

**Policy Process, Governance and Democracy in the EU: the Case of the Open
Method of Co-ordination on social inclusion¹**

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Abstract

Many scholars attach normative expectations to the Open Method of Co-ordination (OMC), a new European governance instrument, with regard to its ability decrease the EU's democratic deficit by creating a participatory policy process. This article argues that the existing OMC literature insufficiently relates the normative expectations with empirical research. Consequently, this article scrutinizes the policy process of the OMC on Social Inclusion with regard to their openness and participative character, taking the National Action Plans in Germany as example. The empirical results are discussed in light of the normative expectations on the OMC's democratic potential.

Keywords:

OMC, European democratic deficit, participation, governance

1. The diversity of normative and empirical expectations concerning the Open Method of Co-ordination*Background*

Since its introduction at the European Council's extraordinary Council in Lisbon (March 2000), much has been written about the new Open Method of Co-ordination (OMC). The OMC was introduced as main instrument of the so-called Lisbon Strategy, aiming at – in its original version - to become 'the world's most competitive knowledge-based economy by 2010' (Council 2000b). Most scholars call the OMC a 'soft law' approach of 'new governance' in the European Union (EU) that attempts to achieve common European goals without traditional means of the integration process, such as regulations and directives (De la Porte 2002 ; Hodson and Mahe,r 2001; Mosher and Trubek, 2003)².

The OMC was modelled after already existing economic and employment policy co-ordination structures such as the European Employment Strategy and was to be applied

in various (social) policy areas, e.g. social inclusion, pension, health and education. This method includes setting of common objectives, definition of commonly agreed benchmarks, spreading of best practices and enhancement of policy learning. The member states are given significant leeway to determine their particular engagement in the process by only being 'invited' to explicate their policy choices in regular National Action Plans (NAPs). Unlike the 'harder' EES, the monitoring process does not include recommendations of the Commission but merely a joined report of the Council and the Commission on the NAPs as well as peer reviews.

Expectations attached to the OMC

The OMC's novelty and the diverse expectations attached to it (see Scott and Trubek, 2002) stimulated an interesting and multifaceted debate among policy-makers and scholars. One discussion strand is interested in the problem-solving capacity of European policy-making (Héritier, 2001; Scharpf, 2001a, 2001b; 2003), and therefore addresses the innovative character of the OMC and its attempt to find new paths of policy-making and implementation within the European multi-level system. Its authors seek to understand the OMC's functional and political origins (de la Porte et al., 2001; Mosher 2001), its mechanisms (Jacobsson, 2001; 2002) and also to monitor the first steps of its implementation (de la Porte and Pochet, 2002; Magnusson et al. 2005). A second strand is concerned with social policy and the OMC's possible contribution to Europe's social dimension (Esping-Andersen et al., 2001; Scharpf, 2002; Vandenbroucke, 2002). The third strand of discussion reflects normative expectations of both scholars and policy-makers with regard to the OMC's democratic potential for the EU (i.a. Clotuche, 2001; Cohen and Sabel, 2003; Council, 2000e; Rodrigues, 2001;

Scott and Trubek, 2002; T elo, 2002; Vandenbroucke ,2000). They hope for the OMC to become a policy process open for widespread participation of civil society actors and thereby legitimising the EU.

The research desideratum

However, the debate surrounding the normative expectations often remains unsatisfactory because it neither sufficiently conceptualise the assumption that participative policy-making processes have democratic potential, nor does it systematically link empirical evidence to a theoretical frame. This article contributes to this debate by empirically assessing the plausibility of the normative expectation. Its first part clarifies the theoretical rationale behind the expectations by discussing the normative value of an inclusive and participative policy process. The second part then presents some empirical evidence of the OMC at work, aiming at examining whether the normative expectations can be supported by empirical findings. It is claimed here that a normative judgement of the OMC's democratic potential requires a detailed understanding of the 'OMC at work'.

Recently, the topic of participation attracted some attention by other authors. De la Porte and Nanz (2004) discuss participation patterns in the pension OMC in the light of participatory and/or deliberative democracy theories; Jacobsson and Vifell (forthc.) and (Meyer forthc.) consider public sphere issues in the light of the Habermasian public discourse approach. Smismans' (2004) stimulating work analyses the OMC's decentralised and bottom-up character in light of the theory of directly deliberative polyarchy. The approach adopted in the present article differs from this by adopting a different theoretical stance, namely that of participative deliberative democracy. Here,

the focus is less on the decentralised character but on the extent of civil societal inclusion into the policy processes. In providing a detailed process analysis, this article tries to remedy the major weakness of De la Porte and Nanz' article.

Consequently, after remarks on methodology (part 3), a thorough analysis of the OMC's policy process lies at the heart of this article (part 4). A central process of one specific OMC, namely the OMC on social inclusion (OMC/inc.), is chosen as *explorative* case to better empirically ground the normative debate, namely the process of writing the National Action Plans on social inclusion (NAPs/inc.) in Germany. In the light of the theoretical outline, the article concludes by tentatively discussing whether the OMC/inc. is a plausible carrier of normative expectations. It should be stressed that the article is explorative in nature. Both the theoretical discussion and the empirical analysis would deserve more space than it is available here. Let me now begin with outlining this article's theoretical underpinnings.

2. Participation, Civil Society and Democracy

As was said in above, the normative expectations related to the OMC focus on its alleged democratic potential. This section discusses the theoretical rationale behind these expectations.

Obviously, talking about democracy means to walk on fairly slippery ground. This is so not only because of its conceptual opaqueness and ambiguity. It is also important to keep in mind, as Bernhard Peters has stressed, "that "democracy" is often used in two different senses" (2004: 3, highlights in original). Democracy can either refer to the

entirety of a political order or it can refer to procedures and processes of policy- and decision-making within a given political order. It is the latter usage which I will predominantly refer to in this article.

The issue of democracy has gained prominence in recent political science debates because of the increasing (spatial) incongruence between the norm-setters and the addressees of those norms. The dominant ‘aggregative model of democracy’ seems impossible to be applied to transnational democracy. This model is based on the principles of “equal consideration” and “personal autonomy” (Cohen, 1996: 98) and argues that “an ideally democratic procedure gives equal weight to the interests of each in arriving at binding collective decisions” (Cohen, 1991: 221). In this view, a democratic process is a competitive process in which the (pre-politically given) preferences of individuals are aggregated (Nanz and Steffek, 2004: ; Sørensen and Torfing, 2004). Of particular prominence is the idea of parliamentary representation as key mechanism for realising the democratic requirement of self-governance, (political) equality being secured by the formula One Person – One Vote.³

The normative expectations of the OMC’s democratic potential, however, are based on an alternative understanding of postnational democracy. The idea is that inclusive and participative policy processes offer an alternative path to achieving the core idea of democracy, namely the presumption of self-governance. That means that the OMC, to be democratic, must be designed in a way as to enable citizens’ equal control over public policies of which they are subject. If one accepts control of the rulers by the ruled as central element of democracy, the inclusion of citizens’ concern into existing non-majoritarian policy-making processes such as the OMC seems thus to be a normative imperative.

From a theoretical standpoint, however, this assumption is valid only if inclusiveness and participation succeeds to ‘bridge the gap’ (Armstrong 2002) between those who govern and the governed citizenry. For this there is luckily no need to reinvent the wheel, because ‘in the shadow of Habermas’ the role of civil society in ‘mediating’ between political institutions and the citizenry (i.a. Nanz and Steffek, 2004) is prominently put forward. According to Habermas,

“Civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distil and transmit such reactions in amplified form to the public sphere. The core of civil society comprises a network of associations that institutionalizes problem-solving discourses on questions of general interest inside the framework of organized public spheres” (Habermas, 1996: 367).

In highlighting the role of civil society, Habermas “shifts some of the burdens for securing democratic outcomes away from the individual virtues of an active citizenry onto the “anonymous network of communication” in civil society” (Baynes, 2002: 134). From this perspective, civil society associations pick up individual citizens’ concerns, give voice to them in the ‘weak public’, where the issues are discussed, and transport them further to the ‘strong public’ of the institutionalised political system.⁴ They are open to all citizens interests and, moreover, also pick up concerns of disadvantaged people or of ‘voiceless’ but important issues of the common good, such as the environment.

Hence, policy processes that give extensive participatory opportunities to civil society, conceptualised in an organised manner, i.e. represented mostly by NGOs, are promising

to strengthen democracy in postnational governance arrangements, by offering a complementary mechanism to the traditional (state-centred) model of representative democracy.

3. Some methodological issues

This outlined normative perspective suggests that the OMC unfolds democratic potential if it guarantees a policy process which is inclusive to the participation of civil society organisations (CSOs). Since this is promised in the OMC's template, the normative expectations of many observers are understandable. Now, in order to examine whether the expectations are justified by the empirical reality, the analysis needs to focus on certain aspects in the policy process. Given the prominent theoretical role assigned to civil society organisations, the research must be particularly sensitive to their participation. In order to be participative, a policy process needs both structures that enable participation, and actors that actively seek to get involved and to make use of the process, thus, both top-down and bottom-up efforts are needed to achieve a participative policy process.

Accordingly, the following empirical analysis seeks to identify whether the formal structures are appropriately designed and the official actors willing to give CSOs, in a transparent manner, access to the OMC-process; moreover, the focus will also lie on the extent to which CSOs actively seek to get involved and try to render the OMC a dynamic process. Hence, the OMC possess democratic potential, and fulfils the normative expectations, if the actors from the 'top' initiate structures that provide access

and include CSOs as a necessary element of the process, and if the CSOs are actively partaking and stimulating a bottom-up process.⁵

As was said in the introduction, the heart of the article is the empirical analysis, seeking to attain an explorative insight in whether the normative expectations about the OMCs' reality are empirically justified and plausible. The empirical analysis is based on the in-depth study of one case, the process of writing the National Action Plans on social inclusion (NAPs/inc.) in one member state, namely Germany. The reason for taking the member state level, and in this the National Action Plans, as empirical example is the nature of the OMC which prioritise the national level. The OMC gives member states considerable freedom to become active and to choose their means of action, thus, it can be argued, the principle of subsidiarity is respected. In this, the NAPs are the central mechanism that shall develop the policy actions and which serves as linking instrument between the national and the EU level. Governments are asked to present their current and future policies in the NAPs with the premise to include various relevant actors in the writing process.

Obviously, the selection of only one country reduces the strength of the theoretical argument, but it allows for empirical depth instead of breadth.⁶ In this respect, Germany is a particularly interesting case because it simultaneously challenges the OMC process and provides good starting points for civil society participation. The country's federal political system is challenging because it duplicates the necessary procedure of the OMC due to the imperative inclusion of the Länder level. On the other hand, its multi-level structure provides a multiplicity of possible access points for civil society

organisations. Moreover, welfare associations are integrated in much of Germany's social policy system.

The process tracing exercise is predominantly based on extensive expert interviews. 16 interviews and several shorter questionings with key public and private actors of the process from all levels, i.e. the federal and the Länder-level were conducted. Due to confidentiality reasons, quotes from the interviews will only be specified by naming the institution.⁷

4. The Policy Process of the OMC on Social Inclusion in Germany

Now, the NAP/inc. process in Germany will be assessed with a focus on the participation of various actors. Particular attention is paid to potential developments between the processes of the NAP/inc. 2001 and 2003.

Institutional and political context

Since Germany's fragmented political system shapes the participation pattern, three different arenas will be distinguished: a 'federal arena', dominated by governmental actors structuring the whole process and holding the final political responsibility. A 'sub-national' arena, because "bringing in the Länder and local authorities is a precondition for the success of the NAP/inc." (EAPN 2002: 64) since legislative competencies "are in principle with the Länder unless the constitution stipulates the competence for the federal level or declares shared competencies" (Müller 2002: 41), which is the case for social policy (Art. 74 Basic Law). The local authorities – as parts

of the Länder - are responsible for securing “a social balance in living conditions” (Hanesch 2001: 1) in securing the “social infrastructure” (Bäcker et al. 2000: 75) either through direct provisions or delegation to the six welfare associations⁸. Due to the importance of the subsidiarity principle in Germany’s social policy system, a ‘civil society arena’ is also important to consider. Social NGOs’ high degree of “incorporation in the social protection system and their legal privilege” (Backhaus-Maul 2000: 26; own translation) provides them with an indispensable role in Germany’s social policy-making. A major task to examine was the extent to which this institutional backdrop, characterised by its vertical and horizontal dispersion of a multitude of actors, shaped the participation pattern of the NAP/inc. process in Germany.

The National Action Plans on social inclusion in Germany

The federal arena:

The formal procedure of the two NAP/inc. processes (2001 & 2003) is dominated by governmental actors which have the political responsibility. The EU-Affairs Unit of the Labour and Social Affairs Ministry was a key actor. It was the responsible department despite its lack of specialised expertise. Apparently, since neither an internal nor an inter-ministerial project-group was set up, the progress and finalisation of the first NAP largely relied on the engagement and interest of the responsible department and its personnel, which encountered considerable resistance with regard to the required contributions from many colleagues from other units and ministries. In fact, several responsible interviewees in the social affairs ministry complained that the internal coordination “really crunched” considerably. In 2003, intra-ministerial responsibility changed to a specialised unit that was already in charge of the first governmental report

on poverty and wealth (NARB⁹) (Bundesregierung 2001) published shortly before the NAP 2001. After a considerable ministerial re-shape in pursuit of the federal election in 2002, this unit was placed in the new Ministry of Health and Social Security. This re-shuffle strengthened the consultation procedure for the NAP/inc. because the same structures as for the National Poverty Report were applied. An existing inter-ministerial committee agreed on the contributions of the participating ministries and a consultative body, consisting of the 'usual suspects', i.e. experts, representatives of sub-national umbrella organisations, welfare associations and social NGOs, was heard, although only three times and very late in Spring 2003.

Parliamentary participation was scarce, only three parliamentarians participated in the consultative body of the NAP 2003, which the Bundestag's Committee for Health and Social Affairs regarded as politically unimportant.

Overall, the NAP/inc.-process in the federal arena remained largely dominated by civil servants who did not perceive the NAP/inc. as relevant to their work but as a mere reporting mechanism to the EU. Only cautious signs suggest that some official actors understand the NAP/inc. as a national and not a genuinely EU document and start to reflect upon a closer linking to the national poverty and wealth report, with the latter's analytic character strengthened as a *report* and the NAP's active character as a *plan for action*.

The sub-national arena:

In order to fully capture the Länder's involvement in the NAP/inc.-process, one needs to distinguish between the Länder's activities at Länder and at federal level via the Bundesrat.

In principal, Länder participate via the Bundesrat¹⁰ at the federal level in policy-making processes both nationally and increasingly Europe-wide (Derlien 2000). However, due to the absence of an EU-treaty base, the act on the ‘Cooperation between Federal level and Länder in EU affairs’¹¹ does not capture the OMC, and since also the Draft European Constitution does not explicitly refer to it, this state of affairs will probably persist. Until now, the Länder do not directly participate in EU-level decision-making on the OMC and, in addition to this, it is even disputed between the Länder and the federal government whether the latter has to respect the Bundesrat’s opinions at all (Müller 2002: 41ff).¹²

In the NAP-process, the Länder were predominantly involved via the Conference of the Labour and Social Affairs Ministries (ASMK¹³), which is the horizontal co-operative body among all sixteen Länder’s Social and Labour Ministries. The responsible unit of the Federal Ministry always had an explicit interest to involve the ASMK to meet the requirements of the vertical character of poverty policies.

In 2001, the ASMK’s EU working group, i.e. the EU experts of the Länder’s Social Ministries, prepared a Bundesrat Opinion on the OMC/inc., co-ordinated the Länder’s best practice contributions to the first NAP and examined the federal level draft. Similarly to the federal level, the development from “Europeanists” to “Socials” happened also within the ASMK: the coordinative responsibility was transferred to the rather technocratic Conference of the Highest Social Authorities of the Länder¹⁴.

Beyond the ASMK, individual Länder hardly engaged in the NAP/inc. except for some that participated in the consultative body at the federal arena. At that time, many interviews, both from ministries and from social NGOs, stated that an exception of the rule was esp. the East-German Land Sachsen-Anhalt (also partially the West-German

Lower-Saxony). This “primary example” of how the NAP/incl. could be implemented also in Germany’s sub-national arena initiated parallel to the NAP/incl. a domestic poverty and wealth report. Several interviewees of actors in Sachsen-Anhalt stressed that continuous political support for coherent social policies was crucial for this dynamic process.¹⁵

For the local authorities, the NAP-process largely remained alien. Only their umbrella organisations¹⁶ participated in the consultative body and commented on the NAP draft without directly informing their members. They opposed further intrusion in what is perceived as their realm of competencies, even if the conditions for participation would improve; as one representative put it in an interview: *“But also the consequence now to say: even if we had more time we would be more positive – well, I wouldn’t say this. You know, I don’t want at all that somebody else gives us instructions, it doesn’t matter who it is”*. This attitude reflects the ‘classic’ conflict in Germany’s federalist structure, the lower levels often feel their constitutionally guaranteed autonomy violated by higher level decisions and forced to implement cost-intensive (social) policy measures without (sufficient) financial compensation, with the difference that this conflict now includes also the EU-level. Only one interviewee from the Länder-level conceded that the problems they encounter are so difficult that “sometimes we are in need for impulses” and thus showed interest in the OMC’s learning potential. Moreover, in 2003, increasing interest of the local level in the OMC social inclusion and in strengthening trans-European bonds was witnessed.¹⁷

The civil society arena:

In contrast to low interest of most official actors, the actors in the civil society arena, welfare associations and other social NGOs, showed a firm commitment to make political use of the NAP/inc.-instrument. The obviously limited dynamic of the NAP/inc.-process largely depended on the NGOs' engagement, which began at the federal level but intensified in order to initiate regional and local-level processes.

The first stage of strategic reflections began in the aftermath of the Lisbon Council in which the civil society actors sought to develop internal strategies. The functioning cooperation between domestic federal umbrellas, such as the National Poverty Conference as German section of the EAPN, and European umbrella NGOs, such as the European Anti-Poverty Network (EAPN), resulted in the invention of NAP/inc. working groups to prepare their contributions to the first NAP.

The second stage of improved co-ordination and consolidation began after the submission of the first NAP. It resulted in the founding of a NAP working-group of most social umbrella organisations and the organisation of a number of commonly organised workshops. These workshops were important to improve co-ordination among the civil society actors and to increase the information of their Länder-level members in order to stimulate the vertical dimension of the NAP-process. Furthermore, the NGOs tried to open up their NAP-process by inviting not only civil society but also public actors from the sub-national arena and the European level.

The third stage, according to the opinion of several interviewees, would have to start after the NAP 2003 and would decide upon the OMC/inc.'s future in Germany.¹⁸ Either the procedural improvements among the social NGOs and those at the federal level result in policy improvements or activists will face increasing difficulties to motivate colleagues and senior staff to invest working-time in the NAP-process.

After two NAPs/inc., and despite some improvements in the NAP 2003¹⁹, a process of disillusion could be observed among representatives of social NGOs. The reality of OMC/inc.'s implementation did not meet their strategic expectations with regard to increased inclusion in policy-making procedures and substantive policy improvements in the wake of Germany's welfare reforms.

5. The OMC/inc. in Germany: participative and democratic?

The presentation of the German case revealed that the actual policy process of the OMC/inc. was substantially dominated by bureaucrats, although some participation of social NGOs was identified. What does this result have to say about the OMC's democratic potential and the normative expectations?

The OMC/inc.'s participatory pattern in Germany in the light of the normative expectations

If one restricted the analysis to the mere drawing-up process of the NAPs/inc., one would easily come to the conclusion that the NAP-process in Germany was dominated by the federal level and a bureaucratic exercise, with marginal input from Länder and/or civil society actors, thus scraping the participation requirements as laid down in the OMC's template. This was still true for the NAP/inc. 2003 despite the eventual organisational improvement of adopting the well-established structures of the National Report on Poverty and Wealth to the NAP/inc. A closer look, however, illustrated that Germany's formal NAP-process was accompanied and complemented by activities that tried to integrate the European process into the domestic social policy process, the degree of engagement differing among the various types of actors.

At federal level, the impression of the formal NAP-process being a bureaucratic exercise, fulfilled without enthusiasm by civil servants, was particularly strong. A sceptical and resistant attitude remained prevalent until today. For both NAPs, the respective co-ordinating unit had a hard time receiving the required ministerial contributions. By the time of writing this article, it was yet undecided whether the now responsible NARB-unit will be willing and apt to put more emphasis on the NAP 2005 by preparing it without similar time-constraints. Moreover, there was a clear gap between the willingness to establish an open NAP-process, expressed by many interviewed civil servants, and the structures provided for its realisation.

With regard to sub-national official actors, the readiness to participate in the NAP-process was rather limited, the dominant attitude remaining sceptical among both Länder-civil servants and representatives of the sub-national actors. Many interviewed civil servants feared that the OMC/inc. might be a 'Trojan horse' of increased European competencies to the detriment of the significant sub-national competencies in Germany's social policies, while their benefits remained unsure.²⁰ The Länder's sceptical attitude did not necessarily coincide with a principal resentment to fight poverty and social exclusion, as the case Sachsen-Anhalt shows, it rather signified quarrels about competencies between different levels of a multi-level system. Furthermore, there is a mismatch between the policy-making tradition of Germany and the 'culture of evaluation' and 'management by objectives' as promoted by the OMC/inc.

Again, the picture with regard to activities of civil actors differed. Having been immediately well-informed about the OMC/inc. by their European umbrella organisations, most social NGOs were committed to make use of this new process. The

national social NGOs perceived the NAP/inc. as a tool for their domestic lobbying efforts. Moreover, the multi-dimensional conceptualisation of social exclusion was very welcomed because it was only recently established in German debates. The NAP/inc.-process provided the social NGOs with additional arguments and political backing to strengthen their voice in domestic debates. Additionally, they sought to further develop the concrete concepts and aims promoted in the NAP/inc., trying to avoid the report becoming 'a graveyard for data' as the NARB. The inclusion of the NAP/inc. into the politically more elaborated and salient NARB-structures can consequently be interpreted as a first success of their initiatives. Furthermore, increasing efforts to stimulate regional processes became visible since, in the end of the day, poverty policies have to be implemented locally. Thus, Germany's social NGOs did not restrict themselves to participating in those insufficiently open and not well-defined access structures provided for by the federal ministry, but succeeded to establish complementing structures. Communication among civil society actors was fostered and their seminars on different aspects of the OMC/inc. provided new platforms of communication between state and non-state actors of all levels, from the local to the European level.

The striking difference in enthusiasm between public and private actors in becoming engaged in the OMC/inc.-process needs some explanation. The politicians and civil servants of all levels seem to share the attitude 'to keep the process small and quiet'. One can lament this, but it cannot surprise taking into account the low political salience of poverty and social exclusion policies in Germany. Even the recent substantial welfare reforms took place with hardly any debate about their effects on the most vulnerable. In

this respect, the closer connection of the NAP/inc. to the NARB is an important, yet insufficient step to strengthen the OMC/inc. because the NARB is itself a rather weak policy tool that could, on its part, profit from a strong NAP/inc. The next years will reveal whether both documents only play marginal roles or succeed to become more important than today.

Thus, the political will to render the Lisbon process 'open' by including stakeholders and grass-root organisations in the OMC processes, expressed at the highest level (but 'far away in Brussels'), has (yet) only shaped the reality of the periphery and not the core of the process. Overall, the requirements for inclusiveness, clear rules of procedure and granting of access to all stages of the policy process were only recently and only partially fulfilled in Germany. Therefore it remains to be seen whether the more recent formal changes will have effects for the effectiveness and legitimacy of the coming NAP/inc. by rendering the policy issue itself publicly more visible and therefore politically more prominent.

The OMC and democracy in the EU – a first tentative discussion

By providing a detailed policy process analysis, this article sheds some light on whether the normative expectations with regard to the OMC's democratic potential are mere wishes or whether they can be based on empirical evidence. In this concluding section, the empirical evidence analysed above will be cautiously discussed in light of the earlier theoretical considerations.

Participation is – from the democracy point of view –not 'good by itself' if it does not contribute to 'bridge the gap' between rule-setters and rule-addressees. In Germany, the 'bridging' function has only somewhat worked because of the quite lively NGO

engagement that was observed. Moreover, close contacts between the national social NGOs and their European counterparts and umbrella organisations exist and strengthen the bridging function. The OMC/inc. as a decentralised, multi-dimensional and multi-tiered process stimulated the development of an issue-specific, sectoral network of CSOs and thus contributed to debates in the ‘weak public’, but failed to guarantee inclusive access into the formal procedures.

Does this suffice to support the expectations about the OMC/inc.’s democratic potential? Can a national policy process – the NAP/inc.-process – increase legitimacy at a different, i.e. the European level? Arguably, participation of social NGOs and the creation of sectoral networks at national level are important, but the OMC/inc. failed to guarantee clear rules of access and inclusion at all levels. Thus, the observed processes does not provide for structured access of civil society in the ‘strong public’, but the social NGOs themselves took efforts to better organise themselves in the ‘weak public’. However, a ‘weak public’ needs to be complemented by public visibility and public awareness of the whole process’ European dimension. The engagement of NGOs could be important to spread the knowledge about the OMC and its European character, but the data reveal only very scarce public debates and awareness (see also Meyer forthc.). Moreover, there seems to be a lack of discussion about this process in the public sphere which could hold the government accountable for its (non-) actions. With the OMC remaining mute, the definition and interpretation of the OMC’s objectives and its ways of implementation remain elite-driven and opaque and thus its democratic potential limited.

Overall, the explorative empirical evidence suggests that one needs to be cautious about high normative expectations of the OMC’s democratic potential. The process failed to

establish clear rules of access and did not make significant efforts to include the voices of all those concerned, and will arguably keep on failing to do so as long as the political will remains as weak as it is now. This is unfortunate because the mere existence of the OMC-process stimulated civil society networking horizontally within Germany and vertically between the domestic and the European level.

Further research is needed to broaden the empirical basis by providing detailed case studies of different countries. Only on a comparative basis the OMC's democratic potential can be comprehensively judged. Moreover, the link between empirical research and normative theoretical reasoning needs to be strengthened further than this article could achieve in order to come up with clear 'measurable' indicators for the democratic performance of non-majoritarian governance arrangements, of what the OMC is but one example.

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Endnotes:

¹ Parts of the empirical section stems from the book-chapter by Buechs, Milena; Friedrich, Dawid (2005.) ‘Surface Integration – The National Action Plans for employment and social inclusion in Germany’, in Pochet, P., Zeitlin, J. and Magnusson, L., (eds) *The Open Method of Coordination in Action: The European Employment and Social Inclusion Strategies* Brussels: P.I.E. Peter Lang. I am indebted to the editors’ permission to re-use some of this material for this article. Many thanks to valuable comments go to Katinka Baren, Milena Büchs, Erica Iskakova and Sandra Kröger and the referees of *Policy and Politics*.

² For a comprehensive collection of publications on the OMC see <http://eucenter.wisc.edu/OMC/>.

³ A prominent representative of this camp is Robert A. Dahl; Cohen bases his critique on Dahl’s work Dahl, R. A. (1989). *Democracy and its Critics*. New Haven, London, Yale University Press.

⁴ See particularly Kenneth Baynes discussion of the two-track model proposed by Habermas (1996). Baynes, K. (2002). A Critical Theory Perspective on Civil Society and the State. Civil Society and Government. N. Rosenblum, L. and R. C. Post. Princeton, Oxford, Princeton University Press: 123-145.

⁵ It should be recalled that I am not attempting to ‘measure’ the actual contribution of the OMC to the EU’s democracy, but rather to identify whether the OMC possesses democratic potential. My aim is modest in that I focus on the ‘plausibility’ of the normative expectations. A participative policy process is a necessary condition, but further researcher would be needed to determine the extent of the OMC’s contribution to democracy.

⁶ Comparative views on NAP-processes are to be found in Pochet and Zeitlin (2005).

⁷ Institutions are i.a. the social ministries at federal and Länder-level (in Sachsen-Anhalt, and Lower Saxony; Baden-Wuerttemberg was inaccessible); welfare associations at federal and at Länder-level (the Diakonie, the Arbeiterwohlfahrt and the Deutsche Paritätischer Wohlfahrtsverband); the German trade unions and employers’ representatives; the Länder-representatives in Brussels and members of the European Commission’s DG Employment and Social Affairs.

⁸ Diakonisches Werk; Caritas; Deutscher Paritätischer Wohlfahrtsverband; Arbeiterwohlfahrt; Deutsches Rotes Kreuz; Zentrale Wohlfahrtsstelle der Juden in Deutschland.

⁹ Nationaler Armuts- und Reichtumsbericht. Recently, the second report was presented.

¹⁰ Germany’s second chamber of parliament in which the Länder governments are represented.

¹¹ Gesetz über die Zusammenarbeit von Bund und Ländern in Angelegenheiten der EU.

¹² See Bundesrat Drucksache 352/01 (01.06.01). The Bundesrat strongly expressed its objection to any European attempts to intrude into domestic/sub-national competencies through the backdoor.

¹³ Arbeits- und Sozialministerkonferenz (ASMK).

¹⁴ Konferenz der Obersten Landessozialbehörden.

¹⁵ The counter example would be the traditionally conservative south German Land Baden-Wuerttemberg. I was even unable to find interview partners from the ministries, a problem which I share with activists in Länder-level social NGOs, two interview partners told me consolingly.

¹⁶ The three umbrella organisations co-ordinate their work and submit common opinions. There are: “Deutscher Landkreistag“, “Deutscher Städtetag“ and “Deutscher Städte- und Gemeindebund”.

¹⁷ See Turin, 14/15 October, 2003 - Strengthening the role of local and regional government in the EU Strategy for Social Inclusion (www.socialeurope.com) and Athens, 28 February-1 March 2003: EAPN - Eurocities Joint Conference on "The EU Strategy for Social *Inclusion: Making it Work at the Local Level*" (http://www.eapn.org/docs/reports/Athensreport_en.pdf).

¹⁸ However, the NAP/incl. 2005 will be the last one. From 2006 on the streamlining of the different social OMCs will operate (Commission 2003).

¹⁹ For early evaluations of the NAPs 2003 see www.eapn.org/inclusion/strategy_en.htm and http://www.atd-quartmonde.org/europe/del_ue_en.htm.

²⁰ See footnotes 12 and 13, and also Bavaria's position paper <http://www.bavaria.de/Europa/OffeneKoordinierung.html>.