

The OMC and Social Protection: Constructing an EU Social Model?

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Plan of the course

- **1. What is the Open Method of Coordination?**
- 2. OMC and Social Protection:
Why, How, and with What Results?
- 3. OMC and the Future of Social Europe

Plan of the lecture

- I. What Is the Open Method of Coordination?
- II. Theoretical Promise of a New Governance Instrument
- III. Is OMC Legitimate? Three Critical Questions
- IV. Is OMC Effective? Ambiguities and Assessment Criteria

I. What is the Open Method of Coordination?

- An experimental approach to EU governance based on benchmarking of national progress towards commonly agreed objectives and organized mutual learning
- ‘Open coordination is a mutual feedback process of planning, examination, comparison and adjustment of the...policies of Member States, all of this on the basis of common objectives’ (Vandenbroucke)

Defining features of a variable method

- Joint definition by EU member states of initial objectives, indicators, priorities or guidelines, and sometimes targets
- National reports or action plans: assess performance against objectives and metrics; propose reforms accordingly
- Peer review of national plans through mutual criticism and exchange of good practices, backed up by recommendations in some cases
- Periodic re-elaboration of plans, and less frequently, of broader objectives and metrics in light of experience gained in their implementation

Origins and development

- Rooted in new Treaty-based EU policy coordination processes introduced during 1990s:
 - Broad Economic Policy Guidelines (BEPG)
 - European Employment Strategy (EES)
- Defined as a broadly applicable governance instrument for EU policy making at the Lisbon Socio-Economic Summit in March 2000

Fields of application (1)

- Social Protection
 - Social inclusion/fight against poverty
 - Pensions
 - Health care/care for the elderly
(not yet formalized)
 - Disability (under discussion)

Fields of application (2)

- Education/Training
 - Common objectives for national systems
 - Bologna Process: voluntary harmonization or ‘interoperability’ of tertiary degree structures
 - Youth policy
- ‘Cardiff process’
 - structural reform of product and capital markets (feeds into BEPG)
- Other dimensions of the ‘Lisbon Strategy’
 - R&D/innovation, information society, enterprise policy
- Immigration/asylum
 - OMC as a tool for monitoring/completing implementation of EU legislation

Recipe or cookbook?

- OMC not a fixed recipe, but a cookbook with various recipes, some lighter and others heavier (Vandenbroucke)
- Contrast with Lisbon definition, based on EES and BEPG
- Variations in modalities and procedures depending on:
 - the specific characteristics of the policy field
 - the Treaty basis of EU competence
 - the willingness of the Member States to undertake joint action

Role of EU institutions

- Commission and Council
 - can issue joint recommendations to Member States on implementation of the EES and BEPG
 - but not (yet/ever?) on social inclusion and pensions
- Parliament
 - consultation required for employment guidelines, but not for BEPG or other OMC processes

Format and periodicity

- Annual NAPs and guidelines for the EES and BEPG
- Bi-annual NAPs but no guidelines (yet?) for inclusion
- European (and now national) targets for employment strategy; national targets for poverty reduction
- ‘National Strategy Reports’ every few years for pensions; no indicators yet; guidelines unlikely
- ‘Streamlining’ and ‘synchronization’ of BEPG, EES, and social protection OMCs will change picture significantly
- Other OMC processes much looser and often include only some elements of method

II. Theoretical Promise of a New Governance Instrument

- OMC as a promising instrument for identifying and pursuing broad common concerns while respecting national diversity
- Encourages convergence of objectives, performance, and policy approaches, but not of specific programs, rules, or institutions

OMC as a mechanism for experimental learning

- A promising instrument for promoting deliberative problem solving and experimental learning across the EU
- Systematically and continuously obliges Member States to pool information, compare themselves to one another, and reassess current policies against their relative performance
- Diversity as an asset for learning rather than an obstacle to integration: the EU as ‘a natural laboratory for policy experimentation’ (Rodrigues Report)
- Increasingly critical in the face of EU enlargement

Constructing an EU Social Model?

- OMC as a cognitive and normative tool for giving practical content to the idea of a distinctive European (or EU) social model based on shared values (Vandenbroucke, Ferrera)
- Pivotal role of common objectives in linking EU policy making upwards to core values and goals of the Union (Treaty, Charter of Fundamental Rights) and downwards to programs and practices of Member States
- Iterative, reciprocal reassessment of ends (values, objectives) and means (plans, policies, programs) in light of practical experience: OMC as pragmatic constitutionalism

Open participation: A vital ingredient

- Both the legitimacy and the effectiveness of the OMC depend on the participation of the widest possible range of actors in policy formulation, implementation, and evaluation at all levels (EU, national, regional/local) in order to:
 - ensure the representation of diverse perspectives
 - tap the benefits of local knowledge
 - hold public officials accountable for carrying out mutually agreed commitments
 - Cf. architects of OMC: Rodrigues/Portuguese Presidency, Telò

OMC as a template for EU policy making

- OMC has rapidly become the governance instrument of choice for EU policy making in complex, domestically sensitive areas
 - where the Treaty base for Community action is weak
 - where inaction is politically unacceptable
 - where diversity among Member States precludes harmonization
 - where widespread strategic uncertainty recommends mutual learning at the national as well as European level

OMC as an international policy model

- Complexity, diversity, and strategic uncertainty are defining features of public policymaking in all advanced democracies, not just the EU
- Hence OMC has begun to attract attention from academics and policy makers elsewhere, as a tool for:
 - improving multi-level governance in federal systems (e.g. US welfare reform – beyond block grants and federal mandates; benchmarking against common indicators and exchange of best practices in Canadian social union)
 - enhancing implementation of common commitments within international organizations (e.g. ILO core labor standards, UN regional ageing policy)

III. Is OMC Legitimate?

Three critical questions

- OMC and subsidiarity
- OMC and the Community Method
- OMC and democracy

Infringing or extending subsidiarity?

- One frequently raised concern about OMC is that it violates the principle of subsidiarity by bringing EU policy making into areas of exclusive national or subnational competence (e.g. social assistance, education)
- Properly understood, however, OMC does not involve the subordination of one level of government to another, but rather a collaborative mode of governance in which each level contributes its distinctive knowledge and resources to tackling common cross-cutting problems
- Hence OMC should be seen as extending rather than infringing subsidiarity

Is OMC a threat to the Community Method?

- Another widely voiced objection to the OMC is that its ‘soft-law’ law procedures represent a threat to the classic Community Method of EU policy making, based on binding legislation initiated by the Commission, enacted by the Council and the Parliament, and enforced by the ECJ
- Has led to demands that OMC should not be used when legislative action under the Community Method is possible

OMC and the Community Method: conflicting or complementary approaches?

- OMC most often used where: EU Treaty powers are limited; there is insufficient consensus among Member States to enact binding directives (e.g. immigration); policy fields are too complex/diverse to be credibly harmonized at European level (e.g. employment, social protection)
- Hard-law directives themselves increasingly incorporate provisions for completion and periodic revision of standards through soft-law OMC procedures (e.g. hazardous waste, occupational health and safety)
- Often an ‘integral continuity’ between legally binding norms embodied in EU framework directives and ‘soft’ OMC guidelines (e.g. regulation of ‘atypical’ work, private pensions)

OMC and experimental governance: renewing the Community Method

- OMC as one element in a larger system of experimental governance in the EU that blurs the distinction between hard and soft law
- Community Method itself can be interpreted as a deliberative agenda-setting mechanism through which the EU, despite its diversity, provides for public- or other-regarding decisions, thereby inducing Member States to relax their sovereign veto powers (cf. Magnette)
- Seen in this way, the emergent system of experimental governance (including OMC) thus represents a renewal rather than replacement of the Community Method

OMC: a democratic deficit?

- Is the OMC part of the solution to the EU's democratic deficit or part of the problem?
- OMC processes, objectives, guidelines, and recommendations authorized by elected Member State governments (European Council, Council of Ministers)
- But most of the work done by unelected committees of national civil servants and Commission officials (EMCO, SPC, EPC)
- Limited role for representative democratic institutions at both EU and national levels (EP, national parliaments)

What model of democracy for the EU?

- Hence democratic legitimacy of OMC must rest on openness, transparency, and broad participation in public problem-solving activities
- Importance of participation by non-state actors (social partners, NGOs, local/regional authorities) in all phases of OMC processes at EU, national, and subnational levels
- An alternative to conventional principal-agent democracy: the EU as a directly-deliberative polyarchy (Cohen/Sabel; Sabel/Zeitlin)

Ideals and realities

- Most OMC processes as presently organized fall short of this ideal of openness and broad participation
- Involve mainly bureaucratic insiders in direct contact with EU institutions
- Low public awareness within Member States
- Limited participation of civil society actors beyond the traditional social partners (social inclusion as an exception)
- Ongoing controversies over the role of local and regional authorities (e.g. reform of EES)

Benchmarking openness and participation

- A theoretically promising response: OMC procedures for ensuring full and open participation can be reformed by applying to them the same techniques of benchmarking and peer review that inform substantive policy judgements
- Growing emphasis within Commission and Parliament on mobilizing all relevant bodies and stakeholders in OMC processes supports the practical feasibility of this approach
- But subject to continuing political disputes about intrusion by EU institutions on Member State responsibilities for implementation (e.g. new employment guidelines)

IV. Is OMC effective?
Ambiguities and assessment criteria

Does OMC enhance the EU's problem-solving capacities?

- Identifying common challenges
- Building consensus around common objectives
- Developing agreed performance metrics
- Identifying promising policy approaches
- Promoting mutual learning about what works and what doesn't work in specific policy areas
- Achieving measurable performance improvements
- Difficulties of establishing clear causal connections between policy and performance (e.g. employment)

Integration of OMC into EU policy making

- ‘Coordination of coordination’ as an EU policy problem
 - Multiplication of sectoral policy coordination processes
 - Need for better integration of employment and social policy OMCs into BEPGs and spring socio-economic summit
- Conflicts over role and authority of different actors
 - Ecofin/DG Ecfm/EPC
 - Employment & Social Policy Council/DG EMPL/EMCO, SPC
- Changing EU political constellation since Lisbon
- Streamlining and synchronization
 - EES, social protection OMCs
 - Opportunities and risks

National impact: administrative reorganization

- Better horizontal integration of interdependent policy fields
 - national, subnational levels
- Improved statistical and steering capacity
- Increased decentralization of public services within Member States
- Greater attention to vertical coordination between levels of governance
- OMC as a stimulus, but not the only cause

National policy change: one-way impact or two-way interaction?

- Broad shifts in policy thinking of Member States
 - Wide adoption of EU concepts and categories (e.g. activation, preventative approach to unemployment, social exclusion, lifelong learning, gender mainstreaming)
 - But subject to local inflection and interpretation
- Causal effects hard to determine
 - Changes in Member States' policy orientations often preceded launch of OMC processes (EES, social inclusion)
 - Member States themselves helped to define OMC objectives, guidelines, and approaches
- Hence better to speak of two-way interaction than one-way impact

Mechanisms of domestic influence

- Persuasion/mutual socialization
- Peer pressure/‘naming and shaming’
 - Recommendations, rankings
- Strategic use of OMC by domestic actors
 - National governments
 - Ministries
 - Public agencies (e.g. gender equality)
 - Opposition parties, social partners, NGOs
- Influence depends on public awareness and broader attitudes towards the EU

Mainstreaming OMC into national policy making

- NAPs as government activity reports to EU rather than strategic action plans or public policy steering documents
- Discourages participation by both public and private actors
- Lack of integration into national policy processes
 - Parliament
 - Budgeting
 - Other initiatives and fora (e.g. National Anti-Poverty Strategy)
 - Public agencies
- A possible solution:
benchmark mainstreaming of OMC into policy process
 - New inclusion objectives, employment guidelines

Cross-national learning

- Enhanced national awareness of policies, practices, and problems in other Member States
- Influence of foreign examples on domestic reform debates
- Limited evidence of direct policy transfer
 - need for adaptation of good practices to different institutional contexts (contextualized benchmarking)
- Little tangible progress in bottom-up learning from local practice (mid-term review of EES)
- Reflects limited participation of local actors and lack of opportunities for horizontal exchange of experience
- Need for review of mutual learning mechanisms within OMC processes (mutual surveillance, peer review, etc.)

Conclusion

- Broad, open participation as a condition of effectiveness as well as legitimacy of OMC