

# **National Social Policy-Making in the European Multi-Level System of Governance**

## **Institutional Change and the Open Method of Co-Ordination**

by

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**Paper to be presented at the ECPR's – Joint Sessions of Workshops,  
Workshop 1 “EU Social Policy – Europeanisation or the Persistence of  
National Differences?”, 25 - 30 April 2006, Nicosia, Cyprus.**

## Introduction

In European integration studies, governance has been defined “as the ability to make collectively binding decisions” (Jachtenfuchs, 2001, p. 246). In the past decade European governance research has concentrated on questions such as how and, in particular, by whom collective agreements are made within the European Union (EU) as well as whether these special kinds of “network governance” (Eising and Kohler-Koch, 1999) are effective and democratic (Scharpf, 1999). These questions are still important today. In the course of research two strengths of analytical foci have been developed: The first line of analysis investigates mainly through observations of policy-making in the EU. Political, private, and civil society actors participating in hard-law decision-making processes at European level and their institutional affiliation have been identified. In different policy fields several modes of governance have been recognized and classified (Wallace *et al.*, 2005). The second line of analysis, the so-called Europeanization research, mainly explores if and how hard-laws that have been developed at European level are effecting and changing hard-law decision-making processes and traditional policy networks within the Member States (Bulmer and Lequesne, 2005). Both approaches distinguish analytically between the EU, understood as the European and supranational level, where representatives from the Member States perform, and the Member States themselves, seen as separate entities, potentially influenced by EU hard-law decisions. Although the term and the concept of “multi-level governance” (Mark *et al.*, 1996) somehow refers to an understanding of the EU consisting of supranational, European, national, regional, and local levels, it must be emphasized that the current analytical approaches in European governance research do not sketch a picture of interlocked relationships between these entities: Member States themselves are not regarded as essential parts of the EU and its system of governance.

However, as will be shown, both lines of analysis can also be found in and are shaping research concerned with the ‘open method of co-ordination’(OMC). In this paper I will argue that the OMC as a new mode of governance within the EU can only be fully understood if the application of the multi-level governance concept and, consequently, analytical perspectives on and understandings of EU governance are extended. To be able to develop such a new understanding within European governance research, it is, first of all, necessary to reconstruct the historical development and intentions of the OMC. In a second step, currently identified changes in national governance structures and effects of the OMC will be detailed. German developments will be used as a national empirical case. In accordance to these findings, a third step of analysis will reconstruct the decision-making process of a German institutional change - Hartz IV. This analysis will respect supranational, European, trans-national, national, and regional levels of governance. Finally, the empirical results will be discussed and further research perspectives elaborated.

## **I. Why the Open Method of Co-Ordination Developed**

Arguing that in times of increasing globalization the competitive ability of their Member States needs to be enhanced, the European Communities (EC) began to work on the single European market in the 1980s. One of the articulated goals, the opening up of the economical borders, was to the increase of the attractiveness of the economic location Europe, reducing the transference of industrial productions to low-wage countries, and thus preserving jobs in the European Union (COM, 1994, p. 7). The single European market project was completed with the establishment of the Monetary Union. The introduction of an uniform European currency, the Euro, and the European Central Bank represent the institutional culmination of

the Economic and Monetary Union (EMU) with the beginning of the new millennium (Altvater and Mahnkopf, 2004, pp. 398-422).

Before as well as during the implementation of the EMU, experts pointed out that the single European market project would produce location competition between the Member States of the European Union (Scharpf, 1998, p. 329). In order to also be able to survive this EU-internal business location competition, the welfare states in the European Union have been competing since the early 1990er for the lowest, common national ancillary wage costs, which subsequently endanger the financing of the social security systems. As logical consequence this means that the well-developed welfare states of Europe, especially those whose national social systems are financed through labour tax revenues, are most heavily affected by the EMU 'race to the bottom' effect on the labour conditions and the social security systems (Scharpf, 1999). The Federal Republic of Germany is one of these Member States.

Experts agree that the downward spiral of the social situation caused by the market-promoting policies of the EC/EU (negative integration) can only be cushioned by complementary, market-correcting policies on European level (positive integration). The same experts state, however, that it is the different national welfare systems of the EU Member States, their different social security benefit levels, the resulting persistence of the Member State governments to uphold national sovereignty of the welfare system, and – last, but not least – the insufficient development of a collective identity among the citizens of the European Union that withstand a social integration of the EU equivalent to economic integration (Room, 1991; Leibfried and Pierson, 2000; Majone, 1993; Schulte, 1995; Baldwin, 1996; Scharpf, 1997; Streeck, 1998; Rhodes, 1998; Offe, 2000).

Since the early 1990s, the Member State governments have acknowledged - albeit only indirectly - the fact that the economic process of integration has generated a need for joint action in social politics. However, in the subsequent years a controversy ensued over the definition of the fundamental socio-political goals of the Union. The central question of integration politics, that of the finality of the European integration project, once again came to the fore of the debate. The discussion whether the EC/EU should be conceived as "regulatory state" (Majone, 1996), or as a democratic welfare state with a federal character (Offe, 2000; Scharpf, 1997) is coupled with and superposes debates on the 'correct' macroeconomic ideology and on necessary measures to be implemented in joint action. Since mid-1990s, the macroeconomic arguments in the EC/EU have oscillated between liberals and Keynesian conceptions (Aust, 2000). A final agreement has yet to be obtained.

Nevertheless, in order to remain functional, the Portuguese government was given the mandate from the family of social democratic parties in the European Union shortly before taking over the Presidency of the European Council in Spring 2000 to develop a comprehensive concept for the further organization of a new European social model that would draw a consensus (Aust, 2000, p. 278). The concept that was developed by the Portuguese presidency in co-operation with experts (Ferrera *et al.*, 2000; Esping-Andersen *et al.*, 2002) and supplemented by the European Commission constitutes a vision for the realignment of a new single European social model. In March 2000 at a special summit in Lisbon, it was adopted as collective objective. By means of the Lisbon Strategy the European Union is by 2010 to

„ (...) become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion” (European Council, 2000, p. 2).

In order to achieve their ambitious goal, the governments of the Member States agreed to coordinate their national economic, employment, and social reform processes. They reached a consensus on an ambitious program for the constitution of knowledge infrastructures, the promotion of innovation and economic reforms, and the modernization of the social security as well as education systems. In other words, they agreed to introduce both economic and social reforms.

An explicit goal of the joint national reform processes for the year 2010 is the convergence of the national social systems in the European Union (European Council, 2000, p. 10). The hope is that a new single European social model that is institutionally anchored in each Member State, aligned to the modes "investing into people" and "activating social policies", should evolve (Borrás and Jacobsson, 2004, p. 190). Since then the development of a new single European social model has focussed on educational, research, and technological policies as well as on activating social policies (Palier, 2004). Therefore, a decision was made in the European Union against competitive social systems which would cause social dumping, and for a cooperative and co-ordinated reorganization of all welfare states with the goal to generate a single social model in the European Union. The implementation of the Lisbon Strategy and the single European social model was to be generated by a new mode of European governance, the 'open method of co-ordination' (OMC).

This new mode of governance, called the OMC, began to be practiced in December 2000 in the policy field of 'social inclusion', and was refined and enhanced in the years to follow (Behning, 2004). As early as March 2001, the adaptation of the OMC was extended to the policy fields of education, health, care for the elderly, and pensions (Hodson and Maher, 2001, p. 726). At the same time, the forms of co-ordination in economic and employment policies were modified (Linsenmann *et al.*, 2005). Since then the European social politics

form together with the European employment and economic politics a regulatory triangle. Although the three segments have not been equilaterally constructed, the functional presence of all three sides can no longer be denied.

In order to bring the regulation of the national welfare state policies in the European Union into line with the joint vision discussed above, the governments of the Member States agreed upon basic principles of procedure for the OMC in Lisbon. Succinctly, the planned procedures can be explained as follows: The adjustment of all national economic, employment, and social reform processes of the Member States should be prepared at European level as of the year 2000, and then converted within the framework of the reforms to the respective national and regional levels. The entirety of all national reform processes are to be assessed regarding their alignment with EU objectives and, if necessary, modified on the national and regional levels. As the following quotation confirms, all respective actors and civil societies on all political levels are to be involved in this process.

„A fully decentralised approach will be applied in line with the principle of subsidiarity in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnerships” (European Council, 2000, p. 10).

In my opinion, the OMC shows evidence in its construction of four substantial fundamentals:

1. A clear time schedule,
2. the coordination objective ‘national welfare state reforms’,
3. the demand to develop new forms of partnerships in which all actors and citizens can participate and be included in the political processes on all political levels of the European Union, as well as
4. the objective of creating a new single European social model that will be represented in the institutions of each Member State by the year 2010.

The stated preparations for the development of a new single European social model illustrate that, today, national social policies in the European Union can no longer be implemented, observed, or analysed without the consideration of European politics. And vice versa, European social politics which is being developed by the OMC can institutionally anchored solely at the national level. Nevertheless, it has to be stressed that recent socio-political governance in the European Union is presently being analyzed by two different research branches which have yet to start their dialogue: The nation-state-oriented research on social policy-making and the OMC-interested European integration research.

## **II. State of Research and -Desiderate**

### ***New Developments in German Social Policy-Making***

Since the new millennium began, a change of socio-political governance in the Federal Republic of Germany can be registered. It is possible to identify a "governance by commissions" that has been assessed as a "successful attempt to recover the capacity to act" and as "increasing reduction of corporatist patterns of political decision-making" (Lütz, 2004, p. 33, translated). Although he judges the current developments more critically, Czada (2004) came to a similar conclusion:

"(...) the Schroeder government [searches] for new pathways, in order not only to circumvent the incalculability of the corporatist arena but also the legislative veto actors. In addition, it attempts to loosen up the established networks in the fields of health, pension, unemployment, and social assistance schemes. The new strategy aims at a mobilization of consensus through commissions established by the government. Their deployment as expert advisory boards is by far nothing new for the German Federal Republic (...). Schroeder's government, however, not only uses them as advisory committees, but also as short-term arenas into which political debates can be diverted,

and out of which it can be taken, where the public opinion is tested and can be used to put pressure on opposition, state governments, and interests groups (...). In addition, the right to install, appoint and dissolve commissions gives the (German) federal government much more effective possibilities of pulling the strings" (150; translated).

Using the so-called Hartz Commission as an example, Schroeder (2003) supplements this analysis. He points out that the success of Hartz Commission was due to the hierarchical steering of the *Kanzleramt* (Office of the Chancellorship), the short-term result-orientation, the prominent role of the chairman, and last, but not least, the directive of a defined reform proposal (141). Lamping (2005) grasps the essence of this issue precisely by identifying the new expert commissions as policy designers (15). Trampusch (2005) supplements this idea when she states that the formulations of current welfare state reforms are no longer carried out by the responsible parliament members, but are now the affair of the government and the party leaders. The latter are supported by an informal grand coalition, whose function is it to eliminate the inner-party resistance to the reform measures in the ruling parties.

Summarizing it can be noted that socio-political governance in the Federal Republic of Germany is currently transforming. An erosion of the traditional negotiation networks is unmistakable. It must be emphasized that the nation-state-oriented analyses of current socio-political reform processes do not establish the connection between European and nation-state politics. The research landscape in European integration studies is designed differently. As I will proceed to demonstrate now, the OMC-interested European integration research looks at the European, national, and regional levels of governance against the background of the Lisbon Strategy and its significance for the European integration process.

### *European Integration Studies and OMC*

Hardly a modernization in the political process of European integration has called more attention upon itself than the new mode of governance by means of the OMC. It has been stated that „its operation is still not fully understood“ (Mosher and Trubek, 2003, p. 83) and „[research on] the open method of co-ordination continues to pose more questions than it seems to answer“ (Borrás and Greve, 2004, p. 329). Nevertheless, theoretical and empirical findings have already been put forward clearly depicting possible chances and risks of governance by means of the OMC in all potential dimensions.

The introduction of the OMC released in the field of EU social policy research a deluge of the theoretical appraisals of its effects. These expectations vary between „[it] masks the absence of action in the social sphere“, from „[it] seeks to limit divergence, or even bring about a degree of convergence in some cases“, to the point of „[it] could be conducive to policy convergence“ (de la Porte and Pochet, 2002, p. 15-16). For this reason, empirical studies pursue the question, what influence does the OMC have on the arrangement of nation-state policies, and whether a convergence of national social policies is emerging? In order to answer such questions, as Borrás and Jacobsson (2004) elaborate implicitly, predominantly cases studies that comprehended as soft-law co-ordinations, which started in the 1990s have been chosen. The scientific equating of soft-law co-ordinations with the introduction of governance by OMC in December 2000 led researchers to the conclusion that the effects of the OMC can be judged as marginal or latent, and in regard to discourses have been assessed as producing a cross-national "common cognitive framework" (Borrás and Greve, 2004, p. 331). These findings must however be understood as consequences of soft-law policy co-ordination. They differ from co-ordination politics via OMC in a substantial point: The co-ordination subject matter of soft-law governance is the adjustment of policy contents and objectives. The objects of co-ordination of governance by the means of OMC are national

welfare state reforms. As the following citation verifies, OMC research has so far assumed that OMC governance can be equated with soft-law politics: "[T]he OMC is not a legislative process" (Borrás and Jacobsson, 2004, p. 198). However, the objective of governance by means of the OMC is the co-ordination of political processes that lead to the adoption of welfare state laws, thus, hard-law politics. Effect analyses of the OMC on social reform processes in the Member States remain an important research desideratum today.

Political scientists devoted to European integration studies were overjoyed by the introduction of the OMC. The claim of the OMC, already mentioned above, to develop modes (of governance) in which all actors and citizens can participate and be included in the political processes at all political levels of the EU provoked a debate on participatory governance in the EU. The White Paper 'European Governance' which identified the OMC as the ultimate system of governance to eliminate the EU's democracy deficit added fuel to the discussion. Consequently, the OMC is also registered as a form of "democratic experimentalism" (Eberlein and Kerwer, 2002, p. 1). For instance, it is argued theoretically that the OMC could increase the input legitimacy of governance in the EU by the strengthening of participation possibilities within political processes. The OMC is also associated with the theoretical possibility of developing a European public sphere (Heritier, 2002). European governance could also thus be strengthened in the output legitimacy dimension (Telò, 2002). This would, in turn, promote the development of a European we-identity among EU citizens (Castells, 2002). Initial empirical evaluations of the hypotheses on the democratizing effect of governance by means of the OMC reveal that a higher degree of participation of private actors and NGOs can be established neither at the European nor at the national levels (Jacobsson and Vifell 2003; de la Porte and Nanz 2004). These investigations are based empirically on forms of soft-law policy co-ordination. An initial analysis of the medial nation-state interposition of soft-law governance shatters all hopes for an Europeanization of national

public spheres which would in turn promote citizens' identification with the EU (Meyer 2004). However it also applies to this field of research: Empirical analyses of the legitimacy of hard-law governance by means of the OMC are yet to be put forward. Empirical studies which devote themselves to the analysis of the governance structures of the OMC - hence specific polity-building capacities of the new mode of governance - could supply interesting departure points for such investigations.

Initial empirical studies of the implementation of the OMC in socio-political cases confirm, for example, that new structures were created through the European Social Protection Committee (ESPC) and the annual March meetings of the European Council, whose task it has been to co-ordinate national reform processes (Armstrong, 2003). Furthermore, comparisons of governance by means of the OMC with the governance via the community method have elaborated that of all supranational institutions only the European Commission, the European Council, and the responsible Councils of Ministers are involved in OMC governance; the European Court of Justice, the European Parliament, and the social partners attain in comparison only marginal significance (Borrás and Jacobsson, 2004). It must also be emphasized that - unlike the co-ordination procedures of the economic and employment policies - the European Commission does not have any authority to set guidelines for so-called National Action Plans (NAP) in the area of social policy, and 'best practices' of national welfare reforms are not being identified (Borrás and Jacobsson, 2004).

The NAPs are documents which are compiled at the national levels. Through the NAP, the Member States convey to each other and to the European Commission, how and until when they intend to reform/or have reformed their national institutions in accordance with the mutually defined goals of the Lisbon Strategy. The investigation of the governance structures used to compile the NAP is of central interest to the new developing field of OMC research

presently focusing on the national as well as sub-national levels (Zeitlin and Pochet, 2005). So far it could be distinguished that the NAP processes of compilation lead to an intense inter-ministerial co-operation, cross-cutting all policy fields at national level. In addition, it has been assessed that in the course of the NAP processes of compilation new national committees have been developed in several Member States which includes few members of the national parliament, but are open for sub-national actors, private actors, experts, and NGOs (Zeitlin, 2005).

In recapitulating, it can be noted that the OMC research offers a multiplicity of questions for future empirical investigations. Up until now the empirical findings which run under the label OMC are based mostly on the analysis of soft-law policy co-ordination and must be viewed with caution. The newer analyses on OMC polity-building are to be excluded from this critique. It must be emphasized that the OMC research, with its bias for soft-law, has yet to take a closer look at the main objective of the OMC, national welfare state reforms leading to institutional change.

### ***Towards a New Understanding of European Multi-Level Governance***

Now if one combines the findings of the social policy research in the German Federal Republic and the OMC-interested European integration research, then it must be maintained that, since the beginning of the new millennium, a gradual extraction of the social policy negotiation networks can be observed empirically both at the European level and in the Federal Republic of Germany. At the same time, the formation of new negotiation structures can be registered at European level as well as the German federal level. Task of these new negotiation structures at European level is the coordination of the reform processes in the Member States. The task of the new negotiation structures at the German federal level is the

monitoring of the German contribution to the European social policy co-ordination process (NAP committees) or the preparation of welfare state reforms (new commissions).

It becomes clear that the German social policy-making could be affected by OMC governance. But how German social policy-makings are executed since the introduction of the OMC still remains nebulous. In order to clarify these questions, analyses of processes of social policy-making, which examine the source of institutional change within welfare states in recent times, are necessary. The policy-making of the Hartz IV Law appears particularly suitable for such an analysis, since it is being discussed in the OMC 'social inclusion'- in other words, the policy area in which OMC governance was applied first.

The defined state of research demonstrates that a cross-level research design is necessary for this type of analysis, which can take the interaction between European and national level into account. Here it is not possible to revert to either the bottom-up approach of the supranational-oriented governance research or the top-down approach of the Europeanizing research. In the following, the 'policy stages' approach (de Leon, 1999) will be used in order to reconstruct cross-level governance, chronologically and actor-centred with the help of the specified example. In the context of this article an actor-centred analysis is understood solely as a level-specific localization of the participants of the political process. With this emphasis it is possible to bring the political level of the social policy-making to the fore of the analysis. The analysis will be limited to the policy issue of 'the pooling of social and unemployment assistance' as well as to the policy stages agenda setting to formulation; it begins chronologically at the end of the problem defining phase, which can be equated with the proclamation of the Lisbon Strategy. It must be made note of that this problem defining phase led to a European resolution.

### III. National Policy-Making under OMC Conditions

#### *Agenda Setting*

The phase of the agenda development, which places the problem regarded as relevant onto the political agenda, was instigated on European level: In December 2000, the EU policy coordination in the area 'social inclusion' began with the adoption of so-called 'common objectives' by the Council 'Employment and Social Protection'. Regarding the organization of the social security systems the following objectives were set,

„(...) that they [shall] help, in particular, to guarantee that everybody has the resources necessary to live in accordance with human dignity” and can “overcome obstacles to employment by ensuring that the take-up of employment results in increased income and by promoting employability” (Council, 2000, p. 9).

At the same time, the EU Member States were requested to disclose their national situations and planned actions for fighting poverty and social exclusion for the two years to follow. For this they were to compile so-called 'National Action Plans on Social Inclusion' (NAPincl) and while doing so bear the 'common objectives' in mind.

Within six months, in June 2001, all Member States submitted their NAPincl to the European Commission. The first German NAPincl described the situation in the Federal Republic of Germany concisely. As measures which could be implemented in regard to the selected policy issue the following elements were named: To develop a new basic income scheme called '*bedarfsorientierte Grundsicherung*' and to check whether easier ways could be found to organise the social assistance, unemployment benefits, and unemployment assistance schemes (NAP, 2001, p. 20-21).

The European Commission evaluated all 15 NAPincl of the Member States in autumn 2001 and came to the following conclusion: “The majority of Member States reflect clearly in their NAPincl a change in philosophy from passive income support to active support to assist people to become autonomous” (Council, 2001, p. 35). In addition, in 2002, a collective learning process between the Member States was agreed upon, in order to attain a consolidation of goals of the Lisbon Strategy. This was to be promoted by the European Commission (Council, 2001, p. 14). A target agreement for this process was established by the Barcelona European Council at the beginning of 2002. In regards to Germany’s Hartz IV, the following elements of this Presidency Conclusions are to be underscored: An active welfare state should offer work incentives, since employment is the best warranty against social exclusion. In order to develop active welfare states in the European Union, the Member States should adapt their tax and benefit system to make work pay and encourage the search for jobs. In order to improve employability of those socially excluded a co-operation of unemployment and social assistance offices is of crucial importance (European Council, 2002).

At the beginning of 2002, the Hartz Commission was convened on national level. The federal government’s directive on this commission, imparted on 22 February 2002, contains the following passage:

„The Federal Government intends to merge the unemployment and social assistance schemes for the employable recipients in the next legislative period. The Commission (...) is not to forestall this reform. It has, however, already been directed to now submit organizational models which would facilitate an effective unification“ (Bericht der Kommission, 2002, p. 16; translated).

The Hartz Commission’s report illustrates that their conclusions were the result of ‘learning from the best’ of the EU Member States. The Hartz Commission’s work was assisted (a) by comparative evaluations of ‘best practices’ in the EU Member States provided by the

*Bertelsmann Stiftung* and (b) by commission members' visits to neighbouring countries with 'best practices'- the Netherlands, Great Britain, and Sweden -, and (c) influenced by the Commission Chairman's co-ordination meetings with the European Commission (Bericht der Kommission, 2002, p. 341). Accordingly, the Hartz Commission not only prepared the Hartz Laws, but contributed to the mutual learning process in the context of the OMC in 2002. Thereby, the supranational objective of the consolidation and convergence of the social security systems in the European Union was promoted on behalf of the German federal government. And, as it is noted in the Commission's report, the policy structure of the Hartz IV Law was specified in form and content:

“(...) in the future there are three benefits: The Unemployment Benefit I is the original insurance benefit financed by contributions. (...) The Unemployment Benefit II is a benefit contingent on neediness and financed through taxes, that is there to secure the living costs of the unemployed persons after receiving [Benefit I] or for those who do not fulfill the requirements for the Unemployment Benefit I claim. The recipients of Unemployment Benefit II are included in the social assistance scheme. The period of entitlement of the Unemployment Benefit II is not limited (...) the *Sozialgeld* [Unemployment Benefit II, so-called Hartz IV] corresponds to the social assistance for unemployable persons“ (Bericht der Kommission, 2002, p. 27; translated).

In autumn 2002, the European level requested the EU Member States to continue to develop the conceptions depicted in their first NAPincl and to convert them into actual welfare state reforms. They were to discuss how they intended to achieve their national welfare state reforms within the context of NAPincl set for the years 2003 to 2005, which was to be submitted to the European Commission by July 2003.

The work on the German NAPincl began in December 2002. A first draft was to be finished by March 2003. Shortly before the document was submitted to the federal representatives, federal agencies, and experts, the German Chancellor Schroeder made use of the

Governmental Declaration in the *Bundestag*: On 14 March 2003 he presented his Agenda 2010 to the public, which represents - as it is later called in the second German NAPincl - the German Federal Government's strategic approach to achieve the objectives of the Lisbon Strategy (NAP, 2003, p. 3). As part of the Agenda 2010 Federal Chancellor Schroeder announced the federal government's bill for the Hartz IV Law. With this proclamation Gerhard Schroeder opened debate on the policy issue 'pooling of social and unemployment schemes' – that is to say, on the level of social assistance - to the German public. The reasoning chosen by Chancellor Schroeder must be underscored:

„We will only be able to fully assume both our responsibility and our involvement in the development of a multipolar world order of peace and (human) rights, if we do it on the foundation of a strong and united Europe (...). We not only accept this because this Europe forms the basis of the conviction that co-operation is better than confrontation (...), but also because our European Social Model, which is based on sharing instead of on rampant rule of the market, can only collectively be made weatherproof against the storms of globalization (...). In order to do justice to our German responsibility within and for Europe, we must be ready to the change from within. Either we modernize as social free-market economy, or we will be modernized, namely, by the forces of a runaway market which will push the social welfare to the side (...). As a result there can be only one consequence: The modification of the welfare state and its renewal have become unavoidable“ (Regierungserklärung, 2003, p. 2-3; translated).

It becomes clear that the proclamation of the Agenda 2010 was used, in order to introduce the European dimension of the discussion on national welfare state reforms, and thus transform it into a national debate. The welfare state reforms announced with the Agenda 2010 - including Hartz IV - can therefore be regarded as German sub-projects of the national implementations of a single European social model. With the announcement of the Agenda 2010, the agenda setting can be considered completed. It must be noted that the agenda setting of Hartz IV occurred in a cooperative interplay between European and national levels and, in addition, was shaped by transnational learning processes.

### *Formulation*

The formal decision-making process on the political-administrative level - the policy formulation - began directly after the proclamation of the Agenda 2010. "The CDU/CSU, who mobilized their two party chairmen Angela Merkel and Edmund Stoiber as speakers in the [Agenda 2010] debate, declared despite all their critique a willingness to co-operate with the government" (Süddeutsche Zeitung, 2003, p. 1; translated) - even though Schroeder's proposals did not go far enough (Frankfurter Allgemeine Zeitung, 2003, p. 1). With the government opposition majority of the *Bundesrat* (the second chamber of the House of Parliament) in mind, this general declaration of support of government's reform course can be classified as crucial for the phase of the policy formulation of Hartz IV. This was because at that time the planned bill was attributed to a policy field that required the majority approval of the *Bundesrat*. As now will be described in more detail, this circumstance enabled the opposition parties of the *Bundestag* to block and then participate actively in the phase of the policy formulation through their majority in the *Bundesrat*.

On 13 August 2003, the Social Democratic/Green Federal Cabinet finalized the 'Fourth Law for Modern Services in the Labour Market' - the so-called Hartz IV - which was compiled by the federal administration as part of the measures to reform community finances (Bundesregierung, 2003, p. 1). The government bill was thereupon passed on to the German *Bundesrat* on 15 August 2003 (BR Drucks. 558/03). The *Bundesrat* Committee on Labour and Social Policy discussed the bill and recommended its rejection (BR Drucks.. 558/1/03). At the same time, the *Bundesrat* Committee's recommendation distinguished an alternative draft of a law to secure means of existence (EGG) that had been put together by the Hessian state government (BR Drucks. 558/1/03, p. 4). This bill was introduced to the *Bundesrat* on 26 September 2003 as a counter draft and the basis for negotiations by the states governed by

conservative Union parties (BR Drucks. 654/03). More strongly than the draft of the Federal Government, it calls for the “pooling of unemployment and social assistance schemes strictly at the previous level of the social assistance benefits” (BR Drucks. 558/1/03, p. 4; translated) and earmarks a different financial concept, which more strongly reduces the financial burden of the *Länder* (BR Drucks. 558/1/03, pp. 5-26).

In addition, the *Bundesrat* Committee’s recommendation was flanked by a motion of the Free State of Bavaria (BR Drucks. 558/2/03). The proposal requires

„1. Work obligation for all employable people on social security: A significant reform element must be consistent sanctioning of work avoidance of employable welfare assistance recipients. Thus at the same time, it can be done away with that assistance recipients moonlight and still receive social welfare benefits in addition to their moonlighting wages. The national benefits must be linked directly with the reciprocation of the welfare recipient (...). If employment cannot be found in the general job market for a low entrance wage, then, for example, non-profit employment should be taken on. 2. Total rejection of the social welfare assistance by work avoidance: (...) anyone who refuses to accept an offered and reasonable employment or can not prove sufficient self-effort [to find employment] has no longer a claim to national benefits“ (BR Drucks.. 558/2/03, pp. 1-2, emphasis not added.; translated).

Despite the critique from the states governed by Union parties, the Federal Government introduced its bill of a ‘Fourth Law for Modern Services in the Labour Market’ to the German *Bundestag* for the first time on 5 September 2003 (BT Drucks. 15/1516) and a second time unchanged on 1 October 2003 (BT Drucks. 15/1638). Consequently, the *Bundestag* assigned the bill to the responsible *Bundestag* committees on 11 September 2003 after a rigorous debate (BT Plenarp. 15/60, pp. 5102-5140), and again on 15 October 2003 as the result of an inter-factional agreement without debate (BT Plenarp. 15/65, pp. 5539). In the course of the initial mandate introduced on 11 September 2003, the primary Committee for Economics and Labour was also able to submit a positive recommendation on 15 October 2003 with votes of the parliamentary coalition groups (BT Drucks. 15/1728). Thereupon the second and third

consultation of the bill took place two days later, on 17 October 2003, in the *Bundestag* and led to the adoption of Hartz IV (BT Plenarp. 15/67).

As a consequence thereof the 'Fourth Law for Modern Services in the Labour Market' was passed on to the *Bundesrat* and its committees as a law resolution by the German *Bundestag* (BR Drucks. 731/03). The primary *Bundesrat* committees recommended on 28 October 2003 "the summoning of the mediation committee with the goal (...) to fundamentally revise the law" to the *Bundesrat* (BR Drucks. 731/1/03, p. 1). The *Bundesrat* acted on this recommendation on 7 November 2003 and called on the Mediation Committee to convene (BR Plenarp. 793, p. 412). Under the leadership of Bremen's mayor Henning Scherf, the negotiation parties came to a consensus on 16 December 2003 concerning a resolution recommendation of the Mediation Committee (BT Drucks. 15/2259). The *Bundesrat* and *Bundestag* agreed to the recommended changes of Hartz IV obtained in the compromise on 19 December 2003 in a joint meeting in the German *Bundestag* (BT Plenarp. 15/84, p. 7389).

By the means of their blockade politics the Union parties-dominated *Bundesrat* was able to postpone the pooling of unemployment and social assistance schemes from July 2004 to January 2005. In addition, the Union parties were able to tighten the regulations of 'just and reasonable employment' for the unemployed: "They must accept every legal employment. The limitations set down by the SPD/Leftist fraction in the *Bundestag* that employment is only just and reasonable at the local standard or negotiated wages are null and void" (Handelsblatt, 2003, p. 2; translated). In addition, it must be emphasized that, although the question of the jurisdiction of the agencies and the financing of the pooling of unemployment and social assistance schemes could not be clarified in the Mediation Committee, Hartz IV was passed.

The backdrop for the fast-paced tempo of the German reform politics was, once again, the European dimension. The evaluation of the national reform processes that took place in the autumn 2003 occurred not only on the basis of the NAPincl 2003-2005. More precisely, the ‘Joint Report on Social Inclusion’ prepared by the European Commission in the context of the evaluation of all 15 NAPincl 2003-2005 of the Member States in December 2003 makes clear that only completed reforms were taken into account. Thus, the adoption of the German Hartz IV is also registered in the European report as progress (Council, 2004, p. 184). Nevertheless it must be noted that the policy formulation was carried out wholly on national level and with the adoption of Hartz IV is considered to be completed.

#### **IV. The OMC Policy Process**

As must now be clear, governance by means of OMC cannot be understood as governance without legislation. The analysis of the Hartz IV policy process has shown that OMC governance plays a significant role in the preparation of national legislation. As the theory of policy-making proves, agenda setting is the central phase of a policy process, in which the orientation of a policy is determined (Sabatier, 1999). The reconstruction of the Hartz IV policy-making illustrates clearly that agenda setting took place within a co-operative interplay between supranational, European, national, and regionally levels that is interlinked horizontally and vertically – namely at their respective locations. Solely the phase of policy formulation, in which according to theory only a policy fine-tuning is possible, has been conducted at the national level. The empirical case demonstrates that national policy-making in the context of OMC governance took place as a cross-level game.

If one regards the EU constitution, which is currently being discussed against this background, then the divided competence of the Union with the Member States for the field of social policies as established in Article I-14 can already be proven empirically to exist. And also the objective of the Union, as set down in Article I-3 (3), to promote economic, social, and territorial co-operation and solidarity between the Member States is already being pursued: National social policy-making is subordinated to the objective of generating as a single European social model. Therefore it can be regarded as the first step towards the formation of a single European welfare model.

This system formation, however, goes beyond just content and institutional design of national welfare policies. The new policy-making by means of the OMC is also transforming the national political systems. If the agenda setting of national reforms in the Member States are prepared by supranational-guided NAP processes, and - as holds true in Germany – planned by commissions which learn and negotiate ‘best practices’ in a European and transnational process from each other, then in the decisive policy process phase of the policy-making of the Member States we undergo similar political circumstances.

In summary it can be concluded that we are presently at the outset of the transformation of the national organization of national social and political systems. In my opinion, the monitoring of this transformation represents an important scientific challenge for economic, social, as well as for governance research in the coming decades. This particularly holds true, if one considers that the OMC does not only apply to the area ‘social inclusion’ discussed here, but also to the welfare state policy fields of economics and finances, employment, pension, public health, care for elderly, education, migration, as well as environmental policy. At present it is also continuously being expanded to further policy fields. Vital is comparative research of policy fields of single countries as well as comparison of different Member States with special

consideration of cross-level governance. Only then, we can answer the question as to whether a transformation of national policy-making and institutional change in OMC policy fields can be perceived in general, which in turn would call for a new understanding of the relationship between the Member States and the EU.

## References

- Altvater, E. and Mahnkopf, B. (2004) Grenzen der Globalisierung. Oekonomie, Oekologie und Politik in der Weltgesellschaft (Muenster: Westfaelisches Dampfboot).
- Armstrong, K. (2003) 'Tackling Social Exclusion Through OMC. Reshaping the Boundaries of EU Governance'. In Boerzel, T. and Chichowski, R. (eds.) State of the European Union. Law, Politics and Society (Oxford: Oxford University Press), pp. 189-203.
- Aust, A. (2000) '„Dritter Weg“ oder „Eurokeynesianismus“? Zur Entwicklung der Europäischen Beschäftigungspolitik seit dem Amsterdamer Vertrag'. In Oesterreichische Zeitschrift fuer Politikwissenschaft, Vol. 29, No. 3, pp. 269-283.
- Baldwin, P. (1996) 'Can we define a European Welfare State Model?'. In Greve, B. (ed.) Comparative Welfare Systems (London: Macmillian), pp. 29-44.
- Behning, U. (2004) 'Die neue "Methode der offenen Koordinierung". Versuche der integrationstheoretischen Klassifizierung einer neuen Form des sozialpolitischen Regierens in der Europäischen Union'. In Oesterreichische Zeitschrift fuer Politikwissenschaft, Vol. 33, No. 2, pp. 737-742.
- Bericht der Kommission (2002) Moderne Dienstleistungen am Arbeitsmarkt. Broschuere Nr. A 306. Bundesministerium für Arbeit und Sozialordnung.

- Borrás, S. and Greve, B. (2004) ‘Concluding remarks: New Method or Just Cheap Talk?’. Journal of European Public Policy, Vol. 11, No. 2, pp.329-336.
- Borrás, S. and Jacobsson, K. (2004) ‘The Open Method of Co-Ordination and New Governance Patterns in the EU’. Journal of European Public Policy, Vol. 11, No. 2, pp. 185-208.
- BR-Drucks.. 558/1/03, Empfehlung der Ausschüsse zu Punkt ... der 791. Sitzung des Bundesrates am 26. September 2003. Entwurf eines Vierten Gesetzes für moderne Dienstleistungen am Arbeitsmarkt. Bundesrat. Drucks.ache 558/1/03.16.09.03.
- BR-Drucks.. 558/2/03, Antrag des Freistaates Bayern. Entwurf eines Vierten Gesetzes für moderne Dienstleistungen am Arbeitsmarkt. Bundesrat. Drucks.ache 558/2/03. 24.9.03.
- BR-Drucks.. 558/03, Entwurf eines Gesetzes für moderne Dienstleistungen am Arbeitsmarkt. Gesetzentwurf der Bundesregierung. Bundesrat. Drucks.ache 558/03. 15.08.03.
- BR-Drucks.. 654/03, Entwurf eines Gesetzes zur Sicherung der Existenzgrundlagen (Existenzgrundlagengesetz – EGG) – Antrag des Landes Hessen gemäß § 36 Abs. 2 GO BR. 11.09.03.
- BR-Drucks.. 731/03, Gesetzesbeschluss des Deutschen Bundestages. Viertes Gesetz für moderne Dienstleistungen am Arbeitsmarkt. Bundesrat. Drucks.ache 731/03. 17.10.03.
- BR-Drucks.. 731/1/03, Empfehlung der Ausschüsse zu Punkt ... der 793. Sitzung des Bundesrates am 7. November 2003. Viertes Gesetz für moderne Dienstleistungen am Arbeitsmarkt. Bundesrat. Drucks.ache 731/1/03. 28.10.03.
- BR-Plenarp. 793, Bundesrat. Stenografischer Bericht. 793. Sitzung. Plenarprotokoll 793. Berlin, Freitag, den 7. November 2003.
- BT-Drucks.. 15/1638, Entwurf eines Vierten Gesetzes für moderne Dienstleistungen am Arbeitsmarkt. Deutscher Bundestag. Drucks.ache 15/1638. 01.10.2003.
- BT-Drucks.. 15/1728, Beschlussempfehlung des Ausschusses für Wirtschaft und Arbeit (9. Ausschuss). Deutscher Bundestag. Drucks.ache 15/1728. 15.10.2005.

- BT-Drucks.. 15/2259, Beschlussempfehlung des Vermittlungsausschusses zu dem Vierten Gesetz für moderne Dienstleistungen am Arbeitsmarkt. Deutscher Bundestag. Drucksache 15/2259. 16.12.2003.
- BT-Plenarp. 15/60, Deutscher Bundestag. Stenographischer Bericht. 60. Sitzung. Plenarprotokoll 15/60. Berlin, Donnerstag, den 11. September 2003.
- BT-Plenarp. 15/65, Deutscher Bundestag. Stenographischer Bericht. 65. Sitzung. Plenarprotokoll 15/65. Berlin, Mittwoch, den 15. Oktober 2003.
- BT-Plenarp. 15/67, Deutscher Bundestag. Stenografischer Bericht. 67. Sitzung. Plenarprotokoll 15/67 (neu). Berlin, Freitag, den 17. Oktober 2003.
- BT-Plenarp. 15/84, Deutscher Bundestag. Stenografischer Bericht. 84. Sitzung. Plenarprotokoll 15/84. Berlin, Freitag, den 19. Dezember 2003.
- Bulmer, S. and Lequesne, C. (eds.) (2005) *The Member States of the European Union* (Oxford and New York: Oxford University Press).
- Bundesregierung 2003: Gesetzesvorhaben. Zusammenlegung von Arbeitslosen- und Sozialhilfe zur Grundsicherung für Arbeitsuchende. 13.08.2003. Unter: <http://www.bundesregierung.de/servlet/init.cms.layout.LayoutServlet?global.naviknot...>, gedruckt am 01.09.2003.
- Castells, M. (2002) 'The Construction of European Identity'. In Rodrigues, M. J. (ed.) *The Knowledge Economy in Europe. A Strategy for International Competiveness and Social Cohesion* (Cheltenham and Northampton: Edward Elgar), pp. 232-241.
- COM (1994) *European Social Policy. A White Book*. COM 333, 27 July 1994 (Brussels).
- Council (2000) *Bekämpfung der Armut und der sozialen Ausgrenzung*. 14110/00. 30.11.2000 (Brussels).
- Council (2001) *Gemeinsamer Bericht über die soziale Eingliederung – Teil 1: Die Europäische Union, einschließlich Zusammenfassung*. Rat der Europäischen Union. 15223/01. 12. Dezember 2001 (Brussels).

- Council (2004) Gemeinsamer Bericht der Kommission und des Rates über die soziale Eingliederung. Rat der Europäischen Union. 7101/04. 5. März 2004 (Brussels).
- Czada, R. (2004) 'Die neue deutsche Wohlfahrtswelt: Sozialpolitik und Arbeitsmarkt im Wandel'. In Luetz, S. and ibid. (eds.) Wohlfahrtsstaat: Transformation und Perspektiven (Wiesbaden: VS Verlag für Sozialwissenschaften), pp. 127-154.
- De la Porte, C. and Pochet, P. (2002) 'Introduction'. In ibid. (eds.) Building Social Europe through the Open Method of Co-Ordination (Brussels: Peter Lang), pp. 11-26.
- De la Porte, C. and Nanz, P. (2004) 'The OMC – a Deliberative-democratic Mode of Governance? The Case of Employment and Pension'. *Journal of European Public Policy*, Vol. 11, No. 2, pp. 267-288.
- De Leon, P. (1999) 'The Stages Approach to the Policy Process: What Has It Done? Where Is It Going?'. In Sabatier, P. A. (ed.) *Theories of the Policy Process* (Boulder and Oxford: Westview Press), pp. 19-32.
- Eberlein, B. and Kerwer, D. (2002) 'Theorising the New Modes of Governance'. *European Integration online Papers*, Vol. 6, No. 5.
- Eising, R. and Kohler-Koch, B. (eds.) (1999) *The Transformation of Governance in the European Union* (London and New York: Routledge).
- Esping-Andersen, G., Gallie, D., Myles, J. and Hemerijck, A. (2002) *Why We Need a New Welfare State* (Oxford: Oxford University Press).
- European Council (2000) Presidency Conclusions. Lisbon European Council. 23 and 24 March 2000.
- European Council (2002) Presidency Conclusions. Barcelona European Council. 15 and 16 March 2002.
- Ferrera, M., Hemerijck, A. and Rhodes, M. (2000) *The Future of Social Europe: Recasting Work and Welfare in the New Economy. Report for the Portuguese Presidency of the European Union* (Oiras: Celta Editora).
- Frankfurter Allgemeine Zeitung. 15.3.2003.

Handelsblatt. 16.12.2003.

Héritier, A. (2002) *New Modes of Governance in Europe: Policy-Making without Legislating?* IHS Political Science Series No. 81.

Hodson, D. and Maher, I. (2001) 'The Open Method as a New Mode of Governance: The Case of Soft Economic Policy Co-Ordination'. *Journal of Common Market Studies*, Vol. 39, No. 4, pp. 719-746.

Jachtenfuchs, M. (2001) 'The Governance Approach to European Integration'. *Journal of Common Market Studies*, Vol. 39, No. 2, pp. 245-64.

Jacobsson, K. and Vifell, Å. (2003) 'Integration by Deliberation? On the Role of Committees in the Open Method of Co-ordination'. In Erikson, E. O., Joerges, C. and Neyer, J. (eds.) *European Governance, Deliberation and the Quest for Democratisation* (Oslo: Arena Report).

Lamping, W. (2005) *Regieren durch Reformkommissionen? Funktionen und Implikationen der Hartz- und der Rürup-Kommission im Vergleich*. Unpublished document.

Leibfried, S. and Pierson, P. (2000) 'Social Policy. Left to Courts and Markets?'. In Wallace, H. and Wallace, W. (eds.) *Policy-Making in the European Union* (Oxford and New York: Oxford University Press), pp. 267-292.

Linsenmann, I., Meyer, C. and Wessels, W. (eds.) (2006) *EU Economic Governance: The Balance Sheet of Economic Policy Coordination* (London: Palgrave-Mcmillan).

Luetz, S. (2004) 'Der Wohlfahrtsstaat im Umbruch: Neue Herausforderungen, wissenschaftliche Kontroversen und Umbauprozesse'. In *ibid.* and Czada, R. (eds.) *Wohlfahrtsstaat: Transformation und Perspektiven* (Wiesbaden: VS Verlag für Sozialwissenschaften), pp. 11-35.

Majone, G. (1993) *Regulating Europe* (London and New York: Routledge).

Marks, G., Hooghe, L. and Blank, K. (1996) 'European Integration from the 1980s: State-Centric v. Multi-level Governance'. *Journal of Common Market Studies*, Vol. 39, No. 3, pp. 341-378.

Meyer, C. O. (2004) *Policy Coordination Without Public Discourse?* Unpublished document.

- Mosher, J. and Trubek, D. M. (2003) 'Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy'. *Journal of Common Market Studies*, Vol. 41, No. 1, pp. 63-88.
- NAP (2001) 'Nationaler Aktionsplan zur Bekämpfung von Armut und sozialer Ausgrenzung 2001-2003. Bundesrepublik Deutschland'.
- NAP (2003) 'Strategien zur Stärkung der sozialen Integration. Nationaler Aktionsplan für Deutschland zur Bekämpfung von Armut und sozialer Ausgrenzung 2003-2005. Bundesrepublik Deutschland'.
- Offe, C. (2000) *The Democratic Welfare State. A European Regime Under the Strain of European Integration*. IHS Working Paper. Political Science Series, No. 68.
- Palier, Bruno (2004) *Social Protection Reforms in Europe: Strategies for a New Social Model* (Ottawa: Canadian Policy Research Network).
- Regierungserklärung (2003) *Agenda 2010*. Regierungserklärung von Bundeskanzler Schröder am 14. März 2003 vor dem Deutschen Bundestag.
- Rhodes, M. (1998) 'Defending the Social Contract. The EU between Global Constraints and Domestic Imperatives'. In Hine, D. and Kassim, H. (eds) *Beyond the Market: The EU and National Social Policy* (London: Routledge), pp. 36-59.
- Room, G. (ed.) (1991) *Towards a European Welfare State?* (Bristol: SAUS).
- Scharpf, F. W. (1997) 'Economic Integration, Democracy, and the Welfare State'. *Journal of European Public Policy*, Vol. 4, No. 1, pp. 18-36.
- Sabatier, P. (ed.) (1999) *Theories of the Policy Process* (Boulder and Oxford: Westview Press).
- Scharpf, F. W. (1998) 'Jenseits der Regime-Debatte: Oekonomische Integration, Demokratie und Wohlfahrtsstaat in Europe'. In Lessenich, S. and Ostner, I. (eds.) *Welten des Wohlfahrtskapitalismus. Der Sozialstaat in vergleichender Perspektive* (Frankfurt and New York: Campus), pp. 321-349.

- Scharpf, F. W. (1999) *Governance in Europe: Effective and Democratic?* (New York: Oxford University Press).
- Schroeder, W. (2003) ‚Modell Deutschland und das Bündnis für Arbeit‘. In Jochem, S. and Siegel, N. (eds.) *Konzertierung, Verhandlungsdemokratie und Reformpolitik im Wohlfahrtsstaat* (Opladen: Leske + Budrich), pp. 107-147.
- Schulte, B. (1995) ‚Von der Wirtschafts- und Rechtsgemeinschaft über die Europäische Union zur Sozialunion? Das unerfüllte Postulat der Europäischen Gemeinschaft‘. In Doering, D. and Hauser, R. (eds.) *Soziale Sicherheit in Gefahr* (Frankfurt: Suhrkamp), pp. 222-246.
- Streeck, W. (1998) ‚Vom Binnenmarkt zum Bundesstaat? Überlegungen zur politischen Oekonomie der europäischen Sozialpolitik‘. In Leibfried, S. and Pierson, P. (eds.) *Standort Europa. Europäische Sozialpolitik* (Frankfurt: Suhrkamp), pp. 369-421.
- Süddeutsche Zeitung. 15.3.2003.
- Telò, M. (2002) ‚Governance and Government in the European Union: The Open Method of Coordination‘. In Rodrigues, M. J. (ed.) *The Knowledge Economy in Europe. A Strategy for International Competiveness and Social Cohesion* (Cheltenham and Northampton: Edward Elgar), pp. 242-271.
- Wallace, H., Wallace, W. and Pollack, M. A. (eds.) (2005) *Policy-Making in the European Union* (New York: Oxford University Press).
- Zeitlin, J. (2005) ‚Conclusion. The Open Method of Co-ordination in Action. Theoretical Promise, Empirical Realities, Reform Strategy‘. In *ibid.* and Pochet, P. (eds.) *The Open Method of Co-ordination in Action. The European Employment and Social Inclusion Strategies* (Brussels: Peter Lang), pp. 447-503.
- Zeitlin, J. and Pochet, P. (eds.) (2005) *The Open Method of Co-ordination in Action. The European Employment and Social Inclusion Strategies* (Brussels: Peter Lang).