*, 2001). At the Lisbon summit the European Council recognized the EES as an important governance innovation and indicated that, in the future similar 'open methods of co-ordination' (OMC) would be used in several domains of social policy as well as other areas (Portuguese Presidency, 2000; de la Porte, 2002). The EU's 2001 White Paper on Governance recognized the importance of the open method, albeit with some reservations.

While the OMC remains controversial, and its operation is still not fully understood, it seems clear that the EU will continue to employ this method for the governance of social policy. Our study of the EES, which is the oldest and most developed of the OMCs now in operation, suggests that the OMC has potential in certain areas of policy-making, but that its potential has not yet been fully realized. Further work is needed to determine the conditions most appropriate for open co-ordination, the reforms needed to make the method most effective, and the relative importance of 'soft' methods like OMC and more traditional, 'harder' forms of EU level regulation.

⁶ For an example of the EES dovetailing with domestic moderate reform efforts, note how the EES emphasis on increasing the employment rate of older workers reinforces the controversial arguments in favour of reducing early retirement in the 'Plein emploi,' report to the French government on its employment policy by Pisani-Ferry (2000).

The OMC is an appropriate tool to use in situations when common problems exist across Europe but conditions make uniform policies impossible and there is great uncertainty as to the best way to deal with problems. In such situations, a learning-producing system that engages multiple levels, promotes dialogue, cuts across traditional boundaries, and fosters local experimentation could produce better results than directives or other binding and more or less uniform solutions. We have seen that the EES has some of these features. But for EES fully to perform in this way, it will be necessary to improve its learning-producing capacities, increase effective participation, and ensure more real buy-in by all Member States.

A final question is the relationship between soft law processes like the EES and any future 'hard law' initiatives in social policy at the EU level. Some believe that to preserve the European social model it is necessary to have specific standards for social protection enshrined in EU law. Others think that it would be better to create broad but mandatory principles at the EU level but give the Member States discretion in how they satisfy these principles. In the first case, the OMC would seem a doubtful route to take; in the second, it would have to be combined with hard law mechanisms like framework directives or even enforceable social rights (Scharpf, 2002; Sciarra, 2000). Either way, it would be important to delimit the scope of soft law mechanisms so they do not preclude hard legislation when that is needed.

To assess this set of issues, one would need a more robust theory of this relationship than we have today. The EES was not adopted after a careful study of all alternative paths; it was chosen as a pragmatic accommodation to limited competence, regulatory impasse, and a lack of workable uniform solutions. While we understand the concerns of those who fear 'soft law' might drive out hard law, our study suggests that the process may have positive features that could make it a superior approach in many cases. Therefore, until we develop a more comprehensive theory of governance that embraces both hard and soft options, see if the flaws in the EES process can be ironed out, know more about the nature of the employment problem and better understand the effects of the EES, we cannot draw bright lines around this promising experiment.

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