Inside the Social
Open Method of Coordination
The Hard Politics of ‘Soft’ Governance

Bart VANHERCKE
Inside the Social
Open Method of Coordination
The Hard Politics of ‘Soft’ Governance

ACADEMISCH PROEFSCHRIFT

Ter verkrijging van de graad van doctor aan de Universiteit van Amsterdam
Op gezag van de Rector Magnificus
Prof. dr. D.C. VAN DEN BOOM

Ten overstaan van een door het College voor Promoties ingestelde commissie,
in het openbaar te verdedigen in de Agnietenkapel
op
donderdag 31 maart 2016, te 14.00 uur

Door

Bart Wilhelmus R. VAN HERCKE

Geboren te Ndekesha, Congo
Promotiecommissie:

Promotor: Prof. dr. J.H. Zeitlin
Copromotor: Prof. dr. J. Visser

Overige leden: Prof. dr. B.M. Burgoon
Prof. dr. M. Ferrera
Prof. dr. A.C. Hemerijck
Dr. R.M. Sanchez Salgado
Prof. dr. F.I.P. Vandenbroucke

Universiteit van Amsterdam
University of Milan
Vrije Universiteit Amsterdam
Universiteit van Amsterdam

Faculteit der Maatschappij- en Gedragswetenschappen

The research for this PhD benefited from the funding by the Shifts in Governance Programme of the Dutch Science Foundation (NWO), the Belgian Science Policy Office (Society and Future Research Programme) and the European Commission. All opinions, interpretations, errors and omissions are the sole responsibility of the author.
To those dearly departed
Hilde, Joris, Jos B., Jos M. and Opa

To the littl’uns who grew so tall while this book was being written
Sander, Charlotte and Pieter

To my love and soulmate
Veerle
CONTENTS

DANKBETUIGING ................................................................................................................................. v

CHAPTER 1: The hard politics of ‘soft’ governance: setting the scene................................. 1
Introduction: the founding fathers’ fundamental assumptions .................................................. 1
1.1 The debate about ‘social Europe’ five decades on .............................................................. 3
1.2 Open coordination and new modes of governance ............................................................ 12
1.3 How the EU and its Member States interact: a ‘Europeanisation’ perspective .............. 22
1.4 Research design: questions, hypothesis and case studies ............................................. 27
1.5 Research methodology: collecting the data ................................................................. 36
1.6 PhD outline and acknowledgements ................................................................................ 47

CHAPTER 2: Political spill-over, changing advocacy coalition, path dependency or
domestic politics? Theorizing the emergence of the Social OMC’s ........................................ 89
Introduction: why did they do it? ................................................................................................. 89
2.1 Theories of European Integration: between eclecticism and ‘grand theory’ ............... 90
2.2 Ten steps towards the launch of the social protection OMC’s ........................................ 103
2.3 Theorizing the emergence of the social protection OMC’s ............................................. 107
2.4 Conclusions: towards a constructivist interpretation of neofunctionalism ................. 112

CHAPTER 3: Variations in institutionalisation of the Social OMC’s: the choice for non-
constitutionalisation and the emergence of ‘hard soft law’ .................................................. 121
3.1 Policy coordination after Lisbon ....................................................................................... 121
3.2 Social inclusion: a sense of urgency, leading to a full-blown OMC ................................ 125
3.3 Pensions: a more prudent approach, leading to a ‘partial’ OMC ........................................ 132
3.4 Health care: the European Commission’s purposive opportunism, Member States’
foot-dragging and discursive juggling ...................................................................................... 138
3.5 Beyond the surface of the streamlined Social OMC .......................................................... 144
3.6 Making sense of differences and similarities in ‘soft law’ modalities and procedures:
the concept of legalization ........................................................................................................ 146
3.7 Conclusion: the emergence of ‘hard soft law’ .................................................................. 154

CHAPTER 4: Benchmarking social Europe a decade on: demystifying
the OMC’s learning tools .............................................................................................................. 163
4.1 Introduction: puzzle, scope and limitations ...................................................................... 163
4.2 Setting the scene: from an unidentified political object to the OMC ............................... 165
4.3 Benchmarking within the Social Open Method of Coordination (2000–2010):
how did it really work? ................................................................................................................ 170
4.4 Europe 2020 Strategy: is there still room for social benchmarking? ............................. 187
4.5 Wrapping things up: benchmarking in the social OMC demystified ............................. 192
CHAPTER 5: Delivering the goods for Europe 2020? The Social OMC’s adequacy and impact re-assessed ................................................................. 199
5.1 Introduction .......................................................................................... 199
5.2 The adequacy of the Social OMC’s toolbox: mixed evidence (at best) ........... 200
5.3 Assessing the impact of the Social OMC: procedural and substantive effects ‘on the ground’ .............................................................................. 207
5.4 Mechanisms of change: explaining the discrepancy between the OMC’s adequacy and impact ........................................................................... 213
5.5 Conclusions and next steps ..................................................................... 214

CHAPTER 6: The OMC and domestic social policy making in Belgium and France – Window dressing, one-way impact, or reciprocal influence? ................................................................. 223
6.1 Theoretical lenses for studying mechanisms and effects of ‘soft’ governance ........ 224
6.2 Traces of Eve: the (in)effectiveness of the OMC in action ....................... 225
6.3 Summary and conclusions .................................................................... 243

CHAPTER 7: Against the odds. The OMC as a selective amplifier for reforming Belgian pension policies ...................................................................................................................... 251
7.1 ‘Soft law’ versus sticky entities ................................................................ 252
7.2 The ‘soft’ governance of pensions in Europe: where it all began .............. 253
7.3 Accounts of the pension OMC in action .................................................. 254
7.4 Theoretical perspectives and research methodology .................................. 255
7.5 Assessing the effectiveness of the OMC in action ..................................... 259
7.6 Conclusions ......................................................................................... 265

CHAPTER 8: The OMC and beyond: ‘soft-to-hard-to-soft’ governance of health care in the EU .................................................................................................................. 273
8.1 Introduction ............................................................................................ 273
8.2 The Open Method of Coordination in health care: emergence and key features ....... 274
8.3 Looking for a needle in a haystack: the impact of the health care OMC at the domestic level ..................................................................................... 283
8.4 Tracing EU significance: a patchwork of ‘soft’ governance and instrument hybridity ................................................................................................. 286
8.5 Explaining limited substantive impact: lack of ownership and actor rivalry? ....... 292
8.6 Wrapping things up: ‘soft-to-hard-to-soft’ governance in the EU ............... 296

CHAPTER 9: The European Social Fund and domestic activation policies: Europeanization mechanisms .................................................................................................................. 305
9.1 Case and analytical framework .................................................................. 307
9.2 Data and methods .................................................................................... 310
9.3 The impact of the ESF on local and regional activation policies: reviewing the empirical evidence .................................................................................. 311
9.4 Tracing mechanisms of change and explaining regional differences ............ 316
9.5 Conclusions ............................................................................................ 321
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 10: Inside the Social Open Method of Coordination: retrospect and prospect .......................................................... 331</td>
</tr>
<tr>
<td>Introduction .................................................................................. 331</td>
</tr>
<tr>
<td>10.1 Why did they do it? Of windows and opportunities .................. 331</td>
</tr>
<tr>
<td>10.2 From Paris (1972) to Lisbon (2000): revisiting the ten steps towards the Social OMC .......................................................... 334</td>
</tr>
<tr>
<td>10.3 Variations of institutionalisation of the Social OMC: revisiting the legalization framework .................................................. 339</td>
</tr>
<tr>
<td>10.4 Adequacy: can the OMC deliver the goods? ............................ 342</td>
</tr>
<tr>
<td>10.5 Coming to terms with the impact of the Social OMC: did it matter after all? ................................................................. 343</td>
</tr>
<tr>
<td>10.6 Explaining discrepancies in OMC research: adequacy versus impact .............................................................. 348</td>
</tr>
<tr>
<td>10.7 Actors: academics, stakeholders and (small) Member States .......... 350</td>
</tr>
<tr>
<td>10.8 Mechanisms of change: leverage, learning, socialization and peer pressure ................................................................. 355</td>
</tr>
<tr>
<td>10.9 Theoretical implications: Social Europe, Europeanisation and new governance ................................................................. 362</td>
</tr>
<tr>
<td>10.10 The hard politics of new governance: wider relevance and next steps ................................................................. 368</td>
</tr>
<tr>
<td>LIST OF ABBREVIATIONS ................................................................. 387</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY .................................................................. 391</td>
</tr>
<tr>
<td>Introduction .................................................................................. 391</td>
</tr>
<tr>
<td>1. Methods and case studies ............................................................ 391</td>
</tr>
<tr>
<td>2. Inside the Social OMC: Key findings .......................................... 392</td>
</tr>
<tr>
<td>3. Theoretical implications and wider relevance .................................. 396</td>
</tr>
<tr>
<td>Conclusion ................................................................................. 398</td>
</tr>
</tbody>
</table>
DANKBETUIGING

Dag Hilde. Je hebt zoveel belangrijke momenten met ons gedeeld. De ‘Potestraat’ in Winksele, het roept nog steeds dons bij me op: nestdiertje dat slaapt. De tijd die je was gegund bleek veel te kort: voor Karen, voor Jef, voor je vijf prachtige kleinkinderen – voor ons allen die door jou werden geraakt. Eén van de beelden die me is bijgebleven: jij, ondanks je ziekte, aan de lange tafel, omringd door papieren. ‘Ooit schrijf ik een doctoraat’, zei je dan. Geen idee, als twaalfjarige, wat dat precies inhield, maar het maakte wel indruk op je zoon: het zaadje was geplant.


Mede dankzij het werk van Rosemie Bruynooghe (die me kordaat van geneeskunde naar sociale wetenschappen verwees), Fred Loucks en Rita Schepers werd de medische sociologie m’n eerste academische liefde. Die kon zich verder ontplooien op het Centre de sociologie de la santé van de Université Libre de Bruxelles. Mijn collega’s Anne Herscovici, Guy Lebeer en Madeleine Moulin (immer met pijp), maar ook Mateo Alaluf, Anne Geraets en Patricia Schmitz boden – van maart 1995 tot april 1996 – een veilige plek voor een jonge, enigszins ontwortelde onderzoeker. Later zou de band met de ULB, via Amendine Crespy, Maria João Rodrigues en Mario Telo, nog verder worden versterkt.


De overstap in 1999 naar dat andere Observatorium, dat voor ‘Gezondheid en Welzijn’ (Gemeenschappelijke Gemeenschapscommissie van Brussel-Hoofdstad) was dan ook maar van korte duur. Toch waren die enkele weken van intense samenwerking met Myriam De
Spiegelaere en Truus Roesems, onder het goedkeurend oog van Luc Notredame, van grote waarde. Al was het maar omdat ik er leerde hoe Europese ‘soft governance’ gebruikt wordt om enige richting te geven aan het armoedebeleid in het Brusselse institutionele kluiten. De manier waarop Annette Perdaens me de Brusselse armoede ‘van onderuit’ liet zien zal ik niet licht vergeten.


Op het kabinet van de minister van Werk en Pensioenen (2003–2004) leerde ik onder andere Yasmine Kherbache kennen als een uitstekende juriste, maar ook de samenwerking met de FOD Werkgelegenheid, Arbeid en Sociaal Overleg (WASO) was een echte leerschool. Het was mijn samenwerken met Thérèse Boutsen, Guy Cox, Michel De Gols en François Vandamme. Voor de talloze Europese pensioendiscussies kon ik altijd te rade bij Henk Becquaert, terwijl we samen met Johan Kips en Ri De Ridder met Londen onderhandelden over patiëntenmobiliteit – en Steven Janssen zorgde voor de rest. Van Tom Van Puyenbroeck leerde ik alles over speechwriting, onder andere over de ‘Actieve Welvaartsstaat’; inzake timing gaat mijn leerproces onverminderd verder. Hoe Frank Van Massenhove het kabinet van wilde veulens zo vlot heeft laten draaien is me nog steeds een raadsel. Allicht hadden Christiane Denayer en Franseke er ook iets mee te maken. Van Frank Vandenbroucke leerde ik dat evidence based politics geen holle slogan hoeft te zijn; telkens als we nota’s of speeches moesten herschrijven, putten we troost uit het adagio ‘un effort intellectuel n’est jamais perdu’. Voor een man met een missie en een politicus met een project wil een mens al eens iets extra’s doen. Ik beschouw hem, zonder meer, als mijn intellectueel kompas.

Toen Frank Vandenbroucke in 2004 voor de Vlaamse regering koos, was het even worstelen: die zomervakantie in Toscane was er een van (job)onzekerheid. Tot op een mooie avond Jelle Visser...

Vooral de periode 2006 – 2009 was er één van zeer intense samenwerking; met mede PhD-studenten Gerben Korthouwer en Nynke Wiekenkamp (we werden de ‘Drie Muskietiers’ genoemd), maar ook Birgitte Bentzen, Rob De Boer en later Minna Van Gerven, creëerden we een echte leeromgeving, Centraal daarbij stonden de regelmatige leessessies die meestal plaatsvonden in Den Haag (bij Anton Hemerijck op de Wetenschappelijke Raad voor het Regeringsbeleid, WRR), maar vaak ook in Amsterdam (bij Jelle Visser, op het Amsterdam Institute for Advanced Labour Studies, AIAS). Tijdens een cruciale tiendaagse troffen we elkaar in Madison, Wisconsin (bij Jonathan Zeitlin, op het Center for World Affairs and the Global Economy, WAGE): Maurizio Ferrera gaf me met de historische roman ‘An Instance of the Fingerpost’ van Iain Pears een gouden tip die me zou helpen met de constructie van m’n theoretisch raamwerk.

Samen met Anton, Jelle en Jonathan becommentarieerden we elkaars stukken (soms tot op het bot), en lazen we Crouch, Ebbinghaus, Hall, Marks, Palier, Pierson, Scharpf, Schmitter, Schmidt, Streeck, Thelen en zovele anderen. Die leessessies vormen de grondvesten van dit boek. Marc van der Meer speelde een essentiële rol door telkens opnieuw de vertaalslag te maken naar het eigen proefschrift; hij was ook een beetje onze huispsycholoog, want academische ‘leessessies’ kunnen er in Nederland soms ruw aan toe gaan.

De grondvesten werden verder versterkt door regelmatige bijeenkomsten in Amsterdam van de PhD-cursussen ‘Methodology Clinic’ (Bernhard Kittel en Annette Freyberg-Inan) en ‘Theory in Action’ (Dick Houtman). Die brachten me in contact met mede PhD-studenten als Luc Fransen, Corina Hendriks en Hester Houwing, die het ‘learning’-concept graag op de rooster legden en me daar een grote dienst mee bewezen. Deze cursussen moedigden me ook aan om persoonlijk contact te leggen met externe academici. Dat leidde onder meer tot een ‘case study research’-lunch met John Gerring en mailuitwisseling met Liesbeth Hooghe, die me schreef: ‘your empirical material speaks for itself, so go light on theory’. Waarna ze me prompt haar laatste multi-level governance-theorie toestuurde. Tijdens de jaren dat ik regelmatig naar Amsterdam ging, waren Teun Bijvoet, Anneke Dammers, José Komen, Miriam May en Hermance Mettrop steeds erg behulpzaam. Dat Hans Sonneveld, Anita Hardon en later Matthijs Kalmijn en Joris De Vries al die tijd vertrouwen bleven stellen in de goede afloop van het proefschrift was niet vanzelfsprekend. Ik ben er hen oprecht dankbaar voor.

Tussen september 2004 en januari 2006 combineerde ik de eerste doctoraatsinspanningen met een deeltijdse baan in het Europees Parlement: samen met collega’s Jos Bertrand, Jan Moens, Marieke Merckx en Sonja Steenhaut voorzagen we parlementsleden Mia De Vits, Said El Khadraoui, Kathleen Van Brempt en Anne Van Lancker van de nodige voorbereiding. Het was een unieke ervaring in Europese beleidsvoering, en ik leerde dat de interne markt (inclusief de machinerichtlijn) soms ‘sociaal beleid onder de radar’ toelaat: een belangrijke verrijking van m’n
'zicht op Europa'. Dat laatste werd verder uitgebreid door de verschillende golven van interviews die ik het voorbije decennium afnam. Meer dan honderd Europese en nationale ambtenaren, sociale stakeholders (vertegenwoordigers van vakbonden, werkgevers en NGO's), politici en academici leverden een schat aan informatie voor m'n doctoraat, ondanks hun drukke agenda's; ik ben hen meer dan erkentelijk.

In februari 2006 haalde Philippe Pochet me terug naar het Observatoire social européen, voornamelijk om de coördinatie op te nemen van het onderzoeksproject 'ETOS.BE' over de Europeanisering van het sociaal en werkgelegenheidsbeleid in België, Frankrijk en Nederland. Samen met Gert Verschraegen (met wie ik graag eet en publiceer) en partner in crime Mieke Beckers gingen we de uitdaging aan. Het was het begin van drie jaar intensieve samenwerking met Jos Berghman, Olivier Paye, Pierre-Paul Van Gehuchten, Pascale Vielle en Yannick Vanderborght. Ik heb zoveel geleerd van de onderzoekers van de Belgische, Franse en Nederlandse teams: Gaëlle Hubert, Philippe Reyniers, Rika Verpoorten en Selma Bellal (BE); Marie-Pierre Hamel (FR); en Nuria Ramos Martin en Minna van Gerven (NL). De interdisciplinaire inzichten die we samen verwierven in ETOS.be waren van heel groot belang voor m'n proefschrift: in die periode werd in het bijzonder de analyse van de wisselwerking tussen Europese beleidsinstrumenten gemaakt. Het project zorgde ook voor een blijvende entente met de Université Saint-Louis (FUSL) in Brussel, waar Denis Duez me in het academiejaar 2013-2014 als Professeur Associé aan boord haalde. Hij maakte me er fijntjes attent op dat dit soort benoemingen nog vlotter loopt met een PhD op zak. Peer pressure, prima.

De fijne samenwerking met Jos Berghman tijdens het ETOS.be-project leidde er ook toe dat hij me, in 2008, binnenhaalde als 'Vrijwillig Medewerker' op het Centrum voor Sociologisch Onderzoek (CESO). Het maakte de contacten met CESO- en HIVA-collega's Wouter De Tavernier, Patrick Develtere, Veerle Draulans, Bart Meuleman, Ides Nicaise, Josèf Pacolet, Hans Peeters, Valeria Pulignano, Monique Ramioul, Marc Swyngedouw, Loes Vandenbroucke, Guy Van Gyes, Geert Van Hootegem, Ine Van Hoyweghen, Wim van Oorschot en Johan Wets er alleen maar intenser op. Christien en Elke, ik blijf hopen dat we ooit nog eens samen kroketjes gaan eten. Sofie, Marina en Martine, jullie zijn altijd heel geduldig geweest, bij nog maar eens een verhuiskaart van de KE Leuven gaf me ook toegang tot de Researchers' zone van de Bibliothek Sociale Wetenschappen (SBIB), waar ik in de laatste rechte (sic) lijn de Inleiding en de Conclusies van m'n proefwerk heb geschreven. Chris, Karen, Kris, Guy, Veerle en Silvia van het SBIB-team: jullie proactieve dienstverlening is voortreffelijk en ronduit hartverwarmend. Aan de medegebruikers van de Researchers' zone uit zoveel landen, en in het bijzonder Cajetan Coelho en Veronica Russu: dank voor de gezamenlijke koffie, de nootjes en de schouderklopjes.

De combinatie van gezin, betaalde arbeid en een proefschrift was niet altijd evident. Eén man bleef me al die jaren bij de leest houden, ook op die momenten dat ik het voelde weglijden: Jonathan Zeitlin. Steeds weer die vragen (via mail, via Skype): 'Hoe gaat het met je PhD? Wanneer krijg ik nog eens een stuk te lezen?' Peer pressure: niets 'zachts' aan. Jonathan is niet alleen 'Mr. OMC': hij is ook m'n academische benchmark, toonbeeld van gastvrijheid, multitalige alleslezer, coauteur en zoveel meer. Zonder hem had ik het niet gehaald, punt. Maar ook anderen bleven 'hameren': Anton Hemerijck (‘Bart, the only good PhD is a finished PhD’) en Jelle Visser (op een zonnig terras in Antwerpen zette je de puntjes op de ‘i’ – en mij terug op de sporen). Ik
Dankbetuiging

ben Jonathan Zeitlin, Jelle Visser, Brian Burgoon, Maurizio Ferrera, Anton Hemerijck, Rosa Sanchez Salgado en Frank Vandenbroucke dankbaar dat ze in m’n Promotiecommissie wilden zetelen, en voor de rol die elk van hen in m’n doctoraatsstraject heeft gespeeld. Jos Berghman was ook één van de volhouders: ‘We gaan nog eens een pizza eten, dan kan je daarna je conclusies schrijven’. Hij was lid van de OSE Scientific Advisory Board. De plannen voor gezamenlijke projecten, inclusief als lid van de OSE Raad van Bestuur, kregen stilaan vorm. Jos Berghman’s onverwachte overlijden in 2014 voelt nog steeds aan als een groot verlies.

Ook mijn OSE-collega’s bleven herhalen dat ik het écht wel kon. Net als de leden van de Raad van Bestuur (onder leiding van, achtereenvolgens, Pierre Jonckheer en Marc Sapir) en de OSE Scientific Advisory Board, die me voluit steunden: bijzondere dank aan lain Begg, Janine Goetschy, Ana Marta Guillén, Jane Jenson, George Ross en Pascale Vielle.

Cruciaal was ook de steun van mijn beide vaders: Ben Vanhercke (tijdens de legendarische wandelingen op de zeedijk in Middelkerke) en Jef Van Langendonck (‘Bartje, je bent al lang klaar, dien het nu eens gewoon in’). M’n tantes en nonkels (zo zeggen we dat in het schoon Vlaams) Agnes, An, Dirk, Frank, Jan en Peter: ik heb veel gehad aan jullie lieve aanmoedigingen. Mijn dierbare collega’s Françoise Verri en Denis Bouget speelden het eindspel streng maar rechtvaardig: ze namen collegiaal m’n taken over en de mail werd afgesloten, ‘jusqu’au finish’. Denis, je bent de gedroomde ‘PhD endgame coach’: soms als een pater familiars, soms als een pitbull, altijd met mededogen. Valérie Cotulelli en Françoise zorgden ervoor dat een ruwe collectie van hoofdstukken, papers en artikels eerst een manuscript werd, en vervolgens een boek. Dank voor jullie efficiëntie en flexibiliteit. Aan alle OSE-collega’s: dank voor jullie geduld, het is nu écht voorbij.


Dat we als gezin de voorbije jaren zijn doorgekomen, mag op zich een mirakel genoemd worden. Sander, Charlotte en Pieter ben ik eeuwig dankbaar dat ze me in het weekeinde stelselmatig aan de essentie van het leven herinnerden: zijzelf. Veerle, dank dat je m’n zielsverwant bent gebleven, zelfs al fladderde ik vaker dan anders naar andere mentale oorden. Het was altijd zalig thuiskomen. Je hebt me gedurende al die jaren nooit (echt) gevraagd om op te geven: *straffe Madam.* Je kan me nog steeds, met een kwinkslag, weer boven de waterlijn halen. En dat ademt zoveel prettiger. Ik kijk zo uit naar kortere werkdagen en laptoploze vakanties.

Lieve Hilde, ik zal je missen op 31 maart in de Agnietenkapel. Maar je ziet, *Musuibwe* is in goede handen.

Bart Vanhercke
Leuven, 1 maart 2016
CHAPTER 1

The hard politics of ‘soft’ governance: 
setting the scene

Introduction: the founding fathers’ fundamental assumptions

The process of European integration has gradually but irreversibly altered the configuration of national welfare states. Yet until recently scholarly analyses of European welfare states commonly treated each of them as though its structure and development was shaped predominantly by socio-political factors endogenous to the country concerned (e.g. Esping-Andersen, 1990; Pierson, 2001). Such a purely endogenous analysis was indeed defensible in the early days of European integration. When it was launched in the 1950s, the European project did not intend to challenge the institutional foundations of the welfare state. European integration was rather seen as a project ‘capable of creating and sustaining a virtuous circle between open economies and outward-looking economic policies on the one hand and closed welfare states and inward-looking social policy on the other’ (Ferrera, 2006: 262). Two fundamental goals have indeed been part and parcel of the European project since the Treaty of Rome of 1957: the simultaneous pursuit of economic progress on the one hand, and of social progress and cohesion on the other, both within countries (through the gradual development of the welfare states) and between countries (through upward convergence across the Union).

The limited competences given by the 1957 Rome Treaty to the supranational level in the social policy sphere reflected this explicit objective of a neat division of labour between national welfare states on the one hand and the European Economic Community (EEC) on the other. Although the Treaty contained a small number of social policy provisions such as the establishment of a ‘European Social Fund’ (ESF) and provisions on equal pay for men and women, social and redistributive policies were basically left under control of national governments. The scarce EU social policy initiatives were for the most part addressed as ‘spill over’ problems arising from market integration, for instance, enabling the cross-border mobility of workers. It would seem that the founding fathers of the European project optimistically assumed that its social objectives could be reached by supranational economic cooperation – namely through the ‘four freedoms’ of the single market which would boost economic growth – together with specific financial instruments for raising the standard of living across the Member States, which were later brought together in the EU’s ‘economic, social and territorial’ cohesion policy (Vandenbroucke with Vanhercke, 2014).

---

1 Section 1.1 of this chapter draws on the sections I authored in Vandenbroucke with Vanhercke (2014). Section 1.2 refines my discussion on new governance in Greer and Vanhercke (2010). Section 1.3 further develops the Europeanisation perspective from Vanhercke et al. (2011b), while section 1.5.4 is very much inspired by my contribution to a European Commission-funded project (PPMI, 2011).
Domestic social policies were to redistribute the fruits of economic progress and upward economic convergence, while remaining a national prerogative. The Treaty of Rome furthermore stipulated that:

> Member States agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation [...]. They believe that such a development will ensue [...] from the functioning of the common market, which will favour the harmonisation of social systems’ (Article 117).

In other words: drawing on the Spaak (1956) report, there was a genuine belief in the spontaneous harmonisation of social systems. The Ohlin Report – which together with the Spaak report provided the basis for the Treaty of Rome – explains the logic behind this belief, which made sense at the time:

> ‘when account is taken of the strength of the trade union movement in European countries and of the sympathy of European governments for social aspirations, [this will] ensure that labour conditions would improve and would not deteriorate’ (Ohlin, 1956: § 210).

In spite of these historical assumptions, over the last decades, incremental European social regulation has led to the development of a genuine EU social policy, which has gradually affected the workings of welfare states’ institutional structures and policy making processes. The view that national welfare policies can be adequately analysed without taking into consideration the European policy-context hence is no longer tenable.

This PhD contributes to the understanding of whether and how one particular EU social policy instrument – the Open Method of Coordination – has become a significant element in the shaping of national and EU policies over the last decade.

In order to understand how the European level interacts with the national welfare state, section 1.1 will briefly outline the current debate about ‘Social Europe’. It will do so by sketching the incremental development of EU social policy over time through different policy instruments: EU law, structural funds and European social dialogue. Section 1.2 introduces open coordination as a policy instrument, and frames it in the wider debate about ‘new modes of governance’ in the EU. Section 1.3 then provides a synoptic overview of the main approaches in the literature to understanding the reciprocal relationship between EU and Member States’ policies (a ‘Europeanisation’ perspective). Section 1.4 presents the research design: it elaborates the central puzzle and argument as well as the research questions and hypotheses; it also introduces the ‘critical case studies’. Section 1.5 then describes the methods used: literature review, document analysis and semi-structured interviews, supported by an on-line survey, media content analysis and website research. The final section introduces the substantive chapters of this PhD and provides the necessary acknowledgements as well as publication details for each of them.
1.1 The debate about ‘social Europe’ five decades on

As mentioned above, the EU’s founding fathers saw the harmonisation of social systems as the spontaneous result of the functioning of the common market, and not as a policy to be actively pursued. Despite the initial Treaty stipulations, a European social dimension has been actively pursued during the past fifty years, which has led to a non-trivial ‘social acquis’ broadly understood, including employment and non-discrimination. This section – which elaborates on my contribution to Vandenbroucke with Vanhercke (2014) – briefly outlines the historical development of three variants of day-to-day EU social policymaking: the traditional Community method, the EU distributional mode, and social dialogue. I discuss a fourth EU social policy instrument, the Open Method of Coordination, in the next section.

1.1.1 The traditional community method and the Court’s activism

In the institutional dynamic of the EU, law has played a crucial role. Fuelled by a continuous process of legal expansion, the EU has come to be probably ‘the most ‘legalized’ international institution in existence’ (Alter, 2000: 490). Judicial processes have indeed been a powerful force for integration in the Union, creating in the first instance a European economic constitution establishing rights and foundational standards with which the Member States are expected to comply, laws being enforced by a hierarchy of courts headed by the European Court of Justice (now the Court of Justice of the European Union, CJEU). For a long time, therefore, the Community method was seen as the predominant (and even ideal) method of supranational policy making (Wallace, 2010).

And yet, the EU’s legislative involvement in employment and social policy should in principle be a rather short story to tell. After all, the consecutive Treaties only provided a limited transfer of powers from the national to the EU level in these areas. For decades the EC indeed had very few explicit powers of action in the area of social policy and no explicit mandate at all to legislate on it. It is true that the original version of the Treaty establishing the European Economic Community (the 1957 Treaty of Rome, or EEC Treaty) included a Title III on ‘Social Policy’. But apart from provisions on the European Social Fund (see section 1.2.2), and despite having a chapter entitled ‘Social Provisions’, it contained lofty declarations but very little by way of a specific mandate (Falkner, 2007).

This is not to say that there has been no activist role for Brussels in social policy developments, but the obstacles to such activism are formidable (Leibfried, 2010): first, institutionally, because either unanimity or a qualified majority is needed for most initiatives in social policy. Indeed, Member State governments continue to protect their social policy prerogatives on the basis of the subsidiarity principle, even if they have been willing to cede authority over much of their economic and fiscal policy. Second, politically, there is the historical opposition of some large Member States (notably the UK) to any new transfer of power to the EU, while other (notably Scandinavian) countries believe that European intervention in social policies would reduce the level and the quality of their own social protection system (Scharpf, 2002: 650). There is also contestation between different schools of thought on EU-level social policy (Falkner, 2007) over the functions to be served by social policy in what is primarily seen as an economic project:
some are more ‘interventionist’ and strive for a market-correcting approach while others are willing to include some social policy provisions, but without empowering the EU to act.

In spite of these formidable hurdles, the EU has accumulated substantial regulatory mandates in employment, social and anti-discrimination policy. After a series of Treaty reforms in the 1980s (Single European Act), 1990s (Maastricht and Amsterdam Treaties) and the adoption of the Treaty of Nice in 2001 that European Economic Community — renamed the ‘European Community’ after Maastricht — was increasingly given an explicit mandate for social policy. Since the Maastricht Social Agreement, the EC has acquired a series of additional legislative powers for social matters (for an overview, see Falkner, 2007). The Maastricht Treaty also brought two innovations in the institutional governance of EU social policy: extending the ability of collective bargaining partners to intervene in agenda-setting around EU social policy; and extending qualified majority to health and safety of workers working conditions, equal treatment and the integration of persons excluded from the labour market (Lange, 1993, Daly, 2008).

The high point in the development of social policy mandates occurred in the mid-1990s. The 1997 Treaty of Amsterdam, with its Social Chapter, enlarged the scope of the original mandates on health and safety (now broadened to all working conditions) and gender equality (extended to all labour force issues). The latter was now placed under QMV, as was the case for worker information and consultation and integration of people excluded from the labour market. The Amsterdam Treaty (1997) brought a further broad-based mandate to combat discrimination. In addition to ensuring equal treatment for men and women at work, the Community also had to combat discrimination on grounds of racial or ethnic origin, religion or belief, or disability. The Amsterdam Treaty also contained an Employment Chapter which drastically widened the EU’s room of manoeuvre in the field of employment, and which launched the European Employment Strategy (EES). At the same time, the range of subjects on which bargaining can be initiated between the social partners was considerably limited, by explicitly excluding some key topics: pay, the right of association, and the right to strike or the right to impose lock-outs.

Leibfried and Pierson (1995: 74) have famously described the EU as a unique multi-tiered system of social policy with three main characteristics: a ‘hollow core’; a prominent role for courts in policy development; and an unusually tight coupling to market-making processes. Nevertheless, most commentators have also pointed out that, by now, EU social policy has developed beyond what was expected two decades ago (on the grounds of limited legal competences, political dissent, etc.), and also that it has transcended the purely intergovernmental realm, both in terms of decision-making procedures and of social partner participation. So what then are the milestones of EU social policy?

First, because of the lack of legislative competences, EC social policy initially limited itself to removing obstacles to mobility, especially of manual workers, among national – and still nationally governed – labour markets (Scharpf, 2002). Leaving national systems basically as they were, EU policy concentrated on building interfaces between them, for through the technical coordination of social security rights. The latter obliges countries to let EC ‘foreign’ workers enter freely to seek work and to eliminate any legal discrimination that impeded the
free movement of persons across national borders (Streeck, 1995). The Council of Ministers gave high priority to the Regulation on this issue, which was one of the first measures ever taken by the European Economic Community: already on 1 January 1959, Regulations No 3 and 4 – later Regulation 1408/71, now Regulation 883/2004 – on social security for migrant workers entered into force.

Second, there is the case of gender equality at work, which has had a sound treaty base ever since the Treaty of Rome (Article 119 EEC). As a result, since the mid-1970s, a range of directives have been adopted by the Member States. The CJEU played an activist role in this which (a) gave a broad interpretation to the Treaty provisions and the directives, (b) provided legitimation to the Commission's ambitious legislative agenda, and (c) helped to ensure the implementation of directives: a number of ‘negative integration’ measures (see section 1.3.1 below) struck down national rules and practices discriminating against women. And, which is more, these measures latter have brought in protective gender equality legislation that was previously non-existent in several Member States (Macrae, 2010: 160). Some therefore argue that EU institutions have been important catalysts in shaping women’s economic, political and social equality in Europe.

Yet it has equally been argued that gender equality is visible only in pure gender legislation: the EU as a gender-equal polity is, according to critics, a ‘myth’ (Ibid: 171). This said, the activist stance taken by the ECJ in the 1980s and 1990s paved the way for the adoption of a broader series of more general anti-discrimination Directives (on Anti-Racism and Employment). This was done by extending, in the Treaty of Amsterdam, the prohibition on labour discrimination from the longstanding areas of ‘nationality’ and ‘gender’, to new grounds such as ‘racial and other origins, religion or belief, disability, age or sexual orientation’.

A third case in the area of EU social policymaking is health and safety in the workplace, where a number of ‘positive integration’ measures (see section 1.3.1 below) defined and improved workplace social standards (Ferrera, 2005: 116). The first and arguably most important European Framework Directive on Safety and Health at Work (89/391 EEC) produced a range of daughter directives on specific hazards. Rhodes (2010) describes how the European Commission played a ‘treaty-base game’, in which it stretched the interpretations of ‘health and safety’ as far as possible to develop an agenda on working conditions and workers’ rights, when a firm legal treaty base was missing. Directives on Atypical Work (91/383/EC) and Pregnant Workers (92/85/EC) required more generous policies in several EU countries; they were adopted under the ‘health and safety’ provisions, allowing qualified majority voting (QMV). This was also the case for the highly contested Working Time Directive (2003/88/EC), which set a limit to weekly working hours, but excluded a number of sectors and allowed important derogations for the Member States. The Young Workers' Directive (94/33/EC) prohibited work by children under the age of 15 and gave rights to those under the age of eighteen (again, with many derogations allowed). EU legislation also supported social dialogue: the European Works Councils were established (Directive 94/45/EC) in 1994, after the failure to reach an agreement among the cross-industry social partners.

___

2 Examples include exposure to chemical agents (98/24/EC), biological agents (2000/54/EC), electromagnetic fields (2004/40/EC), and asbestos (83/477/EEC).
The Amsterdam Treaty added a new chapter on Employment (see section 1.2.1 below). The extended QMV (and decreased possibility to form a blocking minority after the ‘northern enlargement’ in 1995) led to the adoption of directives on Parental leave (96/34/EC), Part-time work (97/81/EC) and Fixed-term contracts (1999/70/EC), all three of which had been agreed by the cross-industry social partners and constitute the prime (some would argue ‘scarce’) achievements of Euro-corporatism endowed with legislative powers. Following the strengthened legal base in the Treaty of Amsterdam, a Framework directive was adopted on equal treatment in employment and occupation (Directive 2000/78) which aims to combat a wide range of discriminations. A European Company Statute was created in 2001, which also provides for the involvement of employees in such companies; on a similar topic, a highly controversial directive (2002/14/EC) on national information and consultation rules was agreed in 2002. The issue of equal treatment between women and men was moved outside the workplace, through a Directive (2004/113/EC) aimed at combating sex discrimination in access to and supply of goods and services.

Reference should also be made to the range of EU directives which were primarily aimed at the consolidation of the internal market, but de facto supported employment and social protection, such as the early directives on dismissals (75/129/EEC) and procedural rights under collective redundancies (98/59/EC)\(^3\). As importantly, there is the legislation relating to the safety of machinery, which led to the development of an unprecedented body of protective European standards. Crucially, these were often the synthesis of the highest protective standard available, and therefore represented a significant step forward in most countries. The first Machinery Directive (89/392/EEC) was adopted in 1989 and contributed to a significant reduction in the number and severity of occupational accidents and illnesses (Fraser, 2012). Many of these European standards have also been ‘exported’ to the rest of the world through ISO (now so-called ‘EN ISO’) standards.

More recent legislative initiatives have become scarcer, but are still ongoing ‘under the radar’ (Vanhercke, 2013a). Thus, at least some of the legal uncertainties surrounding the issue of cross-border healthcare were removed in 2011 through a Directive (2011/24/EU) on the application of Patients’ Rights in Cross-border Healthcare. In the area of health and safety, Member States agreed (December 2013) on a review of the abovementioned directive (2004/40/EC) concerning the protection of workers exposed to electromagnetic fields, which encountered huge implementation problems. A consensus emerged (December 2013) regarding the acquisition and preservation of supplementary (occupational) pension rights, but the text was watered-down and excluded the key issue of transferability. A far more significant and hard-fought agreement was reached (December 2013) by Social Affairs Ministers on the controversial posting-of-workers enforcement directive\(^4\).

\(^3\) Other examples include the rights of employees under change of ownership of undertakings (77/187/EEC), worker’s rights in the event of cross-border mergers (2005/56/EC) and state compensation in case of insolvency (80/987/EEC).

\(^4\) Note that negotiations between the cross-industry social partners concerning a revision of the Working Time Directive failed in 2012. The European Commission also proposed legislation with the aim of attaining an objective
In sum, it would seem that in spite of the important hurdles, the legislative output is significant. Around 60 labour market directives have been introduced since 1987 (Vaubel, 2008), as well as more than 20 health and safety directives. There are many more occupational safety and health (OSH) directives and regulations, while in gender equality 13 directives have been adopted so far. As a consequence, national social policies have increasingly become enmeshed in an EU policy-formulation process which involves many different actors in a highly complex set of interactions with many different points of entry (e.g. Schmidt, 2006).

1.1.2 The EU distributional mode: radical transformations

Once the Single European Act (1986) had enshrined the EU’s ’Cohesion policy’ in a constitutional text, the 1988 reform of the Structural Funds5 meant the start of a genuine Community policy which *is not simply a matter of throwing money at problems...It implies rather a willingness to act at Community level to redress the disparities between regions and between different social groups* (Delors, 1988). Over the past decades this policy has undergone radical transformations in at least four important respects.

First, expenditure on cohesion policy through the structural and cohesion funds – namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund – grew steadily, from a modest 5% of the EU budget in 1975 to more than one third (35%, or 347 billion Euros) in the period 2007-2013. It is thereby the second largest EU budget item. At the same time, it remains modest, both in terms of the national GDP of recipient countries (the highest share was 4% of national GDP in Greece, before 2004) and in terms of the EU GDP (about 0.46% in 2013). Each of the two ‘Delors Packages’, in 1988 and 1992 respectively, doubled the allocations for cohesion policy (Jouen, 2012). In both cases the need for more European solidarity through a major cash injection was presented by the Commission as a *sine qua non* as well as a matter of fairness, in the context of establishing the internal market and the prospect of EMU6, respectively (Manzella and Mendez, 2009).

Second, cohesion policy has been increasingly concentrated in terms of beneficiaries and goals. In terms of the beneficiaries, a majority of resources are targeted (since 1988) on the most

---

5 The ERDF and the ESF are the two ‘Structural Funds’ (for a long time the rural development fund and the fisheries fund were regarded as Structural funds as well, but then became ‘independent’). The ERDF is the largest: since 1975 it has provided support for the creation of infrastructure and job-creating investment (mainly for small businesses) in declining industrial regions. The ESF, set up in 1958, supports EES objectives such as raising employment rates and preventing long-term unemployment, mainly through training measures. The Cohesion Fund was set up in 1993 and finances environment and transport networks, first in Spain, Greece and Portugal and later in the ten new Member States. Structural Fund and Cohesion Fund support always involves a degree of co-financing from the Member States. The purpose of the Cohesion Fund is to grant funding to the environment and transport infrastructure.

6 The very first Council commitment to the creation of a regional development fund - in the early 1970s – already made an explicit link with EMU, the move towards which had been decided in 1969 (Manzella and Mendez, 2009:23).
disadvantaged European regions. These received 81.5% of the budget in the period 2007-2013; in the 2014-2020 period the most developed countries will receive a modest 16% of the funds. While some Member States have repeatedly tried to restrict cohesion policy support to the less developed Member States, it is still the case that all regions in all EU Member States – even the richest – are eligible for at least some degree of funding; thus, the ERDF has provided ‘something for everyone’ since 2007.

At the same time, the large number of (sometimes conflicting) objectives the money could be spent on will be considerably reduced in all funds in the new programming period; in the ERDF, for example, Member States always had great leeway to spend the money on their own preferences. The ESF has been the first to have moved to a policy approach (abandoning the earlier target group approach): since 2000, ESF spending has provided financial support for the actions taken with the framework of the European Employment Strategy, which I will demonstrate to be of great significance for our understanding of the OMC’s domestic impact (see chapter 9). In the new programming period the structural funds will have to support the Europe 2020 Strategy. This points to a progressive embedding of cohesion policy within the EU’s more general socio-economic strategy.

Third, the actors involved and the power relations between them have changed considerably. Until 1988, regional policy was largely an intergovernmentalist policy mode, with Member States governments dominating every step of the management and implementation. The European Commission acquired a more strategic role (e.g. in project selection) in the short period between 1994 and 1999, as did regional and local actors as a result of the new ‘partnership’ principle which introduced a multi-level governance space. The 1999 reform of the funds largely decentralized the responsibility for programme content, management, monitoring evaluation and control to the Member States, who thereby re-asserted much of the control they had lost to the European Commission. The latter’s role was thereby essentially restricted to a role in the programming exercise (drafting the Community Support Frameworks) and formal audit and control of spending; at the same time, subnational governments saw their newly acquired role diminishing, confirming member government’s determination to retain a gatekeeping role in the funds (Allen, 2010). Interestingly, it would seem that the European Commission is now somewhat back in the driving seat for the new programming period (2014-2020), in view of its key role in monitoring both macroeconomic and ex-ante conditionality in the funds (see Vandenbroucke with Vanhercke, 2014).

Fourth, the structural and cohesion funds also underwent important changes in terms of their conditionality and control. Especially in view of the consecutive enlargements, the controls over spending have been tightened considerably over the years, to the extent that the system became overly complex and bureaucratic. These checks include multi-annual planning (inspiring more long-term and strategic approaches, at least in the ESF), additionality (EU expenditure is not to be substituted for national expenditure), concentration (on a smaller set of priorities and on the least developed regions), partnership (ensuring a policy space for regional and local authorities as well as social partners and NGOs), evaluation and monitoring (improving national and regional public administration).
In spite of these manifold changes, the EU cohesion funds remain contested territory, as the 2.5 years of negotiations over the Multiannual Financial Framework (MFF) 2014-2020 clearly illustrates. EU cohesion policy has been vulnerable to criticism from policy-makers, academics and stakeholders: in spite of the past reforms, it is, they claim: (a) too loosely linked to a large number of EU priorities, (b) spreading resources too thinly across policy areas, (c) too under-resourced to have a serious macro-economic effect, and (d) excessively complex and bureaucratic to administer. All this with an impact that is often difficult to measure in (macro-) economic terms (Allen, 2010; Manzella and Mendez, 2009). At the same time, the ESF impact has recently been well-documented at the micro level as well as in terms of governance (European Commission, 2011; van Gerven et al., 2014; Verschraegen et al., 2011).

Fabrizio Barca wrote a report in 2009 at the request of European Commissioner Danuta Hübner, in which he called for a place-based approach to the ‘EU’s only true development policy’ (Barca, 2009). He insisted on the necessity of returning to the original idea of regional development policy and thus the enhancement of local and regional potential rather than viewing the funds as a compensation for handicaps. This new paradigm was a major argument used by the Commission to justify aligning EU cohesion policy and the Europe 2020 Strategy. It would seem that both the European Commission and the Member States have partly taken on board some of the criticism and obvious dysfunctions when designing the new rules for the cohesion policy for the next period (2014-2020): the European Structural and Investment Funds (ESIF) 2014-2020 provide concrete opportunities to increase orientation to results and surveillance (one can also link the reporting part of the regulations with the planned ‘performance reserve’ which can provide a further incentive to deliver results), while at the same time promoting the establishment of incentive mechanisms to actually promote the achievement of results in the social field.

In general it would seem that there has been a gradual shift in the debate over the EU’s cohesion policy: Member States tend to be more interested now in the conditions of use (their substantive purpose), and somewhat less in the question of the amount and allocation, even if this aspect was of course also part and parcel of the last MFF negotiations.

1.1.3 The disappointing results of European social dialogue

EU Social dialogue is part and parcel of the European Social Model and the *acquis communautaire*, as it is promoted by the Treaty (TFEU Articles 151-155) and is given a specific role in the EU’s decision-making process through a complex set of procedures for the pursuit of law via collective agreements. Crucially, before submitting proposals in the social and employment policy field, the Commission is required to consult management and labour on the possible direction of Union action. Once social partners have reached an EU-level agreement, the Council can only decide whether or not to adopt the directive; it does not have the opportunity to amend the agreement’s provisions. The EU also promotes social partnership and cooperation by

---

7 This section draws on the excellent ‘Social Europe guide. Volume 2’ on Social Dialogue produced by Mark Carley and the European Commission staff (European Commission, 2012a), to whom I am indebted.
setting minimum standards for employee representation in national and cross-border firms, and by consulting EU-level social partners on policy initiatives.

Reflecting widespread practice in the Member States, EU social dialogue takes two basic forms and occurs at two main levels:

- **Bipartite** social dialogue (launched in 1985 by Jacques Delors at Val Duchesse) involves only the social partners (organisations representing employers and workers). **Tripartite** social dialogue involves both the social partners and the EU institutions.
- **Cross-industry** (or 'intersectoral') social dialogue on the one hand covers the whole EU labour market, and all sectors. In this case, trade unions are principally represented by the European Trade Union Confederation (ETUC), and employers by BUSINESSEUROPE (private sector employers), CEEP (public services employers) and UEAPME (small and medium-sized enterprises). **Sectoral** social dialogue on the other hand, covers one specific industry across the EU: in this case the dialogue brings together 62 European-level employers and 17 European trade union federations, which represent national unions and employers' associations operating in a particular industry across Europe.

In a rather complex set-up, bipartite social dialogue occurs *both* at cross-industry level (through the Social Dialogue Committee, SDC) and at the sector level (through some 10 Sectoral Social Dialogue Committees and nearly 1,000 European Works Councils in individual multinational companies).

Tripartite dialogue (also referred to as *concertation*), occurs mainly at cross-industry level. The best-known example is the ‘Tripartite Social Summit for Growth and Employment’ which was established by a Council Decision in 2003, with the role of ensuring continuous dialogue between the Council, Commission and social partners on the Union’s economic and social strategy. The Summit has met twice a year since its conception and allows the social partners to provide an input into the Lisbon Strategy and later the Europe 2020 Strategy.

Once the Maastricht Treaty and its Agreement on Social Policy had given the social partners a specific consultation and negotiation procedure, cross-industry dialogue took two distinct courses. First, consultations based on the Commission's legislative agenda shaped much of the partners’ dialogue and marked the (very short) ‘golden years’ of EU cross-industry social dialogue in the years 1995-1999. Consultations on the reconciliation of professional and family life resulted in a first cross-industry agreement on parental leave in 1995. Consultations on flexibility in working time and workers' security led to two agreements: in 1997 on part-time work and in 1999 on fixed-term work. In all three cases, the agreements were made binding in the Member States through directives. A further framework agreement in 2009, again implemented by a directive, amended the 1995 accord on parental leave. In the sectoral social dialogue, consultations led in some cases to agreements between the social partners, e.g. on working time in sea transport and civil aviation. Importantly, at the partners’ request, these sectoral agreements can also be – and have at times been – implemented by Council directives.
Secondly, the social partners followed their own autonomous agenda, as expressed in their 2001 joint contribution to the Laeken European Council: cross-industry social partners announced their own (independent) work programmes, which have indeed been agreed since 2003, each covering two-three years. Following consultations by the Commission, the cross-industry social partners signed an autonomous framework agreement on teleworking in 2002. In contrast to earlier cross-industry agreements, the partners did not ask for the teleworking agreement to be implemented by a directive. Instead, the agreement was to be implemented by the signatories’ national member organisations, ‘in accordance with the procedures and practices specific to management and labour in the Member States’.

In quantitative terms, the output of EU social dialogue is rather impressive: all in all some 650 joint texts have been produced, most of them since the second half of the 1980s. However, over three-quarters are joint opinions and tools, agreements make up only 3 % of the total. What do these agreements look like in practice? The most tangible achievements of the EU-level social dialogue are those agreements that have been made legally binding across the Union by Council directives. As discussed above, there are four such cross-industry agreements, two dealing with parental leave and one each with part-time work and fixed-term work. These agreements have resulted in changes to legislation in many Member States. In addition, five sectoral agreements have also been implemented by directives. So all in all, EU social dialogue resulted in nine directives so far.

In view of the robust (constitutionalised) institutional framework for European social dialogue, it would seem that it has not yet been fully explored, to put it mildly. There has not been a single cross-industry agreement in 15 years and social partners’ work programmes have become less ambitious. The number of (key) issues on which the social partners have been unwilling or unable to negotiate, in spite of the Commission’s efforts to get the social partners to negotiate, far outnumber the successes represented by agreements. The European Trade Union Confederation (ETUC) has historically been in favour of the creation of legally binding new EU-wide rights and protection for workers, but internal divisions weaken its mandate in a number of issues, and ETUC prefers the Community method which usually leads to higher benefits for its members. The employers’ bodies, especially BUSINESSEUROPE, generally oppose new EU regulation of employment rights. As a result, the European Commission has increasingly withdrawn from its role of promoter of social dialogue, and is now a ‘supporter’, at best (OSE, 2011), which implies that bargaining is no longer taking place ‘in the shadow of the law’ (Pochet, 2003). Sectoral social dialogue seems to have been somewhat more successful, even if it is relatively young. At the same time, sectoral Social Dialogue Committees sometimes experience problems of representativeness, which is sometimes challenged by national governments and

---

8 These are concerned with (a) seafarers’ working time, (b) the working time of mobile civil aviation staff, (c) the working conditions of mobile workers assigned to ‘interoperable’ cross-border rail services, (d) the implementation in EU law of the Maritime Labour Convention, and (e) preventing of ‘sharp injuries’ (for example, from needles and scalpels) in the hospital and health care sector.

9 Recent developments include the setting up of a sectoral social dialogue committee in the food and drink industry (January 2012), an agreement on working time for inland waterway transport; an agreement on minimum standards for football players’ contracts, and a sea fisheries sector agreement to Adopt ILO Convention no 188.
labelled as ‘red tape’ for that reason by the European Commission (as was supposedly the case with ‘high heels’ in the hairdressing sector, see Vandebrucke with Vanhercke, 2014).

In sum, this section showed that EU social policy involves a complex institutional arrangement for shared governance and ‘joint policy-making’. What has emerged is a ‘multi-leveled, highly fragmented system in which policy ‘develops’ but is beyond the firm control of any single political autonomy (Leibfried and Pierson, 1995: 433). The EU as a political system comprises EU institutions, Member States but also regional actors, all acting together (Hooghe and Marks, 2001). This institutional context, a multi-level and multi-arena playing field, also involves the use that actors at the national and subnational level make of the European level to achieve their goals, and vice versa (Room, 2006). In this EU setting, different policy levels are to a high extent interlocked, rather than clearly separated. It also became clear that, in spite of Member States carefully guarding their prerogatives, an EU Social dimensions has (prudently) developed through legislation, funding and social dialogue.

And yet, by the end of the 1990s, important changes occurred as regards the perceived validity of the model of harmonisation by means of EU directives, be they initiated by EU institution or the social partners. This leads us to the discussion on new mode of Governance, and the OMC.

1.2 Open coordination and new modes of governance

In 2001, in a context marked by the White Paper on Governance, European Commissioner Anna Diamantopoulou, then in charge of Social Affairs, called legislation an ‘outdated’ form of policymaking (European Voice, March 2001). Several, interrelated factors can explain such a statement.

First, the law-making process in social matters continuously face political difficulties, for instance, because of difficulties of governments and social partners alike to reach agreements (see section 1.1.1). Secondly, political deadlocks lead to fewer directives, of a weaker content. Thirdly, the relatively open-ended formulation of some of these EU directives lead to an active re-regulation on the part of the CJEU when it is called to interpret these norms. The Court in its case law addresses this situation upfront. Thus, writing about the Directive on transfer of undertakings, the Advocate General Ruiz-Jarabo Colomer states that the ‘complexity inherent in the regulation of national labour markets meant that the adoption of this legislation involved achieving wide consensus, with the result that its provisions, which are open-ended and ambiguous, often require the intervention of the Court of Justice in the form of preliminary rulings’¹⁰. Fourthly, a negative stance is taken vis-à-vis the role of ‘judicial legislator’ assumed by the CJEU. For A. Lo Faro (2000:13), ‘the wide ranging scope of intervention by the judges in Luxembourg over the years both presumes and reveals a pathology of the Community model of legislative harmonisation’. For this scholar ‘the weakness of Council decision-making recorded from the 1980s onwards was the price to be paid for the work done by the Court of justice in strengthening the instruments of the effectiveness of Community law’ (Ibid: 16).
The perception of a regulatory deficit of the classic Community method is further strengthened by concern for the effective implementation of the directives. In a Resolution adopted in 1995, the Council considered that ‘if the Directives are not fully and accurately transposed, the very existence of a European social area may be put at risk’ (Council of the EU, 1995). The lack of effectiveness of directives has often lead the Commission itself to promote the adoption of an approach of non-legislative nature. Comprehensive compliance studies have emerged over recent years and established rates of problematic transpositions in the national legal orders (Falkner et al., 2005).

The (real or perceived) inadequacy of the classic Community method has stimulated a debate on the advantages and disadvantages of the role of law in European integration and led to a broad reflection on the alternatives to legislative activity. This debate on new governance has proposed solutions based on new governance processes and self-regulation (including social dialogue), which turn away from command-and-control in favour of ‘regulatory’ approaches that are less prescriptive and less committed to uniform approaches. I focus most on the clearly defined and well researched process: the Open Method of Coordination.

1.2.1 Policy coordination from the Broad Economic Policy Guidelines to Europe 2020

From the first steps of European integration, Member States provided the possibility for ‘close co-operation between Member States in the social field’, including in sensitive areas such as employment and social security; this was to be done by ‘making studies, delivering opinions and arranging consultations’ (Treaty of Rome, Article 118). The founding fathers also addressed economic policies: ‘Member States shall co-ordinate their economic policies’ (Ibid, Article 105), while the chapter on conjunctural policies stipulates that they ‘shall consult each other and the Commission on the measures to be taken’ (Ibid, Article 103).

Wallace (2010) points to the fact that already in its early years the Commission used this technique to develop loose forms of cooperation and coordination in order to make the case for direct policy powers: this happened for environmental issues, research and development, education policy and the conservation of fish stock. In these cases, policy coordination was intended (but not always successful) as a mechanism of transition from nationally rooted policy-making to an EU collective regime.

EU cooperation on economic policies was the first to be firmly institutionalized. During the 1960s three committees were established to this end: the Short-term Economic Policy Committee (1960), the Budgetary Policy Committee (1964) and the Medium-Term Economic Policy Committee (1964). In 1974 these three committees were merged to form the Economic Policy Committee (Degryse, 2012: 10). It would take until the Maastricht Treaty of 1992, which launched the EMU, to firmly anchor an EU process of coordination and surveillance of Member States’ economic policies, through so-called Broad Economic Policy Guidelines (BEPG, Article 10).

121 TFEU). These involved non-binding recommendations from the Council to Member States to monitor the consistency of national economic policies with those of the European Monetary Union. Important from a political point of view is the fact that the European Commission could issue a ‘warning’ to a Member State whose economic policies do not conform to the BEPG, which have been adopted annually since 1993 (and every three years since 2003). Even if a ‘recommendation’ is a legislative act that suggests a course of action, it is not legally binding. Economic policy coordination can therefore be seen as the pioneer of a structured EU ‘policy coordination’ mode of governance, drawing inspiration from the looser ‘OECD technique’ in this international organisation, where economic surveys began in the 1960s.

Even if governance by persuasion (Streeck, 1996: 80) was soon judged to be rather ineffective for coordinating economic policy (Math, 2002), a political spill-over to the domain of employment followed (Rhodes, 2010). Indeed, the sharp rise in unemployment immediately after the Maastricht Treaty was signed, made it necessary for governments to defend their support for Monetary Union and the unpopular convergence efforts it required. They had to make it clear to their electorate that the EU was not only concerned with price stability and budgetary discipline, but also with employment. As a result, a new Employment Chapter was added to the 1997 Treaty of Amsterdam, which can be regarded as a ‘correction’ to the legitimacy deficit caused by Maastricht (van Riel and van der Meer, 2002). The new Employment Chapter made it possible to codify the European Employment Strategy (EES) that had been decided upon by the Extraordinary European Council on Employment in Luxembourg in 199711. In practice, the European Employment Strategy (EES) is implemented by the Employment Committee (EMCO)12. Thus, a number of pre-existing European policy coordination processes have retrospectively been interpreted as full or partial examples of ‘OMC avant la lettre’. Some have argued, for example, that policy processes such as that the OECD Economic Surveys13, the Employment Strategy undertaken by the Nordic Council14 and the Article IV consultations by the International Monetary Fund (IMF)15, all of which have been up and running for at least two decades, are OMC-like types of cooperation between countries as well (Schäfer, 2004; Nørgaard, 2005).

---

11 The European Council added the subject of employment to the agenda at the Copenhagen Summit in June 1993, merely a few months after the signature of the Maastricht Treaty. Following the 1993 White Paper on Growth, Competitiveness and Employment, the contours of the EES were decided by the Essen European Council in 1994.
12 The EMCO was formally established in 2000 and is one of the two advisory committees of the EPSCO Council (together with the SPC). It has its Treaty base in Article 150 TFEU.
13 To ensure that OECD Member States follow the code of conduct for sound economic policies laid down in the OECD Convention, the OECD produces, every 12 to 18 months, an Economic Survey for each country (Schäfer, 2004: 5). See Groenendijk (2009) for a comparison between EU and OECD Benchmarking and Peer Review. Schäfer sees no substantial differences whatsoever between the OECD Jobs Strategy and the European Employment Strategy: ‘these procedures are forms of multilateral surveillance that do not differ in kind’ (Schäfer 2004:1).
14 The Nordic cooperation in the employment field involves Iceland, Finland, Norway, Sweden, Denmark, Greenland, the Faroe Islands and the Aaland Islands (Nørgaard, 2005: 19).
15 The ‘Article IV Consultations’ consist of an annual multilateral surveillance procedure, used with a view to ‘firm surveillance’ of the exchange rates of the IMF members (Schäfer, 2004: 7).
The emergence and visibility of the Employment Chapter in turn set an example for cooperation in other areas, as became clear at the Lisbon European Council in 2000, which put forward the central idea that economic performance (competitiveness) and social cohesion are not mutually exclusive but rather mutually reinforcing (Room, 2002). The European Council formally coined the ‘Open Method of Coordination’ (OMC) as a new – and at the initial stage rather experimental – policy instrument for the EU. The OMC clearly drew on the experience and institutional framework that was established by the European Employment Strategy, and can be seen as a direct spill over of the EES (van Riel and van der Meer, 2002). As I will argue in more detail in chapter 2, the concrete architecture of the OMC indeed shows how it is modelled on the EES, which includes spreading best practice, fixing guidelines, establishing quantitative and qualitative indicators and benchmarks, national and regional targets and periodic monitoring, evaluation and Peer Review.

Following the mandate from the Lisbon European Council, OMC began to provide a Europe-wide approach to social policy: it was first launched in the area of social inclusion (2000) to be followed by pensions (2001) and health care (2004) and in practice implemented by the Social Protection Committee (SPC)16. Importantly, the Lisbon Council Conclusions stipulated the introduction of the OMC ‘at all levels’ (European Council, 2000: § 7), and explicitly referred to the use of the OMC in the areas of information society/e-Europe (Ibid: § 8), innovation and research and development (Ibid: § 13). Furthermore, even though the term ‘OMC’ was not explicitly used with regard to enterprise promotion, economic reform and education and training, the wording of the Lisbon Council Conclusions were such that they gave a de facto support for the development of open coordination in more than ten policy areas, as indeed happened in the early 2000s. Nowadays, around a dozen OMCs are up and running, while OMC-instruments inspire more lose forms of EU cooperation in around thirty different policy areas. Even though these OMCs clearly involve to some extent the specific ensemble of elements defined by the Lisbon European Council (objectives, indicators etc.), ‘actual OMC processes as they have evolved since Lisbon vary considerably in their modalities and procedures, depending on the specific characteristics of the policy field in question, the Treaty basis of EU competence, and the willingness of the Member States to take joint action’ (Zeitlin, 2005a).

The post-Lisbon enthusiasm for policy cooperation through the OMC came to a rather abrupt end in 2004, when the High Level Group headed by Wim Kok assessed the overall Lisbon Strategy, and stated that ‘The open method of coordination has fallen far short of expectations,’ and called for ‘a radical improvement of the process’ (Kok, 2004: 42), including through naming, shaming and faming (Ibid: 43). While the operational conclusions of the Kok report were largely dismissed by the European Council, the re-launched ‘Lisbon II’ Strategy from 2005 onwards focused on ‘Jobs’ and ‘Growth’. The Broad Economic Policy Guidelines (BEPG) and Employment Guidelines were merged into a single set of ‘Integrated Guidelines’, reporting on which was to take place through new National Reform Programmes (NRPs). The Social OMC was reduced to a ‘parallel’ process to the revised Lisbon Strategy, rather than an integral (but rather weak) part of it.

16 The SPC is the second advisory body of the EPSCO Council of Ministers, next to the EMCO. It was set up in 2000 and is formally based on Article 160 TFEU.
To some extent, this situation has been corrected through the initial design of the Europe 2020 Strategy, which replaced the Lisbon Strategy in 2010 and is intended ‘to turn the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion’. Thus, at the time when it was launched, Europe 2020 had a rather all-encompassing political agenda (to some extent, a return to the original Lisbon Strategy) and provided considerable visibility and importance for employment and social inclusion. More concretely, Europe 2020 has been organised around three integrated pillars: macroeconomic surveillance, thematic coordination (in areas such as employment, education and social inclusion) and fiscal surveillance under the Stability and Growth Pact.

Thematic coordination combines EU priorities with EU headline targets, seven EU flagship initiatives. Thus, ‘Inclusive growth’ is one of Europe 2020’s key objectives; there is the target to raise to 75% the employment rate for women and men aged 20-64, as well as the target of lifting at least 20 million people out of the risk of poverty and exclusion; there are the flagships on ‘An agenda for new skills and jobs’ and the ‘European Platform Against Poverty’ (EPAP); and finally four Integrated Guidelines concerning employment, including Guideline 10 on promoting social inclusion and combating poverty. The first six guidelines relate to the economic policies of the Member States and the EU.

Since 2011 the different building blocks of the Strategy are organized through the ‘European Semester’, which starts every year with the Commission identifying the key economic challenges and priorities through its Annual Growth Survey (AGS). Member States then write National Reform Programmes and Stability and Convergence Programmes, in which they set out the action they will undertake: these programmes are then assessed by the Commission, and result in Country-specific Recommendations (CSRs). The latter are discussed and amended by the respective EU Committees preparing the work for the ‘Economics and Finance’ (ECOFIN) and Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council formations, and are ultimately adopted by the Council. Although most of the recommendations focus on economic and employment reforms, an increasing proportion also address social cohesion issues, including combating poverty and social exclusion. While at first sight the employment and social issues in the Europe 2020 Strategy had some visibility, these were quickly subsumed by the other objectives (for a more detailed description of the Europe 2020 architecture, see the concluding chapter as well as Vanhercke, 2011b, 2013).

Unsurprisingly, these changes resulted in CSRs and AGS that have been largely focused on economic issues, as was the case with the National Reform Programmes (Degryse, 2012; Degryse et al., 2013; EAPN, 2013). Yet recent research (Costamagna, 2013; Vanhercke, 2013a, Bekker, 2015) shows a partial rebalancing in that the social dimension is slowly acquiring its substantive place in Europe 2020. Indeed, after two years of trial and error in the implementation of the European Semester, the employment and social actors involved have begun to formalise their positions and continue to do so in the preparation of the 2014 European Semester (Council of the EU, 2013b). Recent AGS have a more nuanced account of social issues, while there is an increasing number of CSRs paying attention to social objectives (notably with a view to reduce poverty), which are no longer accepted as ‘given’ by the Member States (i.e. they are being successfully amended, despite RQMV). Certainly, this ‘socialization’ of the European
Setting the scene

Semester’ (Barcevicius et al., 2014), is a slow evolution and the role of the SPC in Europe 2020 still needs further clarification. Similarly, there is considerable confusion about the exact place of the ‘Social Investment Package’ (SIP) which was launched in February 2013 (European Commission, 2013a; Hemerijck, 2012; Vandenbroucke et al., 2011), which sets out a rather coherent European-level policy framework that addresses the whole range of social policies and has some of the features of the European Commission’s earlier encompassing Social Agendas. The SIP argues that the choice between either achieving social or economic objectives is in fact a false dichotomy and seems to be the European Commission’s new pet tool for coordinating the EU’s social dimension.

It is remarkable that in an environment so strongly defined by the economic crisis, EMCO, the SPC, and Directorate General (DG) EMPL of the European Commission have used the context of intensified ‘mutual surveillance’ throughout the year to strengthen their own analytical toolbox. The latter includes the newly developed Joint Assessment Framework (JAF), the Social Protection Performance Monitor (SPPM) and the Employment Performance Monitor (EPM). At the same time, Member States seem to have chosen to combine ‘being tough’ on each other (through the ‘comply or explain’ rules of the European Semester) with securing mutual learning opportunities, as many objectives of Europe 2020 do not lend themselves easily to top-down prescriptions. The latter element will be key in the coming discussion about the proposed ‘contractual arrangements’ through which the European Commission hopes to enhance Member State compliance with the CSRs.

All in all, it would seem that policy coordination in employment and social policy has demonstrated to be rather resilient. Which is more: policy coordination through the (Social) OMC has become a template for EU, domestic and even regional policy coordination in sensitive policy areas, or to achieve better practice in the absence of centralized policy regimes (see Greer and Vanhercke, 2010 and Vanhercke, 2014b for a more detailed discussion). It remains therefore part and parcel of the EU’s social policy. This PhD will try to establish why this is so, including by drawing on a new governance perspective.

1.2.2 New modes of governance

What’s in a name? Defining new governance

The term ‘new governance’ arose from recent regulatory developments in the EU and US domestic contexts designed to embrace diversity and promote innovation. It refers to a variety of approaches that differ from traditional forms of command and control governance. The term elicits strong reactions – from scorn to enthusiasm – and provides the basis for some of the conceptual confusion surrounding ‘new governance’, ‘soft law’, ‘soft governance’, ‘experimentalist governance’ and other such concepts that emerge in the relatively young yet voluminous literature. We know better what they are not than what they are. And if it is hard

---

17 See the recent Council Recommendation (December 2013) on effective Roma integration measures, which also adopts a Social investment approach (Council of the EU, 2013).

18 For a list of recent overviews, see footnote 9 in Cottrell and Trubek, 2012.
to say what new governance is, then it is also hard to say if it is actually new, or if it actually
governs anything\(^{19}\). Nor is it easy to work out what it means in practice. Jordan and Schout
(2006), for example, observe that the ‘EU governance literature still has not fully explored what
governance actually means in terms of implementation In fact, academics are still struggling to
agree common definitions of terms like the ‘Open Method of Coordination (OMC)’. 

In its simplest formulation, new governance is governance that takes place outside ‘traditional’
hierarchical, legal mechanisms such as the ‘Community method’ of legislation taught in EU
textbooks (Majone, 2005: 59). In more precise terms, new governance involves ‘a shift in
emphasis away from command and-control in favour of ‘regulatory’ approaches, which are less
rigid, less prescriptive, less committed to uniform approaches, and less hierarchical in nature’. 
The idea of new (or experimental) governance ‘places considerable emphasis upon the
accommodation and promotion of diversity, on the importance of provisionality and
reversibility […] and on the goal of policy learning’ (de Búrca and Scott, 2006: 2–3). In practice,
EU policy often fits these criteria.

According to Sabel and Zeitlin (2008), EU policy is indeed increasingly:

- deliberative (consensus is often regarded as provisional);
- multilevel (connecting different levels of government – crucially, this means that it is not
  strongly hierarchical, or hierarchical at all);
- a departure from norms of representative democracy (accountability is defined in terms of
  transparency and scrutiny by peers);
- a combination of framework goals set from above combined with considerable autonomy for
  lower-level units and agents to redefine the objectives in light of learning; and
- built on reporting (on their performance) and participation in Peer Review (in which results
  are compared with those pursuing other means to the same general ends).

For these authors, experimental governance will be most powerful when there is an unattractive
‘penalty default’ – i.e., something worse that will happen if the experimental governance fails
(Ibid: 305). This can include a ‘destabilization regime’, in which the direction of policy creates a
search for alternatives ‘by in effect terrorizing them into undertaking a search for novel
solutions’ (Ibid: 306). Note that while the unattractiveness of the penalty default – say market-
oriented social policy-making by the CJEU – is clear, the extent to which new governance would
prevent it remains to be established.

Even if we agree that on such an understanding of new governance, there are still basic
definitional problems (Greer and Vanhercke, 2010): the tension between definitions that rely on

\(^{19}\) An overview by Treib, Bähr and Falkner (2007) avoids ‘the fashionable labels of ‘old’ and ‘new’ modes of
governance. [...]Whether a given mode of governance is ‘new’ or ‘old’ is an empirical rather than an analytical
question. [...]Should we consider a mode of governance new if it emerged within the last five or ten years, within
the last two or three decades, or within the last century? [...]Moreover, the question of whether a given mode of
governance should be considered ‘old’ or ‘new’ also depends on the specific policy area one is focusing on’. Many
supposedly innovative forms of governance that occurred rather recently in one particular field of study ‘may turn
out to be quite old in other contexts’.
intention (i.e., whether something is intended to be new governance), definitions that rely on mechanisms (standard-setting norms, credentialing) and definitions that rely on identifiable impact. If we define new governance based on the intention of participants, then every committee that sets out to define standards or promote convergence counts, even if nobody notices it. If we define new governance by mechanisms, then almost any decent international conference qualifies. And if we define it by impact, then we cannot identify new governance other than by tracing an event backwards and finding something other than hierarchical law-making by states. Given this problem, it is not surprising that new governance is often defined by its negative.

Linda Senden has built a helpful set of definitions on the intentions of EU institutions: the EU is indeed one of the great producers of explicit new governance mechanisms. This scholar divides EU new governance into three broad categories. A first, rather general, category is ‘soft governance’, which Senden designates as ‘preparatory and informative instruments’. This means green papers, white papers, action programmes and informative communications. These instruments are adopted with a view to preparing further Community law and policy and/or providing information on Community action. As such, they can also be regarded as fulfilling a pre-law function (Senden, 2005: 23). This category also includes preparatory documents and recommendations of expert groups.

Second, ‘interpretative and decisional instruments’ are instruments that aim at:

‘providing guidance as to the interpretation and application of existing Community law. [...] The decisional instruments go further than mere interpretation by indicating in what way a Community institution – usually the Commission – will apply Community law provisions in individual cases when it has implementing and discretionary powers. To this category belong notably the Commission’s communications and notices and also certain guidelines, codes and frameworks frequently adopted in the areas of competition law and state aid. [...] As such, they can be considered to fulfill primarily a post-law function’ (Ibid).

In this PhD, I concentrate on a third category of new governance instruments identified by Senden. These are ‘steering instruments’. These aim at establishing or giving further effect to Community objectives and policy or related policy areas. Sometimes, this means declarations and conclusions, but it can also mean other efforts to create closer cooperation or even harmonization through recommendations, resolutions and codes of conduct, which are ‘used as alternatives to legislation and, in view of this, they can often be said to fulfill a para-law function’ (Ibid). The most widely known of these policy coordination mechanisms is, without doubt, the Open Method of Coordination (OMC). I use it as my main case study because OMC has become, as we will illustrate, a template for new governance in the EU (including in the field of health).

In sum, by new governance processes I mean a (a) an assemblage of processes that aim at giving further effect to Community norms, objectives and policies which (b) do not operate primarily through formal mechanisms of command-and-control: even if they can be initiated through
legislation, they provide steering through reporting, reviewing and monitoring. This definition is not self-evident: for some others the absence of a 'shadow of hierarchy' (legislative and executive decisions) in new modes of governance imply that they cannot 'deliver the goods', i.e. deal effectively with the problems that it is supposed to solve (Héritier and Lehmkuhl, 2008). It would seem that the shadow of hierarchy argument has not sufficiently acknowledged two important dimensions: instrument hybridity and policy learning.

**Surpassing the shadow of hierarchy: instrument hybridity and policy learning**

Section 1.1 described how EU social policy is constructed through legal regulation, financial instruments, social dialogue and policy coordination. There are however several indications about an increased dependence or even 'hybridization' of these instruments (Trubek and Trubek, 2007; Hervey and Trubek, 2007), which we have so far neatly separated. I have already indicated, for instance, that programmatic ESF-investment has been more closely coupled to the EES policy-framework and that over time, EU legislation has started to incorporate more 'flexible' or new governance elements, which now leave Member States more flexibility and discretion in order to adapt with European regulations than they did before.

This changing configuration can partly be explained by the temporal development of the different EU social policy instruments: some date from the beginning of the EU (classic European law and the ESF), other from the 1990s (collective agreements and open coordination). The adoption of new policy instruments such as the OMC has changed the policy context and altered the traditional 'Community Method', which was mainly based on harmonized legislation put forward by the Council and Commission and closely guarded by the CJEU (cf. Wallace, 2010). With the introduction of these new policy instrument, the EU has moved to more complex and differentiated modes of governance in the field of social policy. The recent cross-fertilization between law and governance seems to point towards the future development of 'hybrid' policy instruments: far from abandoning traditional policy instruments (legislation, financial regulation), the EU institutions are keen to pursue them alongside the array of governance mechanisms now available to them (Hervey and Vanhercke, 2010).

In answering the question whether the diversification of regulatory modes and the perceived shift from EU-binding rules to a more complex system of European governance, creates a risk of inefficiency and non-compliance or rather engenders better and more efficient social policies, the literature is undecided. Some authors, mainly from a legal background, are rather sceptical about the overall effects of the introduction of new governance methods, while others believe that the stricter coupling or even 'hybridization' is already functioning in an effective and fairly successful manner in areas like employment policy. According to Claire Kilpatrick, for instance, the ESF, the EES and EU labour law play different, but integrated and mutually reinforcing roles in dealing with issues such as gender discrimination or part-time work. The integration of the different EU employment instruments in a broader, hybridized governance system, may thus

---

provide the EU with a policy framework that has ‘a regulatory strength and potential it did not previously possess’ (Kilpatrick, 2006).

If we want to understand how new governance can ‘deliver the goods’, we need some kind of understanding of the role of ‘learning’ in policymaking. Hugh Heclo was among the first to acknowledge that:

‘Governments not only ‘power’ [...] they also ‘puzzle’. Policymaking is a form of collective puzzlement on society’s behalf [...] Much political interaction has constituted a process of social learning expressed through policy’ (Heclo, 1974).

While Heclo only emphasises the role of ideas in policymaking and the capacity of the state to act autonomously from societal pressure – i.e., he rejects the view that outside factors, such as socio-economic development, elections political parties, and organized interest, play a primary role in the development of social policy – others have underlined the cognitive and the normative aspects of learning, as well as influences from outside the state. But what is ‘learning’, then? Peter Hall’s classic definition of social learning as ‘a deliberate attempt to adjust the goals or techniques of policy in response to past experience and new information’ seems a useful starting point (Hall, 1993). Hall furthermore states that learning is indicated when policy changes ‘as the result of such a process.’

Hall furthermore disaggregates the concept of social learning into 3 distinct kinds of changes in policy (Ibid: 278-279):

- First order learning occurs when the overarching goals that guide policy in a particular field as well as the techniques or policy instruments used to attain such goals remain stable, while the precise settings of these instruments change.
- Second order change occurs when the instruments of policy change, as well as their precise settings, while the overall goals remain stable.
- Simultaneous change in all three components of policy can be described as third order change. The latter can also be described as a change in ‘policy paradigm’, which is the framework of ideas and standards that specified not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problem they are meant to be addressing.

Four nuances to these approaches to learning are introduced in this PhD. First of all, while Hall sees learning as a ‘response to past experience and new information’, the EU promotes ‘mutual learning’, namely learning through ‘a combination of enhanced awareness of different approaches and performance standards elsewhere on the one hand, and reflexive self-assessment, including improvements in institutional capacity for information gathering and monitoring on the other’ (Zeitlin, 2005b: 479). In other words, ‘thick’ learning may occurs when actors become increasingly aware of different approaches elsewhere, or of their own practices, and therefore change their policy orientations (Visser, 2009: 42).
A second nuance is that Hall, even in his ‘first order learning’ supposes that actors enact changes in policy (in this case, the precise settings of the instruments). I will add a ‘variety of learning’ in that sometimes actors simply ‘learn how to use’ the EU instruments for their own purpose: they readjust their discourses and funding strategies, which enables them to pursue the same objectives in a new context. I will consider this as ‘thin’ (or strategic) learning, which may or may not result in changes in the precise settings of the instruments (e.g. when Member States simply ‘translate’ their existing policies into ’OMC-speak’ and pay lip service to the OMC).

Third, for Peter Hall learning is a ‘deliberate’ act with a view to adjusting policy. I will also consider ‘diffusion’ as another form of learning through which actors change their goals and preferences. Diffusion does not presuppose that actors purposefully look for ideas or solutions to problems they are faced with. It rather ‘happens’ because actors are influenced by ‘ways of doing things’. Finally, it would seem that real-world learning does necessarily follow the logic of Peter Hall’s ‘orders’: I will consider the possibility that involvement in EU-level cooperation may contributed to a shift in the ‘policy paradigm’ of policymakers, even if this has not been preceded by changes in the other components of policy (the instruments and their precise settings).

Now that we know what new governance is, the question still is: how could it actually influence domestic social policies. In other words, what is needed is a perspective on ‘Europeanisation’.

1.3 How the EU and its Member States interact: a ‘Europeanisation’ perspective

This section introduces some of the key insights for understanding the Europeanisation of social policy. These comprise the distinction between positive and negative integration (which has played a pivotal role in explaining the dynamics of the EU’s common market) and critically visiting key concepts from the compliance literature.

1.3.1 Positive and negative integration

While the literature on European social policy has generated sufficiently elaborate knowledge about the development and political dynamics in EU-level social policy making, the same cannot be said about the (top-down) effects of Europeanisation on national welfare states (Falkner, 2007: 259). This PhD therefore aims to understand the general significance and practical effects of the EU’s social policy output on national social policies, notably through the Social OMC. Existing theoretical literature is helpful to distinguish the different pathways through which the process of European integration affects national social policy.

A first key insight to understand the different channels of the Europeanisation of social policy, is the distinction between negative and positive integration policies, introduced by Scharpf (1996). Negative integration, or ‘market-making’ integration, refers to those measures and policies that aim to increase the integration of markets through the elimination of restraints on trade and the distortions of competition. Positive integration, or ‘market-correcting’ integration, refers to

21 This section partly draws on Part I of the ‘European tools for social policy in Belgium’ ETOS.be research project (Vanhercke et al., 2011b), which I wrote with Gert Verschraegen, Mieke Beckers and Philippe Reyniers.
policies that actively shape or correct the market and aim positively at social goals and regional imbalances. Negative integration policies such as product-market or labour-market deregulations, remove existing barriers to integration, while active policies create new institutions for integrated economies (Scharpf, 1999; Leibfried, 2000). Positive integration in the field of social policy first of all happens through more traditional social policy initiatives (labour legislation and equal opportunities) by the European Commission and the Council of Ministers, as well as through the judgements of the Court of Justice of the European Union (CJEU), in which European law is interpreted (see section 1.1.1 above). Attempts to coordinate employment and social policies through the OMC are other illustrations of ‘positive integration’. Negative integration aims to produce the conditions required for market compatibility; as when the CJEU makes the welfare payments of the Member States ‘portable’ and thereby limits social policy—it can, for instance, no longer be restricted to the state’s own citizens within the state’s own territory—and also remoulds it.

In the literature, the distinction between negative and positive integration has raised the question whether European policymaking is inextricably and systematically biased in favour of market-making policy or negative integration (economic regulation), as opposed to market correcting policy or positive integration (social regulation). Fritz Scharpf argues that such a bias exists and is in fact due to the supremacy of European law, the Treaty-based prevalence of the four freedoms and the injunctions of the Commission against distorting competition (Scharpf, 1999). This decision-making avenue – so the argument goes – is relatively easy to handle and does not run into many decision-making obstacles. By contrast, market-correcting policy arguably has a greater need for consensus because it has to be passed by the Council and, increasingly, by the Parliament. Literature has also pointed to tensions between national social protection policies and the principles of free circulation of people, services and goods (e.g. Ferrera, 2005; Bartolini, 2005: 233-241). ‘All regulations of the national welfare states which stood in opposition to the unimpeded ‘free circulation’ of the labour force and social services were suspected (often justifiably) of being prohibited by European law. (...) In Germany, for instance the introduction of a minimum pension was resisted in the 1980s, thanks to such considerations’ (Leibfried, 2000: 49). Another example of the imposing logic of negative integration are the European regulations on state aid control, a part of competition policy, which significantly constrains the potential for Member States to distort competition by reducing their ability to subsidize industry and protect industrial employment (Blauberger, 2008). It should be remembered however, that ‘negative’ integration measures not necessarily entail a deterioration of the social situation. In the field of gender equality for instance a number of negative integration measures have struck down national rules and practices discriminating against women.

The process of European integration also gives rise to a multiple indirect pressures which do not bind the national welfare states by law, but exert de facto pressures, for example when individual national economies have to be adjusted to the demands of international competition or have come under a single currency regime from 1999 onwards, putting severe limits on fiscal and thus social policy room of manoeuvre (Leibfried, 2000). Seen from the viewpoint of the national welfare state, autonomy is called into question here, but not sovereignty. The process of Europeanisation has created a context in which social policies are still – formally – decided at the
national level, yet in which it has become increasingly difficult for Member States to neglect transnational demands and pressures and to address the social challenges on their own.

Finally, it should be noted that the EU is not the only transnational actor that is creating incentives for change in European welfare states. It is important to distinguish EU sources of change from cross-border influence, or from global or other European supranational actors. Horizontal influences, whereby policy ideas and instruments in one state are imitated in another should also not be neglected. In the case of activation, for instance, many of the policy frames and instruments come from Scandinavian countries such as Denmark and Sweden (see Weishaupt, 2011). Furthermore, the development of EU policies takes place alongside other processes of internationalization. Many decisions at national level are influenced by international demands of international actors such as the OECD, ILO and the WTO.

1.3.2 Studying the Europeanisation of social policy: key concepts

How does the literature go about analysing and explaining the concrete effects of Europeanisation on national welfare states? For a long time, research in the field of European Studies was mainly concerned with how to conceptualize and explain the effect of Member States on processes and outcomes of European integration (Börzel, 2001; 2005). The body of literature which is usually referred to as ‘integration theory’ deals primarily with the processes and forces leading to the emergence of a separate European political system and its prospective development. The most important debate here was about whether European integration could be better explained by autonomous state actors (intergovernmentalism) or social processes (neofunctionalism). With Haknoh Kim (2007) we argue that these two perspectives can in fact be reconciled by adopting a constructivist reconstruction of neofunctionalism. Such an approach provides a promising way to synthesize rationalism with constructivism and can serve as a middle-range analysis of European sectoral policy development (see the chapter 10).

The debate of the 1990s in the field of social policy primarily dealt with the institutional dynamics and political logic of EU social policy (e.g. Leibfried and Pierson, 1995). Over the last decade, however, attention has shifted from the emergence and significance of a distinct EU polity - both in general as in the field of social policy - towards the actual impact of this polity on its Member States. Since the beginning of the 1990s a new research agenda thus emerged which focuses on changes in national welfare states that can be attributed to the development of European regional integration. This new research agenda became known under the heading ‘Europeanisation’, a concept that has enjoyed increasing popularity in academic circles since the late 1990s. Scholars mainly use the concept to assess the influence and effectiveness of European-level politics on the domestic level, as well as to understand how new European opportunities and constraints are used by Member States to push through their own agenda’s (Graziano and Vink, 2007). While earlier European Integration research focused primarily on the creation of a European political arena and the particularities of EU governance, the Europeanisation approach shifts attention principally to the domestic level, focusing on changes in the national policy, politics and polity, induced by EU membership (Börzel, 2001).
Literature in the field of Europeanisation studies has put forward many different propositions on when and how – i.e. through which mechanisms – Europe affects the national welfare states. Different causal mechanisms of domestic change that have been identified by the literature are, for instance, institutional compliance, where the EU puts forward an implicit or explicit model of 'good policy' that is imposed on the Member States, changing domestic opportunity structures, where the EU provides new policy resources and instruments that change the power balance between domestic actors, and policy framing, which changes the cognitive beliefs of domestic actors (Börzel, 2005: 49). For the sake of presentation, I concur with Börzel (2005: 50; 2003) that the main bulk of the literature shares three major assumptions, and explain how my research deals with them.

Firstly, most studies agree that Member State responses to Europeanisation are differential, i.e. differ across policy sectors, institutions, and time. This PhD links up with this approach by analysing the differential effects of different EU instruments in three different policy fields: social inclusion, pensions and health care. At the same time I take on a long-term, dynamic perspective that looks at the relation between the EU and the national welfare state over time (the period 2000-2010) rather than taking a snapshot picture at a given moment in time.

Secondly, there is a consensus that the relationship between the EU and its Member States is not a one-way street. The European policy process is a reciprocal, two-way relationship between political negotiations at the domestic and the European level. ‘For practical reasons, however, students of Europeanisation usually bracket European institutions and processes, i.e. take them as given and analyse their effects on the Member States. How Member States responses to Europeanisation feed back into EU institutions and policy processes is rarely explored’ (Börzel, 2003). As will be explained in more detail in section 1.4, this study will attempt to link the ‘bottom-up’ and ‘top-down’ dimension in the relationship between the EU and the domestic level by focusing on the role of national governments in the ascending (uploading or shaping) and descending (downloading or taking) phase of the policy process.

Thirdly, the lion's share of the studies find that there must be some 'misfit' (Börzel 1999) or 'mismatch' (Héritier, 1996) between European and domestic policies, processes and institutions. The 'goodness of fit' (Cowles, Caporaso and Risse, 2001) or congruence between the European and domestic level determines the degree of pressure for adaptation generated by Europeanisation by the Member States. 'Only if European policies, institutions, and/or processes differ significantly from those found at the domestic level, do Member States feel the need to change' (Börzel, 2005: 50).

How does this goodness of fit 'hit home' exactly? Analytically, a distinction should be made between 'institutional', 'political' and 'policy' fit.

- First, Schmidt's seminal book Democracy in Europe (2006) shows that Europeanisation has radically changed the governance practices of all EU Member States, but that its effect largely depends on the 'institutional fit' between national polities and the EU polity. As a 'compound' polity whose governing activity is highly diffuse, the EU will most affect Member States
whose governance practices are ‘simple’, i.e., with unitary, not decentralized, structures, concentrated rather than diffuse power and single rather than multiple authority.

- Second, the impact of European integration is also determined by the degree of Member States’ ‘political fit’ with the EU, i.e., how pro-European (or Eurosceptical) are national policy-makers. Graziano et al. (2011a) argue that the ‘usage of Europe’ by domestic actors depends upon the general relationship of each country with Europe. More specifically, while public opinion towards the EU clearly matters, Graziano et al. (2011b), as well as Heidenreich and Zeitlin (2009), suggest that elite opinion is what counts most in explaining EU-induced policy-making.

- Third, the impact of EU initiatives on domestic policies varies with the degree of ‘policy fit’ between the EU and its Member States, which often precedes policy change. More specifically, this refers to the extent to which the objectives and policy practices of the EU align with those of domestic actors. A greater degree of institutional and policy misfit and a higher degree of political fit between the EU and the Member State practices can therefore be expected to generate more pressure for adaptation and, ultimately, domestic change.

The ‘goodness of fit’ framework has many critics (Knill & Lehmkuhl, 1999; Falkner et al., 2005), mostly for being too static. Indeed, the fit/misfit model does not sufficiently allow to take into account the recursive or circular dimension of Europeanisation: the domestic impact of European policies changes continuously, because Member States respond to European pressures by trying to influence and reshape European policies and institutions. On the other hand, the model is overtly deterministic, assuming for example that domestic policy-makers want to maintain the status quo at all costs; in other words: it is a bit blind to (sub-)national politics. Thirdly, it seems that the explanatory power) of the goodness of fit model (and thus is relevance) strongly differs according to the specific policy instrument at stake. While ‘legal misfit’ or ‘policy misfit’ is rather easily identified in the case of precise European legal requirements (e.g. labour directives), the explanatory power of ‘goodness of fit’ is less in the case of more flexible policies, which prescribe a ‘good model’ for policymaking and thus ‘leave the Member States too much flexibility and discretion in order to exert pressure for adaptation’ (Börzel, 2005: 51).

This does not rule out, as we will argue, that policy instruments such as the OMC, under certain conditions, effectively challenge domestic institutions to change their policies. These shortcomings lead some to wonder if misfit is either a necessary or a sufficient condition for Europeanisation (Mastenbroek and Kaeding, 2006). While I agree with a critical stance towards the framework, it remains widely used, and provides a useful set of theoretical lenses which I will assess (including its critiques) empirically.
1.4 Research design: questions, hypothesis and case studies

This section explains the research questions this PhD endeavours to answer, and the type of evidence that is needed to answer the questions in a convincing way. A preliminary warning is warranted: while the research design described below allows to arrive at valid (read: plausible) conclusions, it is not – and cannot be – a classic model aimed to discharge ‘the burden of proof’. In other words: this research (design) is about establishing plausibility.

1.4.1 Limitations of a classic research design: the problem of causal inference

There are a few good reasons why a ‘classic’ research design would not be helpful for the sake of this research. First of all, in a classic research design the researcher usually varies or manipulates so-called ‘independent variables’ (say participation in intensive study program), while the dependent variable is the response that is measured (say graduation rates). The research questions raised in this PhD exclude such a setup, since the variables under scrutiny cannot be considered as ‘independent’ from one another. Thus, most instruments of the OMC toolkit – such as the European Commission’s prudent ‘Recommendations’ on Member States’ social policies, or the battery of indicators – are often adopted only after intense negotiation between the EU and domestic actors involved. In other words: these OMC processes cannot be considered as truly external to national policymaking, since Member States often seek to upload their own domestic priorities and preferences into the OMC cycle; and then take these ideas ‘back home’.

Secondly, the very nature of the operation of the Social OMC makes it challenging to establish a causal relationship between variables, which is of course a more general challenge in research: ‘rarely are causal mechanisms observable in the literal sense of the term. Social science is not a bit like billiards’ (Gerring, 2007a: 245). There are indeed a few good reasons why identifying the precise causal impact of the OMC on national policymaking raises particularly difficult problems of interpretation:

- The Social OMC will always be one among many factors causing change in policies, most of which can presumed to be domestic. It is therefore possible that countries show very little interest in the OMC while largely implementing policies that resonate with the broad messages coming from the OMC;
- Other external influences may have caused changes: for example, the OECD, the ILO and the World Bank also promote exchange of good practices, provide support to mutual learning, and encourage information sharing. In addition, Member States officials may use bilateral contacts (e.g. meeting with colleagues in another country) which are not part of the formal OMC framework for exchanging ideas;
- Member States exercise considerable selectivity in downloading and inflicting European concepts and policy approaches;
- Some innovative reforms/policy changes occurred (or have been initiated) before the launch of these OMC’s (temporal disjunction);
• Strategic behaviour of national governments intervenes: reference to OMC processes serve as a source of legitimating and blame-sharing, sometimes irrespective of their real influence on policy decisions; but in some case governments also consciously play down (or simply deny) the influence of the OMC process.

In all of these examples, the OMC tools cannot simply be seen as a one-way causal impact. The relationship between OMC processes and Member State policies must be analysed as a two-way interaction which operates as a catalyst or selective amplifiers for national reform strategies and is thereby able to challenge and expand the national policy debate (see Zeitlin (2005 and 2009) for an earlier version of these arguments).

1.4.2 Puzzle, thesis, research questions and hypotheses

This PhD starts from the puzzling reality that the Open Method of Coordination on Social Protection and Social Inclusion – in spite of overwhelmingly skeptical academic accounts and repeated attempts to weaken or even abandon it22 – is not simply ‘out there on paper’ (formally exists), but continues to appeal to a wide range of domestic and EU actors. To be more precise; nearly 15 years after its formal launch, and in spite of strong academic criticism:

• The OMC is continuously evolving (being re-invented) as an institution (e.g. the ‘reinvigoration’ – or political re-endorsement – by the Social Affairs Ministers in 2011), with new instruments being added to its toolbox (e.g. the Platform Against Poverty, one of the Europe 2020 ‘Flagships’), with new monitoring tools being developed (such as the SPPM, see Zeitlin and Vanhercke, 2014) and new issues raised to the agenda (e.g. Services of General Interest or Roma social inclusion);

• The OMC continues to be the ‘goal to attain’ for EU cooperation in other issues areas (such as education, public health and housing) and now inspires cooperation at the domestic level (e.g. to coordinate regional policies in a federal country like Belgium, see chapter 10).

In other words: since new governance serves the different interests of many actors, it is here to stay. Such robustness to change in a drastically changed environment – including political changes in the European Council, the mid-term revision of the Lisbon Strategy and integration in the Europe 2020 Strategy – is indeed puzzling in view of the fact that many academic accounts dismiss the OMC as a non-binding, merely bureaucratic exercise without real effects (reflected in the literature through labels like ‘smoke without fire’, ‘paper tiger’, and ‘red herring’, see chapters 5 and 10).

The main thesis of this PhD is that the Social OMC continues to appeal (i.e. is being supported and re-invented) because it is seen by influential EU and domestic actors as a helpful tool which has added value in at least two respects:

22 For instance, in March 2005 European Commission President Barroso unsuccessfully tried to convince the European Council to abandon the OMC. [Is that right? I thought he just wanted to keep it out of the relaunched Lisbon Strategy. What is your source for this claim?]
The OMC's so called ‘soft’ tools (reporting, indicators, targets, Peer Reviews etc.) are being used in the key phases of the ‘hard’ policy development process (issue emergence, agenda-formation, alternative selection, implementation, evaluation), by domestic and EU policymakers and stakeholders alike. In other words, the Social OMC is considered to be an ‘adequate’ tool.

Under certain condition, the use of the OMC has had both substantive (e.g. integration of new concepts into the policy discourse) and procedural (e.g. more strategic approach, better steering capacity) effects on domestic and EU policymaking. In other words, the Social OMC is considered to have a certain ‘impact’. The ‘adequacy’ of the Social OMC, is defined as the extent to which the OMC’s architecture (institutional setup) is likely to contribute to reaching its objectives at EU and national level. In other words, adequacy refers to the theoretical capacity of the OMC toolbox to produce results. On the other hand, the ‘impact’ of the Social OMC is defined as the extent to which the Social OMC has actually influenced policies and policy-making processes at EU and national level. In other words: impact refers to the effects of the Social OMC ‘on the ground’ (PPMI, 2011; Barcevicius, 2014).

The following five research questions – with associated sub-questions – are formulated with a view to, first describing and, second, answering the empirical puzzle described above.

RQ1. How and why did a variety of actors decide, in 2000, to launch EU cooperation in Social Protection and Social Inclusion as a new governance tool?
- What was the role of the different actors (political entrepreneurs) involved in this ‘emergence’ stage: consecutive EU Presidencies, Member States, European Council formations and their respective advisory Committees, the European commission, (EU and domestic) stakeholder organisations, academics?

RQ2. How did the strands of the Social OMC – in the field of social inclusion, pensions and health care – continue to develop between their emergence and the streamlining into one overarching process in 2006?
- What was the specific role of the different actors involved at this early development stage: what was at stake for them in continuing the OMC?
- What has been the impact of sequencing/timing/certain events on the further development of the three Social OMC strands?

RQ3. To what extent can the Social OMC be considered as an ‘adequate’ policy tool, i.e. does its architecture (operational framework at the EU level) have the potential to contribute to reaching the goals set at EU and national level?
- To what extent does adequacy vary between the three Social OMC strands, and why is this so?
RQ 4. Did the Social OMC have any ‘impact’ – i.e. actual, empirically established effects – on policies and policy-making processes, both at EU and national level?

- To what extent did the Social OCM have an impact on substantive policymaking (e.g. conceptions of social policy) or procedural changes (e.g. involvement of actors) in governance of the Member States and the EU?
- To what extent does the impact vary between the three Social OMC strands, and over time?

RQ 5. Through which mechanisms can a ‘soft’ tool such as the OMC have any (substantive or procedural) effects on hardboiled domestic and EU politics?

- To what extent did the Social OMC effectively encourage policy learning, strategic usages by EU and domestic actors?
- Is the impact of the Social OMC in any way linked to the operation of other EU modes of governance (legislation, funding)?

RQ 6. How can one account for the variation (contradictions) in existing academic accounts of the impact of the Social OMC?

Based on these research questions a number of hypotheses can be formulated as follows.

H1. The emergence of the Social OMC in 2000 resulted from bargaining at the EU level between two groups of actors (‘socially oriented’ versus ‘economically oriented’), who both mobilized to control the reform EU reform agenda; while an agreement to launch the Social OMC was reached, this happened for a variety of (sometimes conflicting) reasons.

- An alternative explanation would be that the Social OMC was launched to serve the interest of some of the larger Member States, for example as a side payment in exchange for more important concessions, or to prevent further EU legislation in the social field.

H2. The different strands of the Social OMC (Social Inclusion, Pensions and Health Care) followed their own particular institutionalization processes; this historical development of the three strands culminated in rather different institutional architectures for each of them.

- An alternative explanation would be that the three strands of the social OMC follow a similar and path-dependent development – inspired by pre-existing forms of cooperation such as the EES – culminating in new forms of governance that do not differ in kind.

H 3. The impact of the Social OMC varies between issue areas, depending on the actors involved, the presence of other (competing) EU processes, the temporal development of the particular strands (when did they become operational), and the actual features of the OMC strand (some having a more developed architecture than others).

- An alternative hypothesis would be that irrespective of the differences between the three strands, the Social OMC’s architecture is an ineffective policy instrument, in view of its bureaucratic, non-binding nature. One could only expect some (marginal) procedural effects, e.g. in terms of statistical capacity building.
H 4. The Social OMC has become part of the EU and domestic social policymaking and has as a consequence influenced substantive policymaking and induced procedural changes in governance of the Member States and the EU.

- An alternative hypothesis would be that the impact attributed to the OMC should in fact be attributed to other (domestic or international) influences.

H 5. The non-binding Social OMC encourages policy learning and strategic usages by EU and domestic actors; its effects acquire further leverage when combined with other mechanisms such as the conditionality of EU funding.

- An alternative hypothesis would be that learning within the OMC is of a ‘thin’ (purely strategic) nature while ‘hybridity’ between EU policy instruments may exist on paper, they still follow their own, distinctive logic.

H 6. Varying accounts of the OMC’s adequacy and impact can to a large extent be explained by the methodological choices made by scholars (e.g. which period is assessed, how data are collected, how strands are being compared).

- An alternative explanation may be that OMC ‘optimists’ and ‘pessimists’ are looking at different aspects of the Social OMC, since they use different yardsticks (theoretical lenses) to assess the Social OMC’s adequacy and impact.

1.4.3 Contextual analysis through case studies

The Social Inclusion, Pensions and Health Care OMCs

With a view to answering the research questions elaborated in section 1.4.2, I selected the Social Inclusion, Pensions and health care as my primary case studies. As can be seen in a stylised way in Table 1 below, selecting them indeed provides the needed variation on the following, theoretically informed, dimension:

- The level of development of the OMC architecture (institutionalisation), and thus the degree to which it present a ‘good model’ of policymaking;
- The temporal development of the respective OMC strand: how long has it been around so that it could create tangible effects;
- The degree of involvement of Belgian actors in establishing the infrastructure of the OMC strand (uploading);
- The institutional embeddedness of three issue areas at EU level: how long has EU been involved, presence of uncontested EU competencies, degree of constitutionalisation;
- The presence of the risk of a ‘penalty default’ through indirect market-oriented social policy-making;
- The extent to which a variety of EU policy instruments is available in each of these policy issue areas: law, new governance, financial instruments, social dialogue;
- Variation in the presence of competing (EU or international) networks or other ‘new governance processes;
• The pre-existing national level playing field: degree of ‘stickiness’ of the issue area, due to existing actor constellations, policy legacies and institutionalised channels of influence;
• Variation in the presence of actors at different levels of government (national, regional, local).

As we will explain in chapter 2 in detail, the Social Inclusion strand is clearly the most fully developed of the three strands of the Social OMC and Belgian actors have played a key role – notably during the Belgian Presidency of the EU in 2001 – in establishing its architecture (Common Objectives, Commonly Agreed Indicators, first National Action plans). The latter was developed over a very short period of time: this strand was implemented ‘to the full’ as of 2001, providing a rather clear ‘model’ for policymaking. While the EU’s involvement in the fight against poverty has been constitutionalised (Treaty of Amsterdam) more than 15 years ago, this excludes legal harmonisation. By contrast this issue area can appeal to two different policy instruments: OMC and the European Social Fund. There are very few (if any) competing policy coordination processes in the area of Social Inclusion, while actors in this issue area – which operate at the national, regional and local level – typically do not have firmly institutionalised channels of influence at the domestic level. There is no clearly identifiable risk of a ‘penalty default’ if the OMC in this area were to fail.

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Social OMC strands: variations in institutionalisation and EU/domestic settings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Social Inclusion</td>
</tr>
<tr>
<td>1. OMC Architecture ('good model' for policymaking)</td>
<td>+++</td>
</tr>
<tr>
<td>2. Temporal development</td>
<td>+++</td>
</tr>
<tr>
<td>3. Domestic involvement in establishing OMC infrastructure</td>
<td>+++</td>
</tr>
<tr>
<td>4. Strength &amp; duration of EU constitutional foundation</td>
<td>+++</td>
</tr>
<tr>
<td>5. Presence of the risk of a ‘penalty default’</td>
<td>+</td>
</tr>
<tr>
<td>6. Density of EU framework: variety of policy instruments</td>
<td>++</td>
</tr>
<tr>
<td>7. Presence of competing networks/cooperation</td>
<td>+</td>
</tr>
<tr>
<td>8. Presence of vested interests &amp; domestic channels of influence</td>
<td>+</td>
</tr>
<tr>
<td>9. Participation of actors at different levels of government</td>
<td>+++</td>
</tr>
</tbody>
</table>

+: weak; ++: weak nor strong; +++: strong
The Health & Long-term Care OMC presents a contrasting case to Social Inclusion strand from several perspectives. First, it is clearly the least developed of the three strands of the Social OMC (e.g. the battery of indicators is still incomplete, the Common Objectives are very general) and as a result does not provide a clear policy ‘model’ to follow. The Health & Long-term Care OMC met a lot of resistance from the side of the Member States and was not fully implemented until 2005. Belgian actors played only a minor role in the establishment of its basic architecture, which was largely driven by the European Commission. In addition, the EU’s involvement in the field of health care is highly contested: the Treaty of Lisbon firmly reasserts the principle of subsidiarity in this field, totally excluding any window on harmonization of health care regulation. As a result, the EU can only take action to encouraging cooperation and coordination: no other policy instruments are available. By contrast, the risk of a ‘penalty default’, namely through market-oriented health policy, looms large. This is the result of the fact that there are several (legislative and new governance) initiatives in the field of health care which compete with OMC for scarce time and resources. Finally, dense actor constellations in the field of health – which operate at the national and Community level – have their own (safely institutionalised) channels of influence at the domestic level, through which they defend their policy legacies.

The Pensions OMC, finally, is situated, for most of the described variables, in between the Social Inclusion and Pensions strand. Its architecture is not as mature as that of the Social Inclusion OMC, but somewhat better than the Health Care OMC (e.g. this strand had its own, regular National Strategic Reports and Joint Reports). Belgian actors played an important role in getting the process started (agreement on Common Objectives), but the remainder of the basic architecture was managed by other actors (notably the Spanish Presidency of the EU in 2002 and the European Commission). The Pensions OMC started somewhat later than the Social Inclusion strand, but was fully implemented as of 2002. The EU’s involvement in the field of pensions (or rather: social protection) has been constitutionalised since the Amsterdam Treaty, but the double hurdle to take decisions in this area (co-decision procedure and unanimity) has prevented Member States and the EU from legislating in this highly sensitive issue area. In practice, therefore, no other policy instruments are available to the EU than encouraging cooperation and coordination. While the pensions playing field is not as densely crowed as that of health care, the actors in this strand are in intense competition with economic actors (thus, the BEPG also apply to pensions). As in health care, the penalty default of market-oriented pension policy-making is constantly present. In addition, and, as in health, dense actor’s constellations in the field of pensions defend vested interests through firmly institutionalised domestic channels of influence: pensions are considered to be the classic example of ‘sticky’ institutions.

Taken together, these three cases provides the variation we need in order to be able to trace similarities and differences in the use of the OMC in the policy development process by domestic and EU actors. In order to test the second part of our main thesis, namely that EU cooperation in

---

23 The mature arrangements of European pension systems create huge electoral incentives as well as lock-in effects which make certain courses of action hard to reverse once they have been initiated (Bonoli and Natali, 2012; Natali, 2007).
these three issue areas has both substantive and procedural effects at the EU and domestic level, we will trace it impact in a particular Member State: Belgium.

Social policymaking in Belgium: institutional setting and key actors

Belgium evolved from a unitary into a federal State through a gradual process initiated in 1970. The radical 1993 reform which formally characterised Belgium as a federal state put in place, besides the federal level, both the Communities and Regions, which further hollowed the centre (Hooghe 2004). As these three levels of government are involved in social policymaking, it is especially this ‘vertical’24 division of competencies that has to be considered in analysing the operation of the Social OMC.

A second institutional factor that needs to be considered is the existing welfare model. Belgium is considered a ‘typical’ continental welfare state. It was designed as a Bismarckian-type insurance system to protect the population against different kind of social risks. But the Belgian social security system has gradually been subordinated to the need principle over the years (Hemerijck and Marx, 2010: 139). Policymaking in the area of social security in Belgium remains – with some important exceptions – largely a federal matter.

Health (care) policy in Belgium is a responsibility of both the federal authorities and the federated entities. The federal level is in charge of legal regulation and the financing of compulsory health insurance. The Communities are responsible for so-called ‘personal matters’: health promotion, prevention, maternity and child health care, supervision of health-care facilities, and others. To facilitate cooperation between these levels of government, ‘Interministerial Conferences’ occur regularly. At the federal level, important actors are the National Institute for Health and Disability Insurance (INAMI) and the different (ideological) sickness funds Government representatives as well as those of the sickness funds, health care providers, social partners and the self-employed, participate in the decision-making process (for further information see Gerkens et al. 2010).

Although the division of competences in social inclusion is rather complex, even in this area with important subnational competencies, framework rule making remains federal. Vertical coordination of the social exclusion policies of all governments is formalised through a Co-operation Agreement (concluded in 1998). The latter established an Inter-Ministerial Conference for Social Integration responsible for the design and monitoring of coordinated government policies at all levels. Furthermore, the semi-public Resource Centre for the Fight against Poverty, Precariousness and Social Exclusion (hereafter ‘Resource Centre’) was established in 1999 to guarantee a permanent dialogue between all relevant parties; it produces biannual reports on the evolution of poverty. Municipalities are also active in the field of social inclusion, notably the local social services (Public Centres for Social Welfare, CPAS) responsible for administering the guaranteed minimum income and other forms of social assistance.

24 Note that the five different governments are on equal footing, since the federal government has no superiority over the subnational levels.
Furthermore, there are many associations representing people living in poverty at all levels of government. The Belgian pension system is based on three pillars and comprises three schemes: one for salaried workers in the private sector, one for civil servants and one for the self-employed. The first pillar consists of a statutory system and provides retirement pensions for insured persons aged 65 or older. This is often topped up by a second pillar pension for which there are three different options: individual company pensions, collective company pensions, and sectoral pension schemes. The third pillar includes different voluntary saving schemes supported by the government through tax incentives. This pillar is administered by licensed private life insurance companies and pension funds, under the supervision of the FSMA. Compared to other EU Member States, it is not very developed in Belgium. The National Pension Office is responsible for the assessment and payment of statutory pensions covering old-age and survivor risks. The social partners, private life insurance companies, pension funds, and the Financial Services and Markets Authority (FSMA, the responsible prudential authority), various organisations of the elderly are also important actors in this field.

Pathway cases and sub-cases

With this complex institutional setup in mind, we can now present our limited set of ‘pathway cases’ (a variant of the ‘crucial-case’ research design proposed by Eckstein, 1975). An in-depth analysis of a limited set of pathway cases can elucidate causal mechanisms, rather than verifying or falsifying general propositions. John Gerring (2007a) suggests working with pathway cases (only) when (1) a covariational pattern between a cause and an effect is already well known and has been examined across different cases, as in the case with the emergence, institutionalisation and impact of the Social OMC, while (2) the precise causal mechanisms, that is to say, the theory that accounts for the covariational relationship, remains ambiguous. Such pathway cases presents an opportunity to see cause and effects interact, in isolation from other possible causes, so that the pathways that lead from X to Y can be better understood (Gerring, 2007a). Thus, drawing on earlier OMC research I will examine the Social Inclusion, Pensions and Health Care OMCs as my main cases; for each of them I will assess the different stages of their institutional development. As can be seen in table 2 below, the 9 sub-cases allow to compare (1) the three strands of the Social OMC and (2) the emergence, institutionalization and operation (in terms of impact and adequacy) of each of them.

Table 2 Pathway case studies and sub-cases

<table>
<thead>
<tr>
<th>Pathway cases</th>
<th>Case 1 Social Inclusion OMC</th>
<th>Case 2 Pensions OMC</th>
<th>Case 3 Health Care OMC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergence</td>
<td>1. Emergence OMC/SI</td>
<td>4. Emergence OMC/P</td>
<td>7. Emergence OMC/HC</td>
</tr>
<tr>
<td>Institutionalisation</td>
<td>2. Institutionalisation OMC/SI</td>
<td>5. Institutionalisation OMC/P</td>
<td>8. Institutionalisation OMC/HC</td>
</tr>
</tbody>
</table>

Now that we know our cases, the question is: how will we collect the necessary data?
1.5 Research methodology: collecting the data

1.5.1 Process tracing and the smoking gun

Section 1.4.1 described the challenges of causal inference in the context of the Social OMC. The way to address this is to do a contextualised process tracing, for each of our pathway case studies. As Gerring (2007b, 178) points out: ‘While other methods can be understood according to their quasi-experimental properties, process tracing involves a more complex logic.’ The process tracing method – which has a fairly long history in the social sciences (see Collier, Mahoney and Seawright, 2004), does not seek to establish whether some causal factor has caused an outcome by looking across multiple observations for a predicted pattern of covariation between independent and dependent variables while selecting or statistically manipulating the observations to ‘control’ for alternative causes. Process tracing (or within-case causal process analysis) indeed relies on a different approach to causal inference. In plain language, several pieces of information are combined in a way that adds up to a convincing causal account, by rendering alternative explanations less plausible while showing that microevidence is consistent with theoretical claims. In other words: process tracing ‘explains the outcomes of interest by going back in time and identifying the key events, processes, or decisions that link the hypothesized cause or causes with the outcomes’ (Falleti, 2006, 11-12).

What does process tracing look like in practice, then? According to George and McKeown (1985: 35), who provided one of the earliest explicit definitions, this method does not solely rely on the comparison of variations across variables in each case, but also ‘investigate[s] and explain[s] the decision process by which various initial conditions are translated into outcomes’ (emphasis added). More concretely, the authors argue that:

‘[t]he process-tracing approach attempts to uncover what stimuli the actors attend to; the decision process that makes use of these stimuli to arrive at decisions; the actual behavior that then occurs; the effect of various institutional arrangements on attention, processing, and behavior; and the effect of other variables of interest on attention, processing, and behavior.’ (Ibid: 35)

In practice, this process tracing meant that I began by identifying the key policy and procedural events and changes in social inclusion, pensions and health care policy in Belgium (since 2000) and asked key policymakers whether there was strong evidence that the Social OMC had any relation to this change. While doing so, and following David Collier, I made sure to be aware of the ‘smoking gun’: this metaphor ‘conveys the idea that a suspect who is caught holding a smoking gun is presumed guilty. However, those with no smoking gun may not be innocent. In other words, this provides a sufficient but not necessary criterion for accepting the causal inference’ Collier (2011: 827). Two examples may illustrate this:
Some policymakers made rather bold claims about the alleged ‘impact’ of a given PROGRESS Peer Review. The next step was then to ask the officials who took part in Peer Reviews whether and when they passed on the information to people who were in a position to enact reform, and how the information was used afterwards. If they claimed that the information was indeed used (e.g. for generating a policy proposal), then I cross-checked this with the authors of the proposal, the negotiation documents if these were available, any texts (e.g. preparatory or legislative act) etc. Note that in other cases, respondents may have their reasons to deny any form of ‘outside influence’. In both cases (bold impact claims and denial) detailed process tracing provides an empirically plausible reality check.

I asked stakeholders about procedural changes in how they were being consulted during the national NSR process and other (domestic) social policy processes. If these actors claimed that there had been positive changes in the national social policy process, then the question is whether the NSR process made such consultation more acceptable to public authorities, or in some way increased the capacity of the actors themselves. I then checked whether other actors were of a different opinion, and whether such increased consultation was plausible and verifiable: did the acclaimed effect match chronologically, did it involve the creation of new structures, increased funding etc.?

With a view to enabling such process tracing, this PhD used different methods of data collection in order to check the results: first, systematic document analysis and literature review; and second, several waves of semi-structured expert interviews. In addition, a limited quantitative online survey and press content analysis supported the process tracing. Taken together these qualitative sources allowed for a careful ‘triangulation’ of results, which following King, Keohane, and Verba's (1994) bible on research design means using the best methodology to analyze ‘data collected at different places, sources, times, levels of analysis, or perspectives, data that might be quantitative, or might involve intensive interviews or thick historical description’. We discuss these methods in turn.

1.5.2 Literature review and document analysis

The literature review and document analysis conducted for this PhD is mainly presented in Chapter 5, but is used throughout the chapters. Its aim is to first of all, provide an analytic overview of the evaluation results of existing publications that address the adequacy (the theoretical capacity of the OMC toolbox to produce results) and impact (the effects of the Social OMC ‘on the ground’) of the Social OMC.

Since the Social OMC consists of three strands which are distinct in terms of their EU-level policy objectives and actor configurations, the literature review and document analysis spelled out differences in evaluation results for these different strands. After all, it is not only at EU level, but also in the domestic contexts, that each of these three strands of policies are governed by distinct combinations of national, regional and local governmental, non-governmental and private actors. Therefore, the ‘adequacy’ and ‘impact’ of each of these OMCs can be assumed to be different for each area, which has consequences for the concepts, indicators and methods
used for each, as well as for how future research and evaluation can be developed in each strand of the Social OMC.

**Research process**

The literature review and document analysis has focused on English-language publications, even if some relevant sources in French and Italian have been included as well. Publications in German did not provide new information which was not already published in English, hence their exclusion. Apart from this, publications on the Social OMC in Polish, Czech and Slovak were scanned, but this search confirmed the more general finding (including from the English language literature), that there are few assessments of the adequacy and impact of OMC covering the new Member States.

For obvious practical reasons, not every single source on the Social OMC (and its three strands on Social Inclusion, Pensions and Health Care) could be included. Rather, an attempt has been made to establish a representative sample of the recent literature and documents, which includes some 60 texts that were assessed in detail, i.e. they were coded into a summary table or ‘analytical grid’ (see Annex 1). Some 40 additional texts which were scanned in a somewhat ‘lighter’ way. In practice, the literature review included several stages.

The first step consisted of the – collaborative – elaboration of an analytical grid which allowed for the identification – in the form of a summary table (see Annex 1) – of the following key information on every of the coded sources: author(s); Social OMC strand and focus; the publication’s goal and approach; theoretical concepts and the categories of impact/adequacy under scrutiny in the source; operationalization; used indicators (criteria for success); mechanism of change; main methods and associated tools; comments; countries covered, years covered (further details about the categories used in the analytical grid are provided in Annex 2). The completed table provides entries that are clear and detailed enough so that a wider readership can understand the key issues without having to read every source in detail.

Secondly, the texts were selected as follows. A very large set of OMC-related texts (including legal texts) obtained through a bibliographical research in online databases were scanned, after which some were excluded if they side-stepped the main purpose of the literature and document review: this mainly involved outdated sources (priority was given to the texts from 2005 onwards); or publications focusing on eventual outcomes of social policies in the Member States, which are beyond the scope of this PhD. All academic literature and documents identified in this way was gathered, if electronically available brought together on a Huddle Workspace, and printed out.

During the third stage I carefully read the sources I deemed most relevant and which tap into how the three strands of Social OMCs have been addressed in the literature in terms of adequacy

---

25 The analytical grid was elaborated in close collaboration with Timo Weishaupt and Caroline de la Porte, while Egidijus Barceviciuis and Jonathan Zeitlin provided essential feedback. [You should explain that is was carried out on behalf of the Commission as part of the 2009-2011 PPMI evaluation of the Social OMC.]
and impact; this was a collaborative effort which I undertook with Caroline de la Porte. While proceeding with the in-depth analysis of the texts, critical information was entered into an overview table, which constitutes an autonomous and independent reference points for future development of assessment techniques for Social OMCs. The ambition was to locate theory, conceptual frameworks, indicators and mechanisms in as many pieces as possible, even in those texts where these elements are used implicitly.

It seems important to underline that the distinction between studies on ‘adequacy’ and ‘impact’ is not always that clear-cut in the reviewed literature: quite often studies claiming to be about ‘impact’ in fact do not assess the operation of the OMC ‘on the ground’, but rather its institutional infrastructure (in this PhD defined as ‘adequacy’), which is then compared to different theoretical yardsticks and expectations. As a consequence it was sometimes necessary to ‘read between the lines’, on the basis of the framework of analysis they followed, to interpret to which aspect (‘adequacy’, ‘impact’ or both) authors were referring to.

**Written sources of information**

The analysis focused on sources that provide empirical assessments of the Social OMC, and includes a considerable share of sources with a historical or a theory-generating or theory-testing approach. Publications with a largely normative or advocacy approach only constitute a small share of the studied literature (See Annex 2 for a definition of these five broad categories of approaches to OMC study).

While two-thirds of the reviewed literature and documents was published in 2007 or even more recently, the lion’s share describes the situation prior to the streamlining of the social inclusion, pensions and health care strands into a single Social OMC in 2006. Note that the demarcation ‘before’ and ‘after’ 2006 does not seem very relevant for academic scholars, let alone that they compare impact or adequacy between these two periods. Which is more: one in three publications is not clear about which period is actually covered, even if this was in most cases discernible when the literature was analysed in more detail. Note that even more recent publications do not always take into account changes in the OMC process, e.g. completion of the portfolio of indicators, enhancement of mutual learning activities, streamlining (including the introduction of overarching objectives), etc. This is a flaw the will need to be addressed by future OMC research; I return to this issue in the concluding chapter of this PhD.

The literature review and documentary analysis for this PhD includes academic analyses, evaluations prepared by as well as on behalf of the European Commission, research texts produced by EU Committees and stakeholders (see Box 1 below).

It is striking that most academic research covers the EU-15, i.e., the ‘old’ Member States. Fewer studies have been conducted for the newly-acceded Member States while the ones that do exist conclude that the impact of the Social OMC is far more significant if funding is provided (i.e. through the European Social Fund). Within the EU-15, there is a very strong representation of the Nordic Member States (Denmark, Sweden, Finland: 21 studies) and Germany (18 studies), while France and the United Kingdom (UK) are also well covered. Belgium, Italy, the
Netherlands, Poland and Spain and are addressed in five to seven studies. The other old Member States are covered even less often.

Box 1  Literature review and document analysis: sources

The (by far) largest category of reviewed texts consists of academic literature, which has mainly been produced by social scientists (political scientists and sociologists), but there is an increasing quantity of texts by lawyers, especially in recent years, writing about the much debated distinction between ‘hard’ and ‘soft’ modes of governance.

Communications from the Commission include both agenda-setting documents (e.g. proposal for launching new OMC strands, or their ‘streamlining’) as well as more analytical papers (e.g. OMC evaluations). Commission-Council Joint Reports and Social Protection Committee (SPC) publications were taken on board insofar as they provide insights in the results of the OMC ‘on the ground’.

Since National Strategy Reports or National Action Plans essentially represent raw (often politically biased) data, rather than analyses on the basis of clear conceptual frameworks and methodologies, it was decided to exclude systematic primary analysis of them. However, as far they are available, secondary analyses of these reports are used to refine evaluation results.

Reports from stakeholders have been written with the main aim of raising a policy issue on the political agenda (uploading): they would like the OMC to work towards a certain policy aim or set of policy aims, or demand more involvement in the process.

The reports commissioned by the European Commission that are written by ‘other experts’ fall into two categories. There are those reports, which are intended to illustrate how the Social OMC can be used for learning by providing (comparative) in-depth analysis of specific problems (access to healthcare, homelessness etc.) and proposing best practices. And there are those that assess some aspects of the Social OMC (including its ability to push ‘mainstreaming’, ‘feeding in and feeding out’, and the adequacy of the Peer Review process). These reports cover all or almost all EU Member States.

In addition, a series of primary sources, such as national/regional legislation, recommendations, policy declarations were used on an ad-hoc basis to cross-check information acquired from the interviews.

Source: author compilation

1.5.3  Semi-structured interviews: selection, questions and ‘waves’

The second qualitative method of inquiry consists of semi-structured interviews with European, national, and subnational civil servants, politicians, stakeholders (social partners and NGO representatives) and analysts working in the areas of poverty and social exclusion, pensions and health care.

Selecting respondents

The selection of interviewees proceeded as follows: based on preliminary insights drawn from the literature review about (a) recent changes in social policies and (b) the operation of the Social OMC in Belgium, a first list of interviewees was drawn up. This list included the most influential players in formulating and implementing social policies (the key domestic social policy players). As can be seen in Table E in Annex 3, this includes several high-level civil servants, political advisors (‘cabinet’ members), stakeholder representatives and social

---

26 Since the creation of Belgium in 1830, ministers are surrounded by advisors chosen by them. These personal advisors are institutionalized in ministerial cabinets.
attachés of the Belgian Permanent Representation to the EU. This list was consecutively expanded with names mentioned by respondents during the first round of interviews, through ‘snowball sampling’ (or chain-referral sampling\(^{27}\)). While the sample group indeed grew like a rolling snowball, I systematically categorized interviewees in different groups according to various criteria in order to safeguard a balanced representation of the actors involved in the Social OMC.

First of all, in order to gauge the impact of the OMC on the national, I balanced respondents according to their ‘degree of involvement in the Social OMC’. Concretely, I made sure to include national social policymakers and stakeholders who were not very familiar with the OMC. The reason is that if one were to select people for interviews only according to their exposure to the OMC (SPC members, international units in social ministries etc.), there is a real risk of obtaining a biased, overly optimistic view. One way of coping with this social desirability bias\(^{28}\) has been to speak to people belonging to different ‘circles of involvement’ in the Social OMC. Based on information obtained during the interview about how familiar the interviewees are with the Social OMC process as such, I defined these ‘Circles’ of respondents as follows.

- **Circle 1** contains the people who are/have been working with the OMC on a day-to-day basis; they are/have been occupied with the design/architecture/planning of these processes, which constitute(d) one of their main professional tasks. In other words, these are the OMC ‘Hard Core’ members. Typically this category includes (former) European Commission officials, Committee (SPC, EMCO) Chairs and Secretaries, leadership of European NGOs and national civil servants working in an EU Presidency.

- **Circle 2** is that of the OMC ‘Insiders’: people who are/have been involved in the OMC on a regular basis; they mainly contribute in terms of contents (and far less so in terms of design/architecture/planning); the OMC constitutes one of many tasks they deal with. OMC Insiders. Typically this category includes civil servants coordinating national reports, political advisors (‘cabinet’ members in Belgium), regular SPC/EMCO delegates or their alternates and people working in European NGO’s.

- **Circle 3** consists of the ‘Informed Outsiders’: respondents who are (vaguely) ‘aware’ of the OMC, but only occasionally contribute to its contents, and not its design/structure. The OMC, or even European affairs more generally, is marginal in their day-to-day work. Among the ‘Informed Outsiders’ are the (social/labour) attachés to the Permanent Representation to the EU, people working in study departments of political parties and social partner organisations and finally regional civil servants working with the ESF.

---

\(^{27}\) Snowball sampling is a non-probability sampling technique where existing study subjects recruit future subjects from among their acquaintances.

\(^{28}\) The social desirability bias is the tendency of respondents to answer questions in a manner that will be viewed favorably by others, including their superiors and the interviewer.
The ‘Circle’ to which each of the respondents belongs is indicated between brackets below the ‘mode’ of the interview (mostly face-to-face, exceptionally via Skype of phone) in the second-to-last column in the Tables in Annex 3. Other information on these respondents provided in Annex 3 is their full name and surname, their position and the institution/organization they work in, their field of expertise and the place (mostly Brussels) and date of the interview.

As can be seen in Table 3 one in four of interviewees can be seen as belonging (or having belonged) to the OMC ‘hard core’ (Circle 1); more or less the same share is (or has been) an OMC ‘insider’ (Circle 2). These two categories taken together (‘hard core’ + ‘insiders’), it can be argued that about half of the respondents are (or were) regularly involved in the OMC. The other half of the respondents (51 persons) are ‘Informed Outsiders’ (Circle 3). This seems to be an appropriate balance between on the one hand people who ‘live’ the OMC from the inside, but may lack some critical distance towards it; and on the other hand relative outsiders, who have more distance to it but may also miss some of the inside information.

Table 3  Circle of involvement of respondents

<table>
<thead>
<tr>
<th>Distance to OMC</th>
<th>Circle 1 ‘Hard core’</th>
<th>Circle 2 ‘OMC Insiders’</th>
<th>Circle 3 ‘Informed Outsiders’</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absolute number (%)</td>
<td>26 (25%)</td>
<td>27 (26%)</td>
<td>51 (49%)</td>
<td>104 (100%)</td>
</tr>
</tbody>
</table>

A second criterion for selecting respondents was their ‘field of expertise’, which I defined as the subject area(s) in which they **mainly** work in relation to the OMC. The fact that many respondents are experts in/responsible for more than one issue area, this is reflected in the high number of respondents in Table 4 that qualify as ‘Social protection and social inclusion’ experts: one in four of our experts (24 persons) are in that case. Nearly the same number (22) has the European Social Fund as their main field of expertise, followed suit by (20) people working primarily on Social Inclusion. Less people work mainly on pensions (14), health care (6) or Europe 2020 (3).

Table 4  Overview of respondents by field of primary expertise

<table>
<thead>
<tr>
<th>Expertise</th>
<th>Social Protection &amp; Social Inclusion</th>
<th>ESF</th>
<th>Social Inclusion</th>
<th>Employment</th>
<th>Pensions</th>
<th>Health care</th>
<th>EU2020</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absolute number</td>
<td>24</td>
<td>22</td>
<td>20</td>
<td>15</td>
<td>14</td>
<td>6</td>
<td>3</td>
<td>104</td>
</tr>
</tbody>
</table>

Thirdly, it was important to have a balance in terms of interviewees’ institutional affiliation: Table 5 below shows that out of 104 respondents, 66 are civil servants, 17 are stakeholders, 16 are political actors, and 5 are analysts (researchers).
Finally, the ‘geographical scope’ of the interviewees reflects whether they work at the EU, national (in Belgium: ‘federal’) or regional level. Table 6 shows that out of 104 respondents, about half are national actors (49 respondents), one in four are regional actors (27), 23 respondents work at the EU level, while 5 work as analysts.

In sum, I have conducted interviews with more than 100 respondents which are balanced in terms of (1) their degree of involvement in the Social OMC, (2) their primary field of expertise, (3) their institutional affiliation and (4) the geographical scope they cover. In addition to these interviews, several academic colleagues have made available transcriptions of interviews they conducted, and which I used to complement the analysis: for example for studying the French case in chapter 6 and for assessing the impact of the PROGRESS Peer Reviews in chapter 4.

**Interview questions and analysis**

For conducting these interviews, I primarily used a set of open questions that prompt discussion, rather than pre-determined answers as in a structured questionnaire. Such ‘semi-structured’ interviews also provide the opportunity to explore particular themes or responses further during the interview. The open questions also encouraged respondents to raise issues that had not been considered in the questions. In practice, I worked in two steps with these open questions. First, a general questionnaire was drawn up containing questions for various groups of interviewees. This general questionnaire (a ‘database’ of questions) then served as a template to compose each interviewee’s more targeted questionnaire, depending on the specific respondent’s expertise, knowledge and role in the OMC process. This way, I was able to combine consistency of interview questions within groups of respondents (e.g. all social partner respondents were asked more or less the same questions), which allows essential cross-checking of information; at the same time it allowed sufficient variation between groups of respondents (adapting to the specific context).
As I will explain in more detail in section 1.5.4 below, I prepared most 2010 interviewees by sending a set of ‘closed’ questions 29 (e.g. about the level of agreement with statements about the influence of the NSR process on national steering capacity) to the interviewees in advance: this freed considerable time to follow them up with the open questions of ‘how’ and ‘why’ during the interview, encouraging them to as much concrete examples and evidence as possible. The closed questionnaire (see Annex 4) asked about the profile of the interviewee (institution/ organisation and position, role in the OMC, field of expertise) and had five blocks of questions relating to (a) the operation of the NSR process, (b) involvement in EU-level mutual learning, (c) substantive impacts, (d) procedural impacts of the social OMC, and (e) assessment of EU-level decisions.

Before asking detailed questions about any particular issue, I made sure the interviewee felt that she or he had detailed knowledge on these questions. Wherever relevant, I encouraged the interviewee to differentiate her/his answers among the three OMC strands, or draw comparisons between them, while making sure during the interview to only ask questions about these strand(s) the respondent had actually worked with (hence the introductory ‘profile’ question).

Nearly all interviews – which lasted around one hour on average – were digitally reordered and fully transcribed, occasionally (notably when the interview could not be recorded) they were summarized into more succinct reports. The availability of detailed transcriptions allowed a thorough analysis of the interview material, and revisiting interviews once new concepts or empirical findings came up (e.g. in new interviews or document analysis). Interviews were analysed with the use of comprehensive coding schemes, which allow a screening of the material through different viewpoints (e.g. up/downloading, actor-centred, temporal or thematic perspective). Close to all interviewees agreed to speak on the record and did not mind to be quoted, be it so that the source could not be tracked directly, e.g. by naming only the organisation represented by the interviewee, with a general reference to their position (e.g. ‘Advisor, European Commission official’ rather than ‘Head of Unit, DG EMPL’).

**Respondents: waves of interviews**

In the time span 2007 – 2013 four waves of interviews were conducted with 116 respondents (see Annex 3 for details about respondents). Twelve of these persons have been interviewed twice 30, in view of their key role in the emergence, development or implementation of the Social OMC. This means that the total number of individual respondents is 104 (which is – coincidentally – also the exact number of interviews), as can be seen in Table 7.

In terms of timing, the interviews rounds were scheduled as follows:

- A first wave of 51 interviews was conducted between April and December 2007, mainly providing information about the preparation of the 2006-2008 National Strategic Report, and the impact of the OMC until that moment (table D in Annex 3);

29 The questions were initially drawn up (in English) by PPMI (2010) in the context of a Commission-funded OMC Assessment, see section 1.5.4 below.

30 These names are indicated with an asterisk [*] in the third column in the tables in Annex 3 (e.g. Jim Allen, respondent 1 and 2 in table A).
• Some 12 interviews between February 2008 and May 2009 with respondents working with the ESF constituted a second wave, providing key insights into the interaction between open coordination and this financial instrument (table C in Annex 3);
• A third round of 21 interviews was conducted in November and December 2010, providing insights in the 2008-2010 reporting exercise and the more recent impact of the Social OMC (table B in Annex 3);
• A fourth and final wave of 20 interviews took place between November 2011 and December 2013, providing insights about developments occurring under the Europe 2020 framework (table A in Annex 3).

Table 7  Four waves of interviews 2007-2013

<table>
<thead>
<tr>
<th>Period</th>
<th>2007</th>
<th>2008-2009</th>
<th>2010</th>
<th>2011-2013</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of interviews</td>
<td>51</td>
<td>12</td>
<td>21</td>
<td>20</td>
<td>104</td>
</tr>
</tbody>
</table>

1.5.4 Online survey

As indicated in section 1.5.3, the 2010 round of interviews was complemented by a limited online survey\(^{31}\) which contained the closed questions of an interview questionnaire (see Annex 4 for the detailed questions) provided by the Public Policy and Management Institute (PPMI, 2010) in the context of an OMC assessment for the European Commission (PPMI, 2011). The survey covers the five blocks of questions discussed in section 1.5.3 above\(^{32}\). I translated the questionnaire from English to Dutch and French and further refined the questions after having tested both language versions with selected respondents. The on-line survey was completed – between November and December 2010 – by 59 experts working in the three policy fields. These included the 20 people that were interviewed in 2010\(^{33}\). As can be told from Graph 1, some 20 respondents indicated to have their primary expertise in health care; roughly the same number are primarily pensions experts, while 35 are social inclusion experts. Since some people indicated more than one area of ‘primary expertise’, the absolute numbers in the graph add up to more than 59. The online survey results are discussed in chapter 5, and have been analysed in detail in Vanhercke (2011a).

\(^{31}\) The survey was made available through LimeSurvey, a free and open source on-line survey application.

\(^{32}\) The five blocks of questions relate to (a) the operation of the NSR process, (b) involvement in EU-level mutual learning, (c) substantive impacts, (d) procedural impacts of the social OMC, and (e) assessment of EU-level decisions.

\(^{33}\) All but one of the experts interviewed in 2010 completed the closed questions of the online survey before the interview, so that the interview itself could be concentrated on the open questions, as explained in section 1.5.3 above.
1.5.5 Media content analysis and website research

For the assessment of visibility and awareness of the Social OMC in the media, I confined myself to written documents in leading newspapers and magazines. Such an assessment needs to take into account the large differences in accessibility of information between the Dutch-speaking (Flemish) and Francophone press. As regards Flemish newspapers and magazines, an internet database (www.mediargus.be) contains the full-text articles of the most important newspapers and magazines. In the French-speaking part of Belgium, such a database does not exist – except for some magazines (also www.mediargus.be). Articles (or, more often, parts thereof) were therefore accessed through the websites of individual newspapers. The following key words were used: Open Method of Coordination/OMC; Joint Report; Common Objectives; Peer Review (direct references to OMC); and at-risk-of-poverty; child poverty; Flexicurity; Active ageing; Lisbon Strategy (indirect references to OMC).

The assessment of visibility and awareness of the Social OMC was further completed by scanning a range of websites (see Annex 5 for more details). Roughly speaking, websites in Belgium that relate to the Social OMC can be divided into three broad categories (for website URL’s, see Vanhercke, 2011a):

- I label a first, strictly limited category, as ‘Social OMC resource websites’. Websites within this category contain extensive information on one or more of the key features (indicators, National Action Plans etc.) of one or several of the strands. They may also contain a variety of articles about the operation and impact of the Social OMC.
- A second category of Belgian websites could be termed as ‘Social OMC Light websites’: the Social OMC or its instruments are discussed on these websites, but on an occasional and irregular basis, typically referring to specific events or giving attention to the topic at given times (e.g. Belgian Presidency of the EU, publication of a Commission Communication etc.).
- A third category can be called ‘Social OMC Trickling down websites’: some references are made here to some of the OMC tools or concepts (child poverty, replacement rates etc.), with the process itself being referred to once, or not at all.

In sum, the empirical analysis in this PhD draws on different sources: systematic document analysis and literature review are combined with semi-structured interviews with 104 individual respondents with a different degree of involvement in the OMC; other information comes from on-line survey replies from nearly 60 experts, media content analysis and website research. Taken together, these sources allow to check the results (triangulate): I corroborated any of claims of ‘smoking guns’ made by respondents by tracing them back in time and confronting them, first, with the views of other interviewees and, second, with as many available sources as possible.

Before embarking on a detailed process tracing of the emergence, institutionalization and operation (adequacy and impact) of the three strands of the Social OMC, some acknowledgements are needed.
1.6 PhD outline and acknowledgements

This final section introduces the substantive chapters to this PhD, and provides acknowledgements as well as publication details for each of them.34

The present Introductory chapter partly (and notably section 1.1) draws on the sections I authored in the report for Friends of Europe on ‘A European Social Union. 10 Tough Nuts to Crack’ (Vandenbroucke, F. with Vanhercke, B., 2014). It also builds on joint work in the context of the ‘European tools for social policy in Belgium’ (ETOS.be) research project funded by the Belgian Federal Science Policy Office (2006 – 2009). I am particularly grateful to Gert Verschraegen, Mieke Beckers and Philippe Reyniers for the collaborative research effort. The results of the ETOS.be project led to various publications, including ‘L’Europe sociale en Belgique: emploi et inclusion sociale au prisme de L’européanisation’ which was published in French and Dutch – in the Revue Belge de Sécurité Sociale (Vanhercke et al., 2011a). The full report came out as an edited book (‘L’Europe en Belgique, la Belgique dans l’Europe. Configuration et appropriation des politiques sociales’) with Academia Press (Vanhercke et al., 2011b). These publication also laid the foundation for a special issue of the Tijdschrift voor Sociologie on ‘Europese integratie en europeanisering: sociologische perspectieven’ (Verschraegen and Vanhercke, 2011a,b). Finally, I drew on a European Commission-funded project which assessed the adequacy and impact of the Social OMC (see the section on Chapter 5 below).

Chapter 2 – Political spill-over, changing advocacy coalition, path dependency or domestic politics? – is a single-authored paper (Vanhercke, 2006a) that I presented at the Conference on Governing Work and Welfare in an Enlarged Europe, University of Wisconsin – Madison, 19-20 May 2006, organised by Jontahan Zeitlin. I have updated the paper with a view to include some of the generous comments I received from Alexander Caviedes, Maurizio Ferrera (who pointed me to An Instance of the Fingerpost by Iain Pears), Mariely López-Santana, Laura Nistor, Jesse Norris and the other participants to this formative graduate student conference. A second round of revisions of this chapter followed after the NEWGOV/CONNEX Training Course on ‘New Modes of Governance: Theoretical Approaches and Research Methods’ (Florence, 26-30 June 2006) organised by Jelle Visser. Adrienne Héritier, Wolfgang Wessels, Elisavetta Radulova (who introduced me to the ‘legalisation’ perspective), Anne Meuwese, Claudia Schrag (from whom I learned a lot about the construction of the EU’s legitimacy) and the other participants in the seminar contributed to clarify key concepts. I further elaborated the story of the emergence of the Social OMC in a European Commission report on ‘Social Policy at EU Level: From the Anti-Poverty Programmes to Europe 2020’ (Vanhercke, 2012). Denis Crowley, Isabelle Maquet and

---

34 Where relevant, this section highlights my other OMC-related publications which are not part of this PhD. My earlier publications addressed the potential impact of the launch of Economic and Monetary Union on social protection systems in the EU (Pochet and Vanhercke, 1998; Vanhercke, 1998; Vanhercke, 1999) and the role of the local Public Centres for Social Assistance (CPAS) in providing access to health care for welfare beneficiaries (Herscovovi et al., 1996; Vranken et al., 1998). More recent publications pertain to Social Investment strategy (Bouget et al., 2015) and the impact of the crisis on fundamental rights (Ghailani with Vanhercke, 2015).
other European Commission officials generously shared their rich inside knowledge of the OMCs origins during an expert seminar on the topic at DG EMPL in December 2012.


Chapter 4 – Benchmarking Social Europe a Decade on: Demystifying the OMC’s Learning Tools – has been published as a first-authored chapter (Vanhercke and Lelie, 2012) in a book edited by Alan Fenna and Felix Knuepling, who provided invaluable Peer Review. The book was published by the Australian Productivity Commission, which also hosted a conference organised by the Forum of Federations on ‘Benchmarking in Federal Systems’ in Melbourne (19-20 December 2010). Lawrence McDonald, Jeremy Veillard, Kenneth Wong and other participants to this conference provided rich inputs for the chapter and made me realise that the OMC is being studied – with considerable envy – at the other side of the world. With Amy Verdun, Donna Wood and Madeleine Read I discovered, in the context of the Canada-Europe Transatlantic Dialogue, that there is a great potential for policy in this area between Canada and the EU (Vanhercke and Read, 2015). Peter Lelie and I have further elaborated the research on the OMCs learning tools in an OSE Working paper (Lelie and Vanhercke, 2013) on ‘Inside the Social OMC’s Learning Tools: How “Benchmarking Social Europe” really works’. Several co-authored deliverables with Sebastiano Sabato for a European Commission-funded project on mutual learning in the context of the PROGRESS Peer Reviews, allowed me to further deepen this side of the OMC story (OSE and PPMI, 2012a, b, c)35.

Chapter 5 – Delivering the Goods for Europe 2020? The Social OMC’s Adequacy and Impact Re-Assessed – was published as a single-authored peer-reviewed book chapter (Vanhercke, 2010b) in and edited volume by Eric Marlier and David Natali with Rudi van Dam (Peter Lang)36. The empirical analysis in chapter 5 resulted from my participation in the abovementioned Commission-funded project (coordinated by PPMI) on ‘Assessing the effectiveness and the impact of the Social OMC in preparation of the new cycle’, and more particularly my own deliverable providing a ‘State of the Art Analytic Overview of Evaluation Results of the Social OMC’ (Vanhercke, 2010a). I much enjoyed working closely together with Jonathan Zeitlin and Egidijus Barcevicius, who played the first violins in the OMC assessment, as well as with Caroline

35 For this project, I also conducted an in-depth analysis, with Charlotte Hick and Teresa Wennerholm Čáslavská, of a Peer Review on the NAPInclusion Social Inclusion Forum in Ireland in 2007 (Vanhercke et al. 2012a).

36 I co-authored another chapter in that same edited volume (Frazer et al., 2010).
Setting the scene

de la Porte and Timo Weishaupt. More recently I concluded, together with Sebastiano Sabato, that it would be a pity to throw away the European Platform Against Poverty (EPAP) with the bathwater (Sabato and Vanhercke, 2014).


Chapter 7 – Against the Odds. The OMC as a Selective Amplifier for Reforming Belgian Pension Policies – was published as a single-authored journal article (Vanhercke, 2009b), in a special issue of the European Integration online Papers, edited by Sandra Kröger. The participants in the Workshop on ‘The OMC within the Lisbon Strategy: Empirical assessments and theoretical implications’ (Vienna, 28-29 November 2008) provided essential – and sometimes skeptical – feedback. Milena Büchs, Mark Dawson, Mark Flear, Anna Horvath, Oliver Treib and most importantly Sandra Kröger herself importantly contributed to developing a stronger case about the operation of the Pensions OMC ‘on the ground’.

Chapter 8 – The OMC and Beyond: ‘Soft-to-Hard-to-Soft’ Governance of Health Care in the EU – was published as a first-authored peer-reviewed book chapter (Vanhercke and Wegener, 2012), in an edited volume by Bea Cantillon, Herwig Verschueren and Paula Ploscar (Intersentia). The chapter benefitted from the editors’ feedback as well as from the expert seminar they organised on ‘Social Inclusion and Social Protection in the EU: Interactions between Law and Politics’ (February 10/11, 2011): this seminar contributed to reconciling my ‘new governance’ with a ‘legalisation’ perspective. Chapter 8 also benefited a great deal from two earlier chapters which I had the pleasure of co-authoring with, first, Tammy Hervey on ‘Healthcare and the EU: the Law and Policy Patchwork’ (Hervey and Vanhercke, 2010); and, second, with Scott Greer on ‘The Hard Politics of Soft Law: the Case of Health’ (Greer and Vanhercke, 2010). Those two book chapters were published as an outcome of a research project funded by the INAMI/RIZIV, in the milestone Belgian Presidency of the EU book edited by Elias Mossialos, Govin Permanand, Rita Baeten and Tammy Hervey on health system governance in Europe (Cambridge University Press). I have further deepened the analysis of ‘The Europeanisation of National Health Care

37 I summarised the key findings (in Dutch) in Vanhercke, B. (2009a).
38 With Sebastiano Cincinnato and Ides Nicaise I wrote a report on behalf of the European Commission on the awareness, perception, strengths and weaknesses of the she Social Inclusion strand (Vanhercke et al., 2008).
Systems: Creative Adaptation in the Shadow of Patient Mobility Case Law’ with Rita Baeten and Michael Coucheir (Baeten et al., 2010). Together with Jo De Cock, Nick Fahy and Miek Peeters, these experts have been fellow travelers and critical observers of my take on the role of the EU in health issues\(^{39}\).

Gert Verschraegen, Rika Verpoorten and I co-authored (in the aftermath of the abovementioned ETOS.be project) **Chapter 9 – The European Social Fund and Domestic Activation Policies: Europeanisation Mechanisms** – which appeared in the *Journal of European Social Policy* (Verschraegen et al., 2011). I continued working on the topic with Minna Van Gerven and Susanna Gürocak, with whom I recently co-authored an article on ‘Policy learning, aid conditionality or domestic politics? The Europeanisation of Dutch and Spanish activation policies through the European Social Fund’, in the *Journal of European Public Policy* (Van Gerven et al. 2014)\(^{40}\). Other collaborative work with Ramon Peña-Casas and Matthieu Paillet on the new European budget (‘Au-delà des postures: vers un budget européen social et durable’) was published as Vanhercke et al. (2012b).

The **Conclusions** of this PhD (chapter 10) partly draw on my peer-reviewed book chapter ‘An OMC for All Policies: Is Belgium (still) the Best Pupil in the Class?’ (Vanhercke, 2014a), which was published in an edited volume by Egidijus Barcevicius, Timo Weishaupt and Jonathan Zeitlin (Palgrave), who provided helpful feedback\(^{41}\). The Belgian case study originates from the abovementioned Belgian Country study of the European Commission-funded assessment of the adequacy and impact of the Social OMC (Vanhercke, 2011a). The more recent developments in the Social OMC under the Europe 2020 Strategy have been further elaborated in several publications. These include two single-authored chapters: ‘The Social Dimension of Europe 2020: an Oxymoron?’ (Vanhercke, 2011b) and ‘Under the radar? EU social policy in times of austerity’ (Vanhercke, 2013a)\(^{42}\); the latter drew on joint research with Jonathan Zeitlin. Both chapters were published in (the 2011 and 2013 editions of) the European Social Observatory/European Trade Union Institute *Social developments in the European Union* books. David Natali and I edited the 2012 and 2013 editions of this annual volume (Natali and Vanhercke, 2012a; Natali and Vanhercke 2013a)\(^{43}\). As mentioned above, a broad and forward-looking perspective on Social Europe is developed in Vandenbroucke, F. with Vanhercke, B. (2014)\(^{44}\), while Jonathan Zeitlin and I assessed the socialization of the European Semester (Zeitlin and Vanhercke, 2014).

\(^{39}\) This also resulted in a Discussion Paper (Farrer et al., 2011) on ‘Macro Drivers of Health Equity’ (EuroHealthNet and OSE).

\(^{40}\) I started publishing on ‘Local social policy under the radar. Activating social inclusion through the European Social Fund’ with Geert Campaert (Vanhercke and Campaert, 2009).

\(^{41}\) A more detailed and updated version of this chapter has been published in the *Revue Belge de Sécurité Sociale* (Vanhercke, 2013b).

\(^{42}\) An updated version of this book chapter was published in Duth (‘De januskop van de Europese armoedebestrijding: sociaal beleid in tijden van crisis’) as Vanhercke and Verschraegen (2013).

\(^{43}\) We equally co-authored the introductory chapters to each of them (Natali and Vanhercke, 2012b; Natali and Vanhercke 2013b).

\(^{44}\) A shorter version of this report has been published as Vandenbroucke et al. (2014).
This introduction has shown that the OMC and its instruments do not transcend the strategies and calculations of EU institutions, states and interest groups. Rather, like other new governance mechanisms and their products, they are deeply affected by those interplays. In the following chapters I will show that new governance in the Open Method of Coordination is intensely linked with 'hard' politics.

References


Council of the European Union (2013), 'European Semester – Roadmap on the implementation of the 2014 European Semester’, Doc. 6359/13, 18 November.


Annex 1. Analytical table of reviewed literature

The table below was completed for each of the reviewed documents, with a view to providing a systematic overview of the authors, the main objectives of their research, the approach taken, the geographical coverage and the years considered etc. Particular attention is paid to the way in which their research is carried out (operationalization, methods).

<table>
<thead>
<tr>
<th>Author (source)</th>
<th>Social OMC strand</th>
<th>Goal &amp; Approach</th>
<th>Theoretical Concepts [Evaluation Quest.]</th>
<th>Operationalisation (definitions)</th>
<th>Indicators (success criteria)</th>
<th>Evaluation Results and Mechanisms</th>
<th>Methods (tools)</th>
<th>Comments (+/-)</th>
<th>Years</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stakeholders</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(EU/Nat)</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>European</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commission</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU Committees</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>governments</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other experts</td>
<td></td>
<td>Source 1</td>
<td>Source 2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Annex 2: Summary/analytical table: definition of terms

The table in Annex 1 offers insights into, first, the ‘adequacy’ of the Social OMC, which is defined as the extent to which the OMC’s architecture (institutional setup) is likely to contribute to reaching its objectives at EU and national level. Second, it provides evidence of the ‘impact’ of the Social OMC, which I have defined as the extent to which the Social OMC has actually influenced policies and policy-making processes at EU and national level.

The table has been completed with more than 60 sources (see Box 1 in section 5.2.2), so as provide a snapshot overview of the authors, the main objectives of their research, the approach taken, the geographical coverage and the years considered. Particular attention is paid to the way in which their research is carried out. In collaboration with Caroline de la Porte, I entered information into the columns as follows:

1) **Author (source).** Lists sources by the following categories: academic, stakeholders, EU committees, other experts. Within each category authors are classified by their last name and year. Full bibliographic information is provided in a full List of References.

2) **Social OMC strand & Focus.** Distinguishes between the Social Inclusion (Incl), Pensions (Pens) and Healthcare (Health) strands of the social protection and Social Inclusion OMC (SPSI). The parentheses below the Social OMC strand indicates the focus within the respective study, if relevant.

3) **Article Goal & Approach.** This column summarizes (in one sentence) the main goal of the source, and if appropriate – assigns it article to one of five broad categories of approaches to the study of the OMC, namely:

   a) **Historical approach (H):** literature on how the OMC developed in a particular policy field on the EU level (or comparing emerging coordination processes in separate fields) and how it was accepted by the Member States, providing detailed descriptions of process modalities and actors involved. Mostly based on secondary empirical data and document analysis.

   b) **Theory-generating or theory-testing approach (T)** seeks to explain why such methods emerged (theory generating) and ‘tests’ existing theories/hypotheses of OMC impact and adequacy. These theoretical studies may compare and characterize the method in the light of other (more binding) modes of policy-making.

   c) **The Normative approach (N)** analyses the OMC from the perspective of normative ambitions. Some of this literature has focused on the democratic quality of the method, and its ability to become a more legitimate European policy-making tool, and thus serve as a solution to democratic deficit problem in the EU. A large amount of this literature deals with the OMC as a new mode of multi-level or experimentalist governance in the EU.

   d) **Empirical (or Policy change) approach (E).** At the heart of this line of research is an attempt to evaluate method’s real power to trigger policy change in the Member States. This literature tries to understand the causal mechanisms that facilitate the OMC impact on policy-making, its capacity to achieve its goals, and the kind of impact that should be considered as ‘triggered by OMC’.

   e) **Advocacy (A).** An advocacy document has been written with the main aim of raising a policy issue on the political agenda (uploading): it would like the OMC to work towards a certain policy aim or set of policy aims. This may involve highlighting certain tools of the OMC, to facilitate that
process. However, an advocacy coalition can also build on empirical knowledge, and it is relevant to analyse these documents.

(4) Theoretical Concepts & Evaluation Question Number

This column first of all identifies ‘meso concepts’, which we define as ‘analytical categories that can be used to capture the adequacy or impact of OMC: and/or allow identifying indicators and causal mechanisms’ (thereby excluding meta-theories and approaches). These meso concepts include – but are not restricted to – concepts such as:

a) Policy diffusion (including mechanisms such as learning, benchmarking or peer pressure)

b) Learning (from past experiences, with and from others)

c) Deliberation (challenges pre-conceived notions) and Diagnostic monitoring (adequacy of common indicators, patterns of their usage)

d) Socialization (legitimation, peer pressure, self-reinforcement, logic of appropriateness...)

e) Framing (agenda setting, empowerment of actors, limiting courses of action, identification of ‘good’ and ‘bad’ policy...)

f) Creative appropriation (leverage)

g) Mutual reinforcement/ feeding in and feeding out between Social OMC and other EU policy areas

h) Institutional change (changing actor configurations and policy-making practices in domestic or EU policy making)

→ Secondly, this column assigns, when applicable and unambiguously identifiable, Evaluation Question numbers. These are as follows:

Adequacy of communication
E1 – Visibility and awareness.

Adequacy of coordinating the OMC process at the EU level
E2 – Pertinence, clarity and operational value of OMC common objectives, messages, recommendations (on EU and national level), including for consensus framing;
E3 – Adequacy of National Strategy reports and adequacy of guidance notes for the reports;
E4 – Adequacy of the process for analysing reports, consulting with MS/other stakeholders and drawing conclusions (including technical aspects thereof such as evaluation grids, balance between quantitative and qualitative analysis, balance between stability over time and ability to focus on topical issues);
E5 – Capacity of the process to stimulate a genuine policy debate and build consensus around promising policy approaches.

Adequacy of features of the OMC process:
E6 – Reporting cycle
E7 – Adequacy of the linkages between policy strands within the OMC and with other policy areas at EU level (mutual reinforcement, feeding in/out)
E8 – Consistency and adequacy of the set of common indicators as tools for measuring progress towards the common objectives, and for providing useful guidance for self-corrective action by domestic actors (‘diagnostic monitoring’)

45 Note that at the time of coding we used the term ‘Effectiveness’ of the OMC, rather than the (more appropriate) ‘Adequacy’. Hence all these codes related to adequacy start with an ‘E’.
E9 – OMC tools available for mutual learning

**Impact on substantive policy change at the national level**

I1 – Maintaining or enhancing commitment to the subject-matter of the OMC in the political agenda
I2 – Putting new issues on national political agenda
I3 – Use of OMC concepts, indicators and categories into in domestic policy making
I4 – Effective take-up of EU recommended policies (reception and implementation of policy
Recommendations)
I5 – Stimulation of self-reflection on national performance and independent policy initiatives by domestic
actors (creative appropriation)

**Impact on process of national policy making (governance/ procedural shifts):**

I6 – Extent of integration of OMC process in the national policy process;
I7 – Strategic approach (planning, targeting, resources assigned, policy analysis);
I8 – Multidimensional, horizontally integrated policymaking (horizontal coordination, streamlining,
mutual positive interaction with growth and jobs policies, mainstreaming);
I9 – Multilevel, vertically integrated policy (national, regional and local level);
I10 – Evidence-based policymaking (monitoring and evaluation, use of indicators, data sources and
analytical capacity);
I11 – Stakeholder involvement in policy making process (quality of involvement throughout the policy
cycle).

(5) **Evaluation Results and mechanisms:** this column identifies main mechanisms inducing (or
preventing) change by the OMC at the national or EU level. Dimensions of ‘mechanisms’ may include
(*but are not limited to*):

a) Agency/leverage
b) Socialization and discursive diffusion
c) Mutual learning
d) Naming/shaming/blaming/faming
e) Shaping/uploading

This column also highlights the **key research findings** of the sources.

(6) **Main Methods and Associated Tools:**

a) Qualitative: Content analysis (evaluation of primary and/or secondary sources);
b) Qualitative: Interviews (standardized questions, semi-structured, open);
c) Qualitative: Survey (email, mail, phone, in person);
d) Quantitative: (e.g., regression analysis, maximum likelihood estimations, event history model).

(7) **Comments:** this column includes comments on the respective article's value, e.g., when striking
research findings are presented, comprehensive conceptual frameworks and/or ‘innovative’
quantifiable indicators are used etc.

(8) **Year:** this column lists the years of reference for OMC study.

(9) **Country:** this column lists the countries studied in an article/report.

As explained in section 5.3, a large number of semi-structured interviews have been conducted for the sake of this PhD in the time span 2007 - 2013: in total 116 persons have been interviewed. Twelve of these persons were interviewed twice (they are indicated with an asterisk [*] in the tables below), in view of their key role in the emergence, development or implementation of the Social OMC. This means that the total number of individual respondents is 104.

The tables below provides an overview of all interviewed persons, for which the following information is made available:

1. Interview number (1-104).
2. Name and surname: respondents are listed by alphabetical order of surname, within each of the indicated periods ('waves'). As a rule, there is one respondent in each interview, but in several cases there were two respondents.
3. Position: the respondent’s most relevant function(s), either at the time of the interview or at an earlier stage of the respondent’s career, if this is relevant for the purpose of the research.
4. Institution/Organisation: affiliation at the time of the interview, or at an earlier stage of the respondent's career if relevant for the purpose of the research.
5. Mode of the interview: as a rule, interviews were conducted face-to-face, but occasionally Skype or phone were used.
6. ‘Circle’ of involvement (‘1’, ‘2’ or ‘3’, as explained in section 5.3.1): indicated between brackets below the ‘mode’ of the interview in the second-to-last column in the tables.
7. Field of expertise (indicated between brackets below the ‘mode’ of the interview in the second-to-last column in the tables). This category indicates the primary expertise of the interviewees: Social Protection and Social Inclusion (SPSI), Social Inclusion (SI), Pensions (PENS), Healthcare (HC), Employment (EMPL), Europe 2020 (EU2020) and European Social Fund (ESF).
8. Place/date of the interview: as a rule, interviews were conducted in Brussels, but there were some (rare) exceptions, mostly concerning interviews with people managing local ESF programmes.
<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview (‘Circle’)(Exp.)</th>
<th>Place/date of interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Jim</td>
<td>ALLEN</td>
<td>Employment Strategy Unit</td>
<td>DG EMPL, European Commission</td>
<td>Face-to-Face (1) (EMPL)</td>
<td>Brussels, 29/05/2013</td>
</tr>
<tr>
<td>2.</td>
<td>[Jim ALLEN]</td>
<td></td>
<td>Employment Strategy Unit</td>
<td>DG Employment, European Commission</td>
<td>Face-to-Face</td>
<td>Brussels, 03/07/2012</td>
</tr>
<tr>
<td>3.</td>
<td>Michiel</td>
<td>BERREVOETS</td>
<td>Assistant to Lieve Fransen</td>
<td>DG EMPL, European Commission</td>
<td>Face-to-Face (1) (SPSI)</td>
<td>Brussels, 24/05/2013</td>
</tr>
<tr>
<td>4.</td>
<td>Tom</td>
<td>BEVERS</td>
<td>EMCO Chair</td>
<td>Federal Public Service (‘Ministry’) Employment, Labour and Social Dialogue</td>
<td>Face-to-face (1) (EMPL)</td>
<td>Brussels, 1/07/2013</td>
</tr>
<tr>
<td>5.</td>
<td>Michele</td>
<td>CALANDRINO</td>
<td>Policy Coordinator</td>
<td>Secretariat General, European Commission</td>
<td>Face-to-face (1) (EU2020)</td>
<td>Brussels, 15/05/2012</td>
</tr>
<tr>
<td>7.</td>
<td>Tom</td>
<td>DOMINIQUE</td>
<td>SPC Chair</td>
<td>Premier Conseiller de Gouvernement, Ministère de la Sécurité sociale, Luxembourg</td>
<td>Face-to-Face (1) (SPSI)</td>
<td>Brussels, 07/11/2013</td>
</tr>
<tr>
<td>8.</td>
<td>Georg</td>
<td>FISCHER</td>
<td>Director</td>
<td>DG Employment, European Commission</td>
<td>Face-to-face (1) (SPSI)</td>
<td>Brussels, 13/05/2012</td>
</tr>
<tr>
<td>10.</td>
<td>Renate</td>
<td>HAUPFLEISCH</td>
<td>Peer Review Manager</td>
<td>ÖSB Consulting GmbH</td>
<td>Skype (3) (SPSI)</td>
<td>17/10/2011</td>
</tr>
<tr>
<td>11.</td>
<td>Egbert</td>
<td>HOLTHUIS</td>
<td>Head of Unit EMPL/D1</td>
<td>DG Employment, European Commission</td>
<td>Face-to-face (1) (SPSI)</td>
<td>Brussels, 15/06/2012</td>
</tr>
</tbody>
</table>
Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance

Table A. Interviews 2011-2013 (continued)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview ('Circle')(Exp.)</th>
<th>Place/date of interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.</td>
<td>Sian</td>
<td>JONES</td>
<td>Policy officer</td>
<td>European Anti-Poverty Network</td>
<td>Face-to-Face (1)(SI)</td>
<td>Brussels, 16/12/2013</td>
</tr>
<tr>
<td>13.</td>
<td>Peter</td>
<td>LELIE</td>
<td>Former ISG member; Advisor</td>
<td>Federal Public Service ('Ministry') for Social Security; Former Policy Officer DG EMPL</td>
<td>Face-to-Face (1)(SI)</td>
<td>01/02/2012</td>
</tr>
<tr>
<td>14.</td>
<td>Isabelle</td>
<td>MAQUET</td>
<td>Deputy Head of Unit, Social Analysis</td>
<td>DG EMPL, European Commission; Former ISG Chair</td>
<td>Face-to-face (1) (SI)</td>
<td>Brussels, 24/05/2013</td>
</tr>
<tr>
<td>15.</td>
<td>Isabelle</td>
<td>*MAQUET</td>
<td>Deputy Head of Unit, Social Analysis</td>
<td>DG Employment, European Commission; Former ISG Chair</td>
<td>Face-to-face</td>
<td>Brussels, 12/06/2012</td>
</tr>
<tr>
<td>16.</td>
<td>Annemie</td>
<td>PERNOT</td>
<td>Labour Attaché</td>
<td>Permanent Representation of Belgium to the EU</td>
<td>Face-to-face (3) (EMPL)</td>
<td>Brussels, 15/07/2013</td>
</tr>
<tr>
<td>17.</td>
<td>Didier</td>
<td>SEEUWS</td>
<td>Special Advisor</td>
<td>Cabinet of President Van Rompuy</td>
<td>Face-to-face (3)(EU2020)</td>
<td>Brussels, 29/05/2012</td>
</tr>
<tr>
<td>18.</td>
<td>Michel</td>
<td>SERVOZ</td>
<td>Director Policy coordination</td>
<td>Secretariat General, European Commission</td>
<td>Face-to-face (1) (EU2020)</td>
<td>Brussels, 27/06/2013</td>
</tr>
<tr>
<td>19.</td>
<td>André</td>
<td>SIMON</td>
<td>Alternate EMCO Member; General Advisor</td>
<td>Belgian Federal Public Service ('Ministry') for Employment, Labour and Social Dialogue</td>
<td>Face-to-Face (2)(EMPL)</td>
<td>Brussels, 23/05/2013</td>
</tr>
</tbody>
</table>
Table B. Interviews 2010 (including online survey respondents) (in alphabetical order of surname)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview ('Circle') (Exp.)</th>
<th>Place/date of interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>Bernadette</td>
<td>ADNET</td>
<td>Senior Advisor</td>
<td>Federation of Belgian Enterprises (VBO/FEB)</td>
<td>Face-to-Face (3)(PENS)</td>
<td>Brussels, 30/11/2010</td>
</tr>
<tr>
<td>22</td>
<td>Sébastien</td>
<td>BASTAITS</td>
<td>Advisor</td>
<td>Former Advisor in the Federal Public Service ('Ministry') for Social Security and Coordinator of the healthcare chapter of the NSR</td>
<td>Face-to-Face (2)(HC)</td>
<td>Brussels, 02/12/2010</td>
</tr>
<tr>
<td>23</td>
<td>Henk</td>
<td>BECQUAERT</td>
<td>Member of the Management Committee</td>
<td>Banking, Finance and Insurance Commission (CBFA); Formerly Head of Cabinet to the Minister for Social Affairs and Pensions (Frank Vandenbroucke)</td>
<td>Face-to-Face (2)(PENS)</td>
<td>Brussels, 30/11/2010</td>
</tr>
<tr>
<td>24</td>
<td>Estelle</td>
<td>CEULEMANS</td>
<td>Advisor</td>
<td>Studies Department, Belgian General Federation of Labour (ABVV-FGTB)</td>
<td>Face-to-Face (3)(PENS)</td>
<td>Brussels, 30/11/2010</td>
</tr>
<tr>
<td>25</td>
<td>Koen</td>
<td>DRESSELAERS</td>
<td>Director of the Social Department</td>
<td>Public Centre for Social Welfare (OCMW – CPAS) of Leuven</td>
<td>Face-to-Face (3)(ESF)</td>
<td>Leuven, 30/11/2010</td>
</tr>
<tr>
<td>26</td>
<td>Hans</td>
<td>GHOOS</td>
<td>Secretary</td>
<td>Public Centre for Social Welfare (OCMW – CPAS) of Laakdal</td>
<td>Phone (3)(ESF)</td>
<td>Leuven, 23/12/2010</td>
</tr>
<tr>
<td>27</td>
<td>Josée</td>
<td>GORIS</td>
<td>Head of Anti-Poverty Policy Unit</td>
<td>Planning Public Service ('Ministry') for Social Integration, Combating Poverty and Social Economy; Coordinator of the NAP/Incl (Federal)</td>
<td>Face-to-Face (2)(SI)</td>
<td>Brussels, 29/11/2010</td>
</tr>
<tr>
<td>28</td>
<td>Renaud</td>
<td>GOSSELIN</td>
<td>Advisor</td>
<td>Cabinet to the Belgian Minister for Pensions and Large Cities (Michel Daerden)</td>
<td>Face-to-Face (2)(PENS)</td>
<td>Brussels, 09/12/2010</td>
</tr>
<tr>
<td>29</td>
<td>Carine</td>
<td>JANSEN</td>
<td>Interim Director</td>
<td>Interdepartmental Directorate for Social Integration, Ministry of the Walloon Region</td>
<td>Face-to-Face (3)(SI)</td>
<td>Brussels, 29/11/2010</td>
</tr>
<tr>
<td>30</td>
<td>Steven</td>
<td>JANSSEN</td>
<td>General Director</td>
<td>SIGEDIS (Individual pensions Data); Former Head of Cabinet to the Belgian Federal Minister for the Environment and Pensions</td>
<td>Face-to-Face (3)(PENS)</td>
<td>Brussels, 30/11/2010</td>
</tr>
<tr>
<td>31</td>
<td>Hendrik</td>
<td>LARMUSSEAU</td>
<td>Former Director General</td>
<td>Federal Public Service ('Ministry') for Social Security; Coordinator of the Pensions chapter of the NSR</td>
<td>Face-to-Face (2)(PENS)</td>
<td>Brussels, 14/12/2010</td>
</tr>
<tr>
<td>32</td>
<td>Ine/Ilse</td>
<td>LAVRIJSSEN DE MECHLEER</td>
<td>Policy Officer EU policies Team Leader</td>
<td>DG EMPL</td>
<td>Face-to-Face (3)(ESF)</td>
<td>01/02/2010</td>
</tr>
<tr>
<td>33</td>
<td>[Peter]</td>
<td>LELIE*</td>
<td>Former ISG member ; Advisor</td>
<td>Federal Public Service ('Ministry') for Social Security; Former Policy Officer, DG EMPL</td>
<td>Face-to-Face (3)(ESF)</td>
<td>Brussels, 29/11/2010</td>
</tr>
<tr>
<td>34</td>
<td>Dirk</td>
<td>MOENS</td>
<td>Advisor of International Affairs</td>
<td>Federal Public Service ('Ministry') for Social Security; key contributor to the Pensions chapter of the NSR</td>
<td>Face-to-Face (2)(PENS)</td>
<td>Brussels, 02/12/2010</td>
</tr>
</tbody>
</table>
## Table B. Interviews 2010 (continued)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview ('Circle')(Exp.)</th>
<th>Place/date of interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>35.</td>
<td>Ides</td>
<td>NICAISE</td>
<td>Chair</td>
<td>Belgian ‘Resource Centre for the fight against poverty, precariousness and social exclusion’; Belgian Member of the EU Network of Independent Experts on Social Inclusion</td>
<td>Face-to-Face (3) (SI)</td>
<td>Leuven, 26/11/2010</td>
</tr>
<tr>
<td>36.</td>
<td>Luc</td>
<td>NOTREDAME</td>
<td>Advisor</td>
<td>Cabinet of the Minister for the Environment, Energy, Urban Regeneration and Aid to Individuals of the Government of the Brussels-Capital Region (Evelyne Huytebroeck)</td>
<td>Face-to-Face (3) (SI)</td>
<td>Brussels, 06/12/2010</td>
</tr>
<tr>
<td>37.</td>
<td>Anette</td>
<td>PERDAENS</td>
<td>Director</td>
<td>Health and Social Observatory of Brussels Capital</td>
<td>Face-to-Face (2) (SI)</td>
<td>Brussels, 06/12/2010</td>
</tr>
<tr>
<td>38.</td>
<td>Truus</td>
<td>ROESEMS</td>
<td>Party secretary</td>
<td>Groen! (Belgian Green party); Former Scientific collaborator, Health and Social observatory of Brussels Capital</td>
<td>Face-to-Face (2) (SI)</td>
<td>Brussels, 25/11/2010</td>
</tr>
<tr>
<td>39.</td>
<td>Marleen</td>
<td>STEENBRUGGHE</td>
<td>Health Attaché</td>
<td>Permanent Representation of Belgium to the EU; Former Legal Advisor, Federal Public Service ('Ministry') Health</td>
<td>Face-to-Face (3)(HC)</td>
<td>Brussels, 10/12/2010</td>
</tr>
<tr>
<td>40.</td>
<td>Frank</td>
<td>VAN DEN BRANDEN</td>
<td>Policy collaborator</td>
<td>Flemish Government; Department of Welfare, Public Health and Family - Directorate Welfare and Society; coordinator of the Flemish contribution to the NAP/Incl</td>
<td>Face-to-Face (2) (SI)</td>
<td>Brussels, 14/12/2010</td>
</tr>
<tr>
<td>41.</td>
<td>Greet</td>
<td>VAN GOOL</td>
<td>SPC Member; Deputy Director</td>
<td>Cabinet to the Secretary of State for Social Affairs, in charge of disabled persons; Former Federal Government Commissioner attached to the Minister of Social Affairs and Pensions</td>
<td>Face-to-Face (2) (PENS)</td>
<td>Brussels, 09/12/2010</td>
</tr>
</tbody>
</table>
### Table C. Interviews 2008/2009 (in alphabetical order of surname)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview (‘Circle’)(Exp.)</th>
<th>Place/date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>42.</td>
<td>Tom Francis</td>
<td>BEVERS* SZABO</td>
<td>Alternate EMCO member Former Alternate EMCO member</td>
<td>General Advisor in the FPS for Employment, Labour and Social Dialogue General Advisors, Belgian Federal Public Service (FPS) for Employment, Labour and Social Dialogue</td>
<td>Face-to-Face (2)(EMPL)</td>
<td>Brussels, 28/02/2008</td>
</tr>
<tr>
<td>43.</td>
<td>Jean-Luc</td>
<td>BIENFET</td>
<td>Advisor</td>
<td>Planning Public Service ('Ministry') for Social Integration, Combating Poverty and Social Economy (ESF Unit)</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 25/02/2008</td>
</tr>
<tr>
<td>44.</td>
<td>Vincent</td>
<td>LIBERT</td>
<td>Responsible</td>
<td>Service Projets subsidiés – Public Centre for Social Welfare (CPAS) of Sint-Jans-Molenbeek</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 13/03/2008</td>
</tr>
<tr>
<td>45.</td>
<td>Eliza</td>
<td>CAYMAX</td>
<td>Secretary Former ESF-advisor</td>
<td>Public Centre for Social Welfare (CPAS) of Holsbeek Federal Minister for Employment and Labour (Miet Smet)</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 26/03/2008</td>
</tr>
<tr>
<td>46.</td>
<td>Ricardo</td>
<td>CHERENTI</td>
<td>Head of Service</td>
<td>Union of Walloon Cities and Municipalities (UVCW)</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Namur, 8/04/2008</td>
</tr>
<tr>
<td>47.</td>
<td>Idriss</td>
<td>IBNOU-CHEIKH</td>
<td>HR Manager Former ESF advisor</td>
<td>Public Centre for Social Welfare (CPAS) of Hasselt Flemish Association of Towns and Municipalities (VVSG)</td>
<td>Face-to-Face (3)(ESF)</td>
<td>Hasselt, 18/04/2008</td>
</tr>
<tr>
<td>48.</td>
<td>Eric</td>
<td>MARLIER</td>
<td>Member; International Senior Advisor</td>
<td>Indicators Subgroup (ISG) of the SPC; CEPS/INSTEAD</td>
<td>Face-to-Face (1) (SI)</td>
<td>Brussels, 31/03/2008</td>
</tr>
<tr>
<td>49.</td>
<td>Ann</td>
<td>NEELS</td>
<td>Director</td>
<td>Department for Social Integration, Public Centre for Social Welfare (CPAS) of Antwerp</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Antwerp, 21/04/2008</td>
</tr>
<tr>
<td>50.</td>
<td>Miet</td>
<td>SMET</td>
<td>Minister of State</td>
<td>Federal Minister for Employment and Labour</td>
<td>Face-to-Face (3)(EMPL)</td>
<td>Brussels, 05/06/2009</td>
</tr>
<tr>
<td>51.</td>
<td>Paul</td>
<td>VANDERMEEREN</td>
<td>Programme Manager - Policy Officer</td>
<td>European Commission – Employment and Social Affairs Directorate</td>
<td>Face-to-Face (3)(ESF)</td>
<td>Brussels, 19/03/2008</td>
</tr>
<tr>
<td>52.</td>
<td>Michel</td>
<td>VANHOLDER</td>
<td>Former Head of Cabinet</td>
<td>Former Head of Cabinet to the Federal Minister for Employment and Labour (Miet Smet)</td>
<td>Phone (3) (ESF)</td>
<td>29/05/2009</td>
</tr>
<tr>
<td>53.</td>
<td>Patricia</td>
<td>VROMAN</td>
<td>Policy Advisor</td>
<td>Work and Social Economy (WSE) Department of the Flemish Government Brussels Labour Market and Qualifications Observatory</td>
<td>Face-to-Face (3) (ESF) (3) (ESF)</td>
<td>Brussels, 13/03/2008</td>
</tr>
</tbody>
</table>
## Table D. Interviews 2007 (in alphabetical order of surname)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview (‘Circle’) (Exp.)</th>
<th>Place/date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>54</td>
<td>Raoul</td>
<td>BRIET</td>
<td>Former SPC Chair</td>
<td>Social Protection Committee; Chair of the Haute Autorité de Santé (HAS, France); Chair of the Supervisory Council for the French Pensions Reserve Fund</td>
<td>Face-to-Face (1) (SPSI)</td>
<td>Paris, 15/10/2007</td>
</tr>
<tr>
<td>55</td>
<td>Henri</td>
<td>BOGAERT</td>
<td>Former EPC Member and Chair; Commissioner</td>
<td>Economic Policy Committee; Chairman of the EPC Working Group on Ageing Population (AWG) Federal Planning Bureau</td>
<td>Face-to-Face (2) (PENS)</td>
<td>Brussels, 15/10/2007</td>
</tr>
<tr>
<td>56</td>
<td>Bert</td>
<td>BOONE</td>
<td>Director</td>
<td>ESF-Agency, Flanders</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 17/04/2007</td>
</tr>
<tr>
<td>57</td>
<td>Thérèse</td>
<td>BOUTSEN</td>
<td>Labour Attaché EMCO Member</td>
<td>Belgian Permanent representation to the EU; former Advisor to the Minister for Employment. EMCO Member</td>
<td>Face-to-Face (1) (EMPL)</td>
<td>Brussels, 8/06/2007</td>
</tr>
<tr>
<td>58</td>
<td>Gabrielle</td>
<td>CLOTUCHE</td>
<td>Former Director</td>
<td>DGV/E (Social Security and Social Integration); DG Social Affairs and Employment; European Commission; Lisbon Advisor ETUC</td>
<td>Face-to-Face (1) (SPSI)</td>
<td>Brussels, 9/10/2007</td>
</tr>
<tr>
<td>59</td>
<td>Guy</td>
<td>COX</td>
<td>Former Belgian EMCO Member; Director General</td>
<td>Employment Committee; Former Head of Cabinet of the Federal Minister for Employment Federal Public Service Employment, Labour and Social Dialogue</td>
<td>Face-to-Face (2) (EMPL)</td>
<td>Brussels, 4/12/2007</td>
</tr>
<tr>
<td>60</td>
<td>Dennis</td>
<td>CROWLEY</td>
<td>Former SPC Secretary</td>
<td>Assistant to the Director-General of Education and Culture</td>
<td>Face-to-Face (1) (SPSI)</td>
<td>Brussels, 11/09/2007</td>
</tr>
<tr>
<td>63</td>
<td>Lieve</td>
<td>DE GRANDE</td>
<td>Deputy Director; Coordinator</td>
<td>Family and Social Welfare Department, Ministry of the Flemish Community; Flemish contribution to the Belgian NAP/Incl</td>
<td>Face-to-Face (2) (SI)</td>
<td>Brussels, 27/3/2007</td>
</tr>
<tr>
<td>64</td>
<td>Jean-Paul</td>
<td>DELCROIX</td>
<td>Secretary-General</td>
<td>Belgian National Labour Council (CNT/NAR)</td>
<td>Face-to-Face (3) (SPSI)</td>
<td>Brussels, 27/04/2007</td>
</tr>
<tr>
<td>65</td>
<td>Filip</td>
<td>D’HAVé</td>
<td>Flemish Attaché</td>
<td>Belgian Permanent representation to the EU</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 19/10/2007</td>
</tr>
<tr>
<td>66</td>
<td>Thierry</td>
<td>DELAVAL</td>
<td>General Representative Walloon Region</td>
<td>Belgian Permanent representation to the EU</td>
<td>Face-to-Face (3) (ESF)</td>
<td>Brussels, 10/12/2007</td>
</tr>
</tbody>
</table>
### Table D. Interviews 2007 (continued)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview</th>
<th>Place/date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>67.</td>
<td>Marie</td>
<td>DONNELLY</td>
<td>Former Head of Unit</td>
<td>ESF Policy Unit, DG EMPL, European Commission</td>
<td>Face-to-Face</td>
<td>06/12/2007</td>
</tr>
<tr>
<td>68.</td>
<td>Benoit</td>
<td>DRÈZE</td>
<td>Former Head of Cabinet</td>
<td>Cabinet of the Federal Minister for Employment and Labour (Miet Smet)</td>
<td>Face-to-Face</td>
<td>08/10/2007</td>
</tr>
<tr>
<td>69.</td>
<td>Michel</td>
<td>ENGLERT</td>
<td>Belgian SPC Member; Head of the General Directorate</td>
<td>Belgian Federal Planning Bureau; Member of the EPC’s Working Group on Ageing Population (AWG)</td>
<td>Face-to-Face</td>
<td>Brussels, 13/6/2007</td>
</tr>
<tr>
<td>71.</td>
<td>Jean-Maurice</td>
<td>FRÈRE</td>
<td>ISG Member; Advisor</td>
<td>Belgian Federal Planning Bureau</td>
<td>Face-to-Face</td>
<td>Brussels, 26/6/2007</td>
</tr>
<tr>
<td>72.</td>
<td>Emilio</td>
<td>GABAGLIO</td>
<td>Chair</td>
<td>Employment Committee (EMCO)</td>
<td>Face-to-Face</td>
<td>Brussels, 16/4/2007</td>
</tr>
<tr>
<td>74.</td>
<td>Stefaan</td>
<td>HERMANS</td>
<td>Former EMCO Secretary</td>
<td>Employment Committee Secretariat, DG EMPL</td>
<td>Face-to-Face</td>
<td>Brussels, 11/12/2007</td>
</tr>
<tr>
<td>75.</td>
<td>Ludo</td>
<td>HOREMANS</td>
<td>President; President and former Chair</td>
<td>Flemish ‘Network of associations where the poor take the floor’; European Anti-Poverty Network (EAPN)</td>
<td>Face-to-Face</td>
<td>Brussels, 4/12/2007</td>
</tr>
<tr>
<td>76.</td>
<td>Michel</td>
<td>JADOT</td>
<td>Former Head; Former Chairman</td>
<td>Belgian Employment Committee (EMCO) delegation; Board of the Federal Public Service (‘Ministry’) Employment, Labour and Social Dialogue</td>
<td>Face-to-Face</td>
<td>Brussels, 08/6/2007</td>
</tr>
<tr>
<td>77.</td>
<td>Sonja</td>
<td>KÖHNENMERSGEN</td>
<td>Senior Advisor</td>
<td>Federation of Belgian Enterprises (FEB/VBO)</td>
<td>Face-to-Face</td>
<td>Brussels, 11/12/2007</td>
</tr>
<tr>
<td>78.</td>
<td>Rafaël Cellien</td>
<td>LAMAS/VAN MOERKERKE</td>
<td>Director; Advisor</td>
<td>Studies Department, Belgian General Federation of Labour (FGTB/ABVV)</td>
<td>Face-to-Face</td>
<td>Brussels, 08/6/2007</td>
</tr>
</tbody>
</table>

Note: The table continues with additional interviews for 2008.
76

79.  [Ides NICAISE]*

Chair

Belgian ‘Resource Centre for the fight against poverty, precariousness and social exclusion’; B Member of the Network of Independent Experts on Social Inclusion

Face-to-Face

Leuven, 06/07/2007

80. Hanna

Chris NICHOLAS BURTON

Head

Advisor

Department for Work and Pensions, United Kingdom; UK Member of the Social Protection Committee

Face-to-Face

(2) (SPSI) (2) (SI)


---

Table D. Interviews 2007 (continued)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview ('Circle')(Exp.)</th>
<th>Place/date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>81.</td>
<td>Ruth</td>
<td>PASERMAN</td>
<td>Deputy Head of Unit</td>
<td>Social Protection and Social Services, DGV, European Commission</td>
<td>Face-to-Face (1)(HC)</td>
<td>Brussels, 24/7/2007</td>
</tr>
<tr>
<td>82.</td>
<td>[Annette</td>
<td>PERDAENS]</td>
<td>Director; Coordinator</td>
<td>Health and Social observatory of Brussels Capital; contribution of the Brussels Region to the Belgian NAP/Incl</td>
<td>Face-to-Face</td>
<td>Brussels, 12/4/2007</td>
</tr>
<tr>
<td>83.</td>
<td>[Annemie</td>
<td>PERNOT]*</td>
<td>Social Attaché ('Labour')</td>
<td>Belgian Permanent representation to the EU</td>
<td>Face-to-Face</td>
<td>Brussels, 22/10/2007</td>
</tr>
<tr>
<td>84.</td>
<td>Jak</td>
<td>PJETRI DE SMEDT</td>
<td>Director</td>
<td>Managing Authority, European Social Fund (ESF), Walloon Region and French Community</td>
<td>Face-to-Face (3) (ESF) (3) (ESF)</td>
<td>Brussels, 06/12/2007</td>
</tr>
<tr>
<td>85.</td>
<td>[Truus</td>
<td>ROESEMS]*</td>
<td>Scientific collaborator</td>
<td>Health and Social observatory of Brussels Capital; Coordinator of the statistical input of the Brussels Region to the Belgian NAP/Incl</td>
<td>Face-to-Face</td>
<td>Brussels, 05/07/2007</td>
</tr>
<tr>
<td>86.</td>
<td>Chris</td>
<td>SERROYEN DEBRULLE</td>
<td>Director</td>
<td>Studies Department, Confederation of Christian Trade Unions (CSC/ACV)</td>
<td>Face-to-Face (3) (SPSI) (3) (SPSI)</td>
<td>Brussels 23/10/2007</td>
</tr>
<tr>
<td>87.</td>
<td>Joëlle</td>
<td>SOIR</td>
<td>European Advisor</td>
<td>Walloon Minister for Economy Employment and external trade (Jean-Claude Marcourt)</td>
<td>Face-to-Face (2)(EMPL)</td>
<td>Namur, 23/10/2007</td>
</tr>
<tr>
<td>89.</td>
<td>Freek</td>
<td>SPINNEWIJN</td>
<td>Director</td>
<td>European Federation of National Organisations working with the Homeless (Feantsa)</td>
<td>Face-to-Face (1) (SI)</td>
<td>Brussels, 12/02/2007</td>
</tr>
</tbody>
</table>
Setting the scene

90. Yves STEVENS
   Professor
   Law Faculty, University of Leuven
   Face-to-Face (3)(PENS)
   Leuven, 05/03/2007

91. Denis STOKKINK
   President; Former European Advisor
   Solidarite des Alternatives Wallonnes (SAW); former Advisor to the Minister for Employment (Laurette Onkelinx)
   Face-to-Face (2)(SI)
   Monceau-sur-Sambre, 10/12/2007

92. Sarah TAK MALFAIT
   Advisors
   Flemish Minister for Work, Education and Training
   Face-to-Face (3)(EMPL)
   Brussels, 11/12/2007

93. Bruno [Steven] TOBBACK JANSSEN
   Federal Minister
   Belgian Federal Minister for the Environment and Pensions
   Face-to-Face (3)(PENS)

Table D. Interviews 2007 (continued)

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Mode of interview ('Circle')(Exp.)</th>
<th>Place/date of Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>94.</td>
<td>Stefaan</td>
<td>THYS</td>
<td>Deputy Head of Cabinet</td>
<td>Belgian Minister for Social Affairs (Rudy Demotte); former Social Attaché, Belgian Permanent representation to the EU</td>
<td>Face-to-Face (2)(HC)</td>
<td>Brussels, 7/6/2007</td>
</tr>
<tr>
<td>95.</td>
<td>Olivier</td>
<td>VALENTIN DOS SANTOS</td>
<td>Director Head</td>
<td>European Department of the Studies Department, Liberal trade Union Organisation (ACLVB – CGSLB)</td>
<td>Face-to-Face (3)(SPSI)</td>
<td>Brussels, 11/10/2007</td>
</tr>
<tr>
<td>98.</td>
<td>Julien</td>
<td>VAN GEERTSOM</td>
<td>President</td>
<td>Planning Public Services ('Ministry') for Social Integration, Combating Poverty and Social Economy</td>
<td>Face-to-Face (2)(SI)</td>
<td>Brussels, 2 October 2007</td>
</tr>
<tr>
<td>99.</td>
<td>Louis</td>
<td>VERVLOET</td>
<td>Director</td>
<td>ESF-Agency, Flanders</td>
<td>Face-to-Face (3)(ESF)</td>
<td>19/12/2007</td>
</tr>
<tr>
<td>100.</td>
<td>Jerôme</td>
<td>VIGNON</td>
<td>Head of Unit</td>
<td>Social Protection and Social Services, DGV, European Commission</td>
<td>Face-to-Face (1)(SPSI)</td>
<td>Brussels, 24/7/2007</td>
</tr>
<tr>
<td>No.</td>
<td>Name</td>
<td>Position/Title</td>
<td>Organization/Department</td>
<td>Interview Type</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>--------------------</td>
<td>----------------------------------------------------</td>
<td>----------------------------------------------------------</td>
<td>----------------</td>
<td>------------------</td>
<td></td>
</tr>
<tr>
<td>104.</td>
<td>Walter ZAMPIERI</td>
<td>SPC Secretary</td>
<td>European Commission</td>
<td>Face-to-Face</td>
<td>Brussels, 9/10/2007</td>
<td></td>
</tr>
</tbody>
</table>

Total number of persons interviewed: 116 (of whom 12 interviewed twice, indicated with an asterisk [*] in the table)

**Total number of individual respondents: 104**
TABLE E. Additional respondents to the 2010 web survey (in alphabetical order of surname)46

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Online Survey completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Jean-Pierre</td>
<td>BAEYENS</td>
<td>Researcher</td>
<td>Free University of Brussels (VUB)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>2.</td>
<td>Rita</td>
<td>BAETEN</td>
<td>Senior Policy Analyst</td>
<td>European Social Observatory (OSE)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>3.</td>
<td>Jos</td>
<td>BERGHMAN</td>
<td>Full professor</td>
<td>Catholic University of Leuven (Centre for Sociological Research)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>7.</td>
<td>Jo</td>
<td>DE COCK</td>
<td>SPC Member; Administrator-general</td>
<td>National Sickness &amp; Disability Insurance Institute (INAMI)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>9.</td>
<td>André</td>
<td>DEWEZ</td>
<td>Representative</td>
<td>DG Employment, Social Affairs and Equal Opportunities</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>11.</td>
<td>Serge</td>
<td>DE WITTE</td>
<td>Legal advisor, Health Care</td>
<td>National Union of Liberal Mutual Funds</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>12.</td>
<td>Michel</td>
<td>ENGLERT</td>
<td>SPC Member; Head of the General Directorate</td>
<td>Belgian Federal Planning Bureau; Member of the EPC Working Group on Ageing Population (AWG)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>14.</td>
<td>Jean-Maurice</td>
<td>FRÈRE</td>
<td>Expert / Advisor</td>
<td>Belgian Federal Planning Bureau; Belgian Member of the ISG of the Social Protection Committee</td>
<td>Nov 2010</td>
</tr>
</tbody>
</table>

As indicated in section 5.3.2, I conducted an online survey in 2010 which was completed by (a) the interviewees listed in table B above, as well as by the 39 respondents in this table E. In total, the on-line survey was therefore completed – between November and December 2010 – by 59 experts working in the three policy fields.
Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance

<table>
<thead>
<tr>
<th>No.</th>
<th>Surname</th>
<th>Name</th>
<th>Position</th>
<th>Institution/Organisation</th>
<th>Online Survey completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Mireille</td>
<td>GOEMANS</td>
<td>Collaborator long- term care</td>
<td>Federal Public Service (‘Ministry’) for Social Security</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>16</td>
<td>Anne-Catherine</td>
<td>GUIO</td>
<td>Researcher</td>
<td>Walloon Institute for Evaluation, Prospective and Statistics (IWEPS); Formerly Policy Officer, Eurostat</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>17</td>
<td>Luc</td>
<td>JANSEN</td>
<td>President</td>
<td>Advisory Committee for the Pension Sector</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>18</td>
<td>Johan</td>
<td>JANSSENS</td>
<td>General Administrator</td>
<td>Pension service for the public sector (PDOS-SdPSP)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>19</td>
<td>Sylvia</td>
<td>LOGIST</td>
<td>Advisor</td>
<td>General Confederation of Liberal Trade Unions of Belgium (ACLVB/CGSLB)</td>
<td>Dec 201</td>
</tr>
<tr>
<td>20</td>
<td>Marc</td>
<td>MOENS</td>
<td>Chairman</td>
<td>Belgian Association of Doctors Syndicates (BVAS - ABSyM)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>21</td>
<td>Giusto</td>
<td>MANISCHALSCHI</td>
<td>Attaché</td>
<td>Public Centre for Social Assistance (CPAS) of Charleroi; Responsible for the Social Observatory of the city of Charleroi</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>22</td>
<td>Muriel</td>
<td>RABAU</td>
<td>General Advisor</td>
<td>Federal Public Service (‘Ministry’) for Social Security; Also Social Attaché, Permanent Representation of Belgium to the EU</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>23</td>
<td>Chris</td>
<td>SERROYEN</td>
<td>Director</td>
<td>Studies Department, Confederation of Christian Trade Unions (CSC/ACV)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>24</td>
<td>Freek</td>
<td>SPINNEWIJN</td>
<td>Director</td>
<td>European Federation of National Organisations working with the Homeless (Feantsa)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>25</td>
<td>Yves</td>
<td>STEVENS</td>
<td>Full Professor</td>
<td>Catholic University of Leuven; President of the Belgian Occupational Pension Commission</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>26</td>
<td>Jos</td>
<td>STERCKX</td>
<td>Director</td>
<td>Kleis vzw, Knowledge Centre on Social Europe (NGO)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>27</td>
<td>Sarah</td>
<td>TAK</td>
<td>Advisor International Relations</td>
<td>Cabinet to the Flemish Deputy Prime Minister and Minister of Innovation, Public Investment, Media and Poverty Reduction (Ingrid Lieten)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>28</td>
<td>Johan</td>
<td>TOURNE</td>
<td>National Secretary</td>
<td>Belgian Christian Mutuality (Ziekenzorg CM vzw)</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>29</td>
<td>Johan</td>
<td>VANDENBUSSCHE</td>
<td>Deputy Head of Cabinet</td>
<td>Cabinet of Secretary of State for Social Integration and the fight against poverty (Philippe Courard)</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>No.</td>
<td>Surname</td>
<td>Name</td>
<td>Position</td>
<td>Institution/Organisation</td>
<td>Online Survey completed</td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>-------------------</td>
<td>-----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>30</td>
<td>Paul</td>
<td>VANDERMEEREN</td>
<td>Program Manager; Desk Officer</td>
<td>European Commission – Employment and Social Affairs Directorate</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>31</td>
<td>Rudi</td>
<td>VAN DAM</td>
<td>Coordinator Social Indicators</td>
<td>Federal Public Service (‘Ministry’) for Social Security; Belgian member to the Indicators Sub-Group</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>32</td>
<td>Anne</td>
<td>VAN LANCKER</td>
<td>Advisor</td>
<td>Cabinet to the Flemish Deputy Prime Minister and Minister of Innovation, Public Investment, Media and Poverty Reduction (Ingrid Lieten); formerly Member of the European Parliament</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>34</td>
<td>Henk</td>
<td>VAN HOOTEGEM</td>
<td>Collaborator</td>
<td>The support point for combating poverty, insecurity and social exclusion of the Centre for Equal Opportunities and Opposition to Racism</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>35</td>
<td>Pascale</td>
<td>VIELLE</td>
<td>Full professor</td>
<td>Université de Louvain</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>36</td>
<td>Elise</td>
<td>WILLAME</td>
<td>Former Chair</td>
<td>Social Protection Committee; Formerly Director – General, Federal Public Service (‘Ministry’) for Social Security</td>
<td>Nov 2010</td>
</tr>
<tr>
<td>37</td>
<td>Paul</td>
<td>WINDEY</td>
<td>Chairman</td>
<td>National Labour Council</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>38</td>
<td>Frank</td>
<td>VANDENBROUCKE</td>
<td>Flemish Senator</td>
<td>Former federal Minister for Social Affairs and Pensions; former Vice-Minister-President of the Flemish Government and Flemish Minister for Work, Education and Training</td>
<td>Dec 2010</td>
</tr>
<tr>
<td>39</td>
<td>Julien</td>
<td>VAN GEERTSOM</td>
<td>President</td>
<td>Public Services (‘Ministry’) for Social Integration, Combating Poverty and Social Economy</td>
<td>Dec 2010</td>
</tr>
</tbody>
</table>
Annex 4. Structured questionnaire: interviews and online survey

This structured questionnaire was used before – and in some cases during – the actual interviews. It was completed (during the 2010 wave of interviews, see section 5.3.3) as an online survey by 59 Belgian respondents working in the fields of social inclusion, pensions and health care, in Dutch and French. The questions were initially drawn up in English by PPMI (2010) in the context of a Commission-funded OMC Assessment.

Questions 1-9 and 15-39 had the following closed answer categories: ‘Strongly agree’, ‘Agree’, ‘Neither agree nor disagree’, ‘Disagree’, ‘Strongly disagree’, ‘No comment/do not know’. Questions 10-14 could be answered by ‘Yes’; ‘No’; ‘No comment/do not know’. Answers were brought together in tables and charts comparing absolute numbers and (purely indicative in view of the low absolute numbers) percentages between strands, as in the example below. See Vanhercke (2011a) for a detailed discussion of the online survey results.

Questions

Part 1: Operation of the NSR Process

- Q1: Do you agree with the statement: enough time and resources is devoted to producing NSRs?
- Q2: Do you agree with the statement: the national process of producing NSRs sufficiently includes the contributions of all stakeholders?
- Q3: Do you agree with the statement: the national process of producing NSRs has stimulated genuine policy debate among the participants in the process or among a wider public?
- Q4: Do you agree with the statement: the NSRs provide information on the most important new social policy developments in my country?
- Q5: Do you agree with the statement: the NSRs follow the key principles suggested in the guidelines/guidance note?
- Q6: Do you agree with the statement: the guidelines/guidance note are useful for producing a good quality NSR?
- Q7: Do you agree with the statement: the frequency with which the national administration is asked to produce the NSR is optimal (i.e., the 2 years interval is not too frequent and not too infrequent)?
- Q8: Do you agree with the statement: the amount of information that the national administration is asked to provide in the NSRs is optimal (i.e., enough depth and breath, but not too excessive)?
- Q9: Do you agree with the statement: the NSR process is clearly integrated into the formulation and implementation of social policy at the national level?
- Q10: Have you ever read a document, statement or a study produced by Peer Reviews?

Part 2: Involvement in EU-level Mutual Learning

- Q11: Have you ever participated in a Peer Review?
- Q12: Have you ever taken part in a presidency event on social issues (e.g. presidency conference)?
- Q13: Have you ever read a document, statement or a study produced by expert networks, such as Network of Independent Experts on Social Inclusion, ASISP network and Network of experts in gender equality, social inclusion, health and long-term care?
- Q14: Have you ever heard about the activities of EU-level NGO networks, such as European Anti-Poverty Network, European Older People’s Platform and others?
Part 3: Substantive Impacts

- Q15: Do you agree with the statement: in general, most policy actors that deal with/have a stake in social policy matters are familiar with the key features of the Social OMC process: common objectives, common indicators, reporting cycle?
- Q16: Do you agree with the statement: most policy actors that deal with/have a stake in social policy matters in my country have read the national NSRs?
- Q17: Do you agree with the statement: most policy actors that deal with/have a stake in social policy matters in my country have read the Joint Report?
- Q18: Do you agree with the statement: the Joint Report provides a sense of direction to policy development and policy reform?
- Q19: Do you agree with the statement: most policy actors that deal with/have a stake in social policy matters in my country have read the supporting document which comes together with the Joint Report (Commission Staff Working Paper)?
- Q20: Do you agree with the statement: the supporting document which comes together with the Joint Report (Commission Staff Working Paper) provides a useful account of the key trends and challenges in the EU and my country?
- Q21: Do you agree with the statement: most policy actors that deal with/have a stake in social policy matters have read the profile of my country, published together with the Joint Report and supporting document?
- Q22: Do you agree with the statement: the country profile, published together with the Joint Report and supporting document provides useful suggestions for action?
- Q23: Do you agree with the statement: most policy actors that deal with/have a stake in social policy matters in my country have read at least a few studies produced to support the Social OMC by the Commission, Peer Reviews, expert networks or NGO networks?
- Q24: Do you agree with the statement: the ideas associated with the Social OMC are discussed in the key social policy discussion forums (conferences, events, seminars) in my country?
- Q25: Do you agree with the statement: the ideas associated with the Social OMC have had an influence on the policy agenda in my country (i.e. they have shaped the discourse at the official level and had an impact on official statements or political ambitions)?
- Q26: Do you agree with the statement: the ideas associated with the Social OMC are reflected in the policy decisions in my country (amendments/adoption of laws, governmental and ministerial orders and other legal acts)?
- Question 27: Do you agree with the statement: national reforms are consistent with the ideas associated with the Social OMC?

Part 4: Procedural Impacts of the Social OMC

- Q28: Do you agree with the statement: the NSR process has improved national steering capacities (i.e. using data and indicators to monitor progress and to take decisions based on this information)?
- Q29: Do you agree with the statement: the NSR process has helped to improve the horizontal coordination between interdependent policy fields?
- Q30: Do you agree with the statement: the NSR process has helped to increase the vertical coordination between the levels of government?
- Q31: Do you agree with the statement: the NSR process has contributed to a better involvement of non-state actors in the national policy process?
Part 5: Assessment of EU-level Decisions

- Q32: Do you agree with the statement: the coordination of social policy between the Member States has improved after the streamlining of the three strands of social inclusion, pensions, health and long-term care into the Social OMC in 2006?
- Q33: Do you agree with the statement: there is evidence of synergies between the three strands of social inclusion, pensions, health and long-term care after the three OMCs were streamlined into the single Social OMC in 2006?
- Q34: Do you agree with the statement: the Social OMC and the Lisbon Strategy for Growth and Jobs (until 2010) have complemented and reinforced each other?
- Q35: Do you agree with the statement: the common objectives have been specific enough to provide a sense of direction for policies or policy reform in my country?
- Q36: Do you agree with the statement: the common objectives have addressed the most important challenges my country faces?
- Q37: Do you agree with the statement: the common indicators cover the most important policy objectives and challenges at the national level?
- Q38: Do you agree with the statement: data on common indicators is made available before crucial policy decisions have to be taken?
- Q39: Do you agree with the statement: the introduction of thematic reporting has helped to focus attention on the topical issues of the year (2007, 2009)?
Replies to structured questionnaire: example of table

| Question 18: Do you agree with the statement: the Joint Report provides a sense of direction to policy development and policy reform? |
|---|---|---|
| **Pensions** | **Social Inclusion** | **Health Care** |
| **Absolute number** | **Percentage** | **Absolute number** | **Percentage** | **Absolute number** | **Percentage** |
| Strongly agree | 0 | 0.00% | 1 | 2.86% | 0 | 0.00% |
| Agree | 9 | 47.37% | 10 | 28.57% | 2 | 10.00% |
| Neither agree nor disagree | 4 | 21.05% | 8 | 22.86% | 6 | 30.00% |
| Disagree | 4 | 21.05% | 12 | 34.29% | 4 | 20.00% |
| Strongly disagree | 1 | 5.26% | 1 | 2.86% | 0 | 0.00% |
| No comment; do not know | 1 | 5.26% | 3 | 8.57% | 8 | 40.00% |

Replies to structured questionnaire: example of graph

**Graph 18. The Joint Report provides a sense of direction to policy development and policy reform**

[Graph showing data for Pensions, Social Inclusion, and Health Care]
Annex 5. Belgian websites related to the Social OMC

Roughly speaking, websites in Belgium that relate to the Social OMC can be divided into three broad categories: ‘Social OMC resource websites’, and Social OMC Light websites and Social OMC Trickling down websites (for website URL’s, see Vanhercke, 2011a).

- **’Social OMC resource’ websites**

  Websites within this category contain extensive information on one or more of the key features (indicators, National Action Plans etc.) of one or several of the strands. They may also contain a variety of articles about the operation and impact of the Social OMC. Such Social OMC resource websites are first of all associated with three academic/research institutes which ‘stand out’ in the sense that they have a relatively longstanding tradition in research on the topic:

  - The website of the Higher Institute for Labour Studies (HIVA, K.U.Leuven) contains a variety of publications that provide the Commission with an independent third-party view on the progress made in the implementation of the Belgian NAP/Incl and its ‘feeding in’ and ‘feeding out’ aspects.

  - The Center for Social Policy Herman Deleeck (CSB, University of Antwerp) developed an online ‘Vademecum of common EU indicators’ agreed in the context of the SPSI OMC, which does more than its name suggests: it describes the policy process of the Social OMC, its key features and concepts, and the full portfolio of indicators. The general CSB website equally contains research focused on the procedural aspects of the Belgian NAP/Incl and especially on the deficiencies in the procedures.

  - The website of the Brussels-based European Social Observatory (OSE) contains (in the ‘publications’, ‘team’ and ‘projects’ pages) many articles, research papers, reports and PowerPoint presentations on the different strands of the Social Protection and Social Inclusion OMC (addressing different Member States) as well as other (non-social) OMCs (employment, education).

The websites of two federal ministries contain some of the key documents emanating from the Social OMC, and can therefore also be considered as Social OMC resource websites:

- The website of the Planning Public Service (PPS) for Social Integration, Combating Poverty and Social Economy contains the full range of Belgian NAP/Incl, the programmes, presentations and background papers of several European conferences organized by the PPS, while it documents the European Year for Combating Poverty and Social Exclusion and makes several PowerPoint presentations available (e.g. summarising the highlights of the 2009 Joint Report on Social Protection and Social Inclusion).

- The website of the Federal Public Service (FPS) Social Security contains links to the Common Objectives, several SPC documents, the consecutive Belgian National Strategic Reports and the initial reports of the three strands before streamlining. A separate page contains links to the indicators of the three strands (even if there are currently problems in accessing these links).
• *Social OMC light* websites

The Social OMC or its instruments are discussed on these websites, but on an occasional and irregular basis, typically referring to specific events or giving attention to the topic at given times (e.g. Belgian Presidency of the EU, publication of a Commission Communication etc.).

- Perhaps surprisingly, the website of the ‘Resource Center for the Fight against Poverty, Precariousness and Social Exclusion’ falls into this category: it provides summaries of the consecutive National Action Plans on Social Inclusion, but no longer qualifies as a ‘Social OMC resource website’, since almost none of the (many) links to the key features of the OMC (several National Actions Plans, indicators, National Strategic Reports etc.) are accessible.

- A second ‘Social OMC Light website’ is the one managed by the National Labour Council, which contains several well documented Opinions about the Social OMC (e.g. at the occasion of its streamlining in 2005, the Commission’s Communication on Active Inclusion in 2008 and the adoption of the Belgian National Reform Programme in the same year).

- The King Baudouin Foundation publishes the programmes and interventions of several conferences during which the OMC objectives or instruments are discussed (e.g. ‘Poverty and Ageing’), but equally reports on OMC-related topics and opinions of stakeholders.

- Non-profit organisations such as ‘Kleis’ and ‘Pour la Solidarité’ equally provide basic information about the Social OMC, and the latter’s website reports about the events it organises in relation to the OMC. The website of ‘Agence Alter’ (an NGO working around media and research) contains a two-monthly publication about the social situation in Brussels and Wallonia (‘Alter Echos’) with regular articles on social inclusion that sometimes refer to the OMC and its instruments.

• *Social OMC Trickling down* websites

Some references are made in these websites to some of the OMC tools or concepts (child poverty, replacement rates etc.), with the process itself being referred to once, or not at all.

- In this category we find the websites of some of the Belgian trade unions (e.g. the Christian Trade Union in the context of the ‘flexicurity’ debate) and their training centres (e.g. OMC training tool by ‘Formation Education et Culture’).

- The Credit and Indebtedness Observatory (L’Observatoire du Crédit et de l’Endettement) has a dossier (‘fiche thématique’) on its website about the OMC and the use of social inclusion indicators.

- The Flemish civil rights-organisation of persons with disabilities briefly explains what OMC means on its website and refers to the website of the Flemish government for further information;

- The website of the Brussels Council for socio-political coordination (Conseil bruxellois de coordination sociopolitique) reports about a (2007) conference on the OMC at the service of the social economy.

- Several other non-profit organisations at some point in time made a (single) ’dossier’ about the Social OMC: this is the case for the ‘Revue d’action sociale et médico-sociale’ and ‘Culture Action Europe’.
• A number of academic websites equally fall into this third category of ‘Social OMC Trickling down websites’. The website of the Institut d’Etudes européennes of the Free University of Brussels (ULB, Unité de Recherche Europe Sociale) contains a few OMC-related publications; so do different web pages of the UCL (Centre de philosophie du droit, and Chaire Hoover d’éthique économique et sociale) but these are not very recent and largely dependent on one or two researchers.
CHAPTER 2

Political spill-over, changing advocacy coalition, path dependency or domestic politics? Theorizing the emergence of the Social OMC’s


Introduction: why did they do it?

In the winter of 1999 the ‘Labour and Social Affairs’ Council of the European Union (1999a) decided to launch a ‘Concerted Strategy’ on social protection. Work was to be organised around 4 key objectives: (1) making work pay (2) safe and sustainable pensions (3) social inclusion and (4) high quality and sustainable health care. In March 2000 the Heads of State and Government decided, at their Lisbon gathering, how this EU co-operation would be pursued, by formally ‘introducing a new open method of coordination’ (European Council, 2000:7). Based on the architectural features determined by this European Council session, Vandenbroucke (2001:2) summarised that open coordination ‘launched a mutual feedback process of planning, examination, comparison and adjustment of the social policies of Member States, and all of this on the basis of common objectives’. The Open Method of Coordination (OMC) has indeed provided a Europe-wide approach to, amongst others, social policy and has been applied, in different ways, to social inclusion (2000), pensions (2001) and health care (2004).

The emergence of these 3 ‘social protection OMC’s’ raises the following question: ‘why was EU co-operation on social protection launched by the Council in 1999, after a decade of futile efforts by key actors to get the issue firmly on the European agenda’? I will address this question in 3 steps. In the second section of this chapter I will argue that theoretical self-awareness is indispensable in social inquiry, and I will assess some of the most promising theoretical approaches which have been developed to explain the phenomenon of European integration. In the third section, I will retrace the historical step-by-step emergence of EU-co-operation on social protection, throughout the 1990s. In the fourth and final section I will try to show that a ‘limited eclectic’

---

1 I used the generous comments that I received at this WAGE conference, as well as at a NEWGOV/CONNEX Training Course on ‘New Modes of Governance’ (Florence, 26-30 June 2006), to develop section 2.4 on a ‘constructivist interpretation of neofunctionalism’. The story of the emergence of the Social OMC was further elaborated in Vanhercke (2012): new insights from this 2012 publication – including as regards the political significance of early ‘technical’ cooperation on social security coordination and on social indicators – have been integrated in the concluding chapter of this PhD.

2 The basic architecture of the OMC finds its roots in the Broad Economic Policy Guidelines which were introduced by the Treaty of Maastricht (1992) and which involved non-binding recommendations from the Council to
combination of European integration theories and approaches is needed to draw a nuanced picture of this case of European integration.

### 2.1 Theories of European Integration: between eclecticism and ‘grand theory’

Why bother to burden a potentially interesting historical account of an instance of European integration with a (possibly tiresome) theoretical section? In fact, why not skip this part, simply look at the most valid facts and try, as Middlemas (1995: xiv) suggests, ‘not to confine myself to any one interpretation [...] and to proceed empirically, taking account of all significant players? This section seeks an answer to that question.

#### 2.1.1 What is (integration) theory and why bother anyway?

When engaging in empirical research the question immediately arises: ‘What counts as valid facts. Who are ‘all of the significant players’”? To attend to these questions requires some kind of a priori judgement’ (Rosamond, 2000: 195). Therefore ‘we should be constantly theoretically self-aware, conscious that theoretical perspectives – wittingly or unwittingly – inform our approach to the world we observe’ (Ibid: 3). In the words of Gerry Stoker, theory:

> ‘helps us to see the wood for the trees. Good theories select out certain factors as the most important or relevant if one is interested in providing an explanation of an event. Without such a sifting process no effective observation can take place. The observer would be buried under a pile of detail and be unable to weigh the influence of different factors in explaining an event. Theories are of value precisely because they structure all observations’ (Stoker, 1995: 16-17).

Unawareness of these a priori judgements, by contrast, creates the risk of circular reasoning. For example, if one were to ‘prove’ that Member States are in control of intergovernmental bargaining by starting with the input from Member States is a tautology which ultimately obscures much of what is analytically relevant (Christiansen and Jørgensen, 1999: 5). An image used by Susan Strange can also help to clarify the idea that different theories start from particular assumptions that determine the kinds of questions we ask, and therefore the answers we are bound to find: the main perspectives used to study international political economy

> ‘are like [...] toy trains on separate tracks, travelling from different starting points and ending at different (predetermined) destinations, and never crossing each other’s path’ (Strange, 1994: 16).

Theory, therefore, is not only important: it is simply ‘impossible to make any statement about social phenomena in a theoretical vacuum’ (Rosamond, 2000: 4), and thus theoretical literacy is
a ‘fundamental prerequisite for the proper study of any aspect of the social world’ (Ibid: 3). But if we agree that it is difficult to ‘let the evidence speak’, the next question is: ‘which theory should I use’? Or, since I consider the study of the OMC as a case study in European integration, ‘which integration theory’?

Integration theory is an elusive concept, says Ben Rosamond, because ‘[w]hat to include under this heading is a matter for some debate and is likely to revolve around how we define ‘integration’’ (Rosamond, 2000: 12; 186). The extreme difficulties of definition were memorably summed up by Puchala (1972) who compared the quest for a definition of ‘integration’ to blind men being confronted with the task of defining an elephant. But that is not all: the list of approaches covered in overviews of European integration theory (such as Rosamond, 2000; Caporaso and Keeler, 1995; Bache and George, 2001; Wiener and Diez, 2004) also depends on what is (not) considered as a ‘theory’.

There are indeed different types of theory, all of which have alternative meanings ad purposes. According to (Burhchill, 1996: 8) theory is sometimes thought to be about ‘the generation of law-like statements. Others conceive of theory as the instrument with which investigators can test hypotheses or propositions about social phenomena. For some, theorizing is an activity with normative (value-laden) consequences; for others, it is a political act: the way in which we criticize the present with a view to maximizing the prospects for human freedom in the future. Finally, theory may also involve the contemplation of the process of theorizing itself’.

With both of its constitutive terms being open for discussion, one can without doubt understand Schmitter’s scepticism with regard to the development of ‘integration theory’:

‘Especially since its relancement in mid-1980s, European integration has become once again a very lively site for theoretical speculation. Hardly a year passes without someone coming up with a new theory […]. Most of these ‘novelties’ turned out not to be no theories at all, but just more or less elaborate languages for describing what the author thought had taken place in the recent past – devoid of any discrete and falsifiable hypotheses about where the process might be heading in the future. And when there was some theoretical core it often sounded quite familiar to me (Schmitter, 2004: 45).

In a way, then, defining (the novelty of new) ‘European integration theory’, will always be a matter for debate. One possible definition is provided by (Diez and Wiener, 2004: 3), who claim that:

‘European integration theory is thus the field of systematic reflection on the process of intensifying political cooperation in Europe and the development of common political institutions, as well as on its outcome. It also includes the theorization of changing constructions of identities and interests of social actors in the context of this process’.

Table 2.1 represents an attempt made by Wiener and Diez (2004: 17-18) to describe a ‘mosaic’ of European integration theory by classifying them according to 2 independent dimension on which theoretical approaches differ from each other: their function (‘explanation or
understanding’, ‘description and analyses’ and ‘critique and normative intervention’) and their research object (polity, policy and politics)³.

Table 2.1 The functions and research objects of integration theory

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>RESEARCH OBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>POLITY (supra-national institution-building)</td>
</tr>
<tr>
<td>EXPLANATORY/UNDERSTANDING</td>
<td>Neofunctionalism; Intergovernmentalism; Integration through Law</td>
</tr>
<tr>
<td>→ 1960s onwards</td>
<td></td>
</tr>
<tr>
<td>ANALYTICAL/DESCRIPTIVE</td>
<td>Federalism; (Critical) Integration through Law</td>
</tr>
<tr>
<td>→ 1980s onwards</td>
<td></td>
</tr>
<tr>
<td>CRITICAL/NORMATIVE</td>
<td></td>
</tr>
<tr>
<td>→ 1990s onwards</td>
<td></td>
</tr>
</tbody>
</table>

Source: Adapted from Wiener and Diez (2004: 7, 241).

Agreeing with Rosamond (2000: 197) that '[g]rand theories have certainly had their day', and that their pursuit may even be misplaced because ‘the EU and the processes of European integration are just too complex to be captured by a single theoretical prospectus’ (Ibid: 7), I argue that it is necessary, to combine a (limited) number of these theories in order to arrive at a rich explanation of case studies in European integration, such as the emergence of EU-cooperation on social protection. I will argue, more particularly, for combining (elements of) neo-functionalism, intergovernmentalism, neo-institutionalism and a policy network analysis in a ‘neofunctional constructivist’ approach (see section 2.4).

2.1.2 Neofunctionalism: flogging a dead horse?

For many, ‘integration theory’ and ‘neofunctionalism’ are virtual synonyms (Rosamond, 2000: 50). The reason is historical: neofunctionalism (in its early manifestations at least) might be thought of as an attempt to theorize the strategies of the founding elites of post-war European unity, notably Jean Monnet and Robert Schuman. And yet, according to Schmitter (2004: 45) ‘No theory of regional integration has been as misunderstood, caricatured, pilloried, proven wrong, and rejected as often as neofunctionalism. [...] Its own creator has even declared it obsolescent – on two occasions!’ (see section 2.1.3 below). ‘So’, the same author wonders ‘why bother to flog this dead horse?’ (Ibid: 45). Answering that rhetorical question requires to have a brief look at

³ Note that the ‘governance’ approaches are not even mentioned in the table drawn up by Wiener and Diez (2004a). This is because in the chapter of the reader Jachtenfuchs and Kohler-Koch (2004) present governance as a ‘catch-all’ theory within which all other approaches can find their place, a position Wiener and Diez clearly disagree with. The main reason without doubt being that governance approaches differ, from policy-oriented and process-focussed to a ‘good’ governance perspective with a Kantian notion of reconstituting democracy beyond the state. The authors clearly questioned whether it would be wise to include an ‘unqualified’ approach to governance in their overview table.
theories’ root assumptions, concepts and hypotheses which still seem ‘worth considering overtly and not covertly’ (Ibid: 46).

Crucially, ‘neofunctionalism posited a process of functional spillover in which the initial decision by governments to place a certain sector, such as coal and steel, under the authority of central institutions inevitably creates pressures to extend the authority of the institutions into neighboring areas of policy such as currency exchange rates, taxation, and wages’ (Pollack, 2005: 359). Adding to this process of ‘functional’ spillover, a complementary process of ‘political’ spillover was assumed ‘in which both supranational actors, such as the European Commission, and subnational actors, such as interest groups within the Member States, create additional pressures for further integration’ (Ibid.). As a result ‘national governments will find themselves increasingly entangled in regional pressures and end up resolving their conflicts by conceding a wider scope and devolving more authority to the regional organizations they have created (Schmitter, 2004: 46). Importantly, through their joint action, supranational and subnational actors ‘would come to appreciate the benefits from integration and would thereby transfer their demands, expectations, and even their loyalties from national governments to a new center’ (Pollack, 2005: 359), thus increasing the likelihood that economic-social integration will ‘spill-over’ into political integration (Schmitter, 2004: 46).

Two important premises of neo-functionalism need to be underlined.

A first neofunctionalist assumption is that ‘politics is a group-based activity’ (Rosamond, 2000: 55): the integration process emerges, in their view, ‘from a complex web of actors pursuing their interests within a pluralist political environment’ (Ibid.). Thus, even though Member States are considered as important actors in the process (since they set the terms of the initial agreement), they do not exclusively determine the direction and extent of subsequent change. Especially, the ‘secretariat of the regional organization involved’ (the European Commission in the case of the European Union) is seen as a driving force providing the dynamic for further integration.

Second, in comparison to earlier functionalist approaches which offered a largely technocratic vision of human governance (Mitrany, 1943), neo-functionalism reinstated political agency into the integration process: the spillover process ‘would be sponsored and enacted by purposeful actors pursuing their own self-interest’, and not just by technocratic ‘automaticity’ (Rosamond, 2000: 55). What follows from this is that whether spill-over into new tasks or level of authority will occur, depends, amongst others, on the actor’s capabilities to ‘give a push in the right direction’ (Rosamond, 2000: 60). In that sense, neo-functionalism ‘is an eminently political theory of integration [...] which asks what kind of a strategy politically relevant actors are likely to adopt in a given context’ (Schmitter, 2004: 54). Hence also the image of ‘cultivated spillover’ (Tranholm-Mikkelsen, 1991), the deliberate sponsorship of integrative initiatives by supranational actors.

Philippe Schmitter and other neofunctionalist scholars took the emphasis further away from automatic or inevitable processes and made various adaptations to the ‘spill-over’ hypotheses, which was to be seen as one of several possible outcomes. Rather than opting for ‘spill-over’, Member States may also choose to ‘spill-back’ (withdraw from their original objective, limiting
their commitment to mutual cooperation). Or they could choose to ‘muddle about’ (try to survive without changing institutions), ‘spill-around’ (the proliferation of functionally specialized, independent but strictly intergovernmental organizations) or ‘build-up’ (the concession by Member States of greater authority to a regional organization without expending its mandate) (Schmitter, 2004: 57). The choice for any of these strategies will depend on the issue-area: it is ‘important to understand that some sectors contained more spillover potential than others’ (Rosamond, 2000: 62).

In conclusion, it seems that neofunctionalism ‘was (indeed still is) important. [...] If nothing else, neofunctionalists revealed the guiding logic of some of the main protagonists in the post-war uniting of Europe’ (Rosamond, 2000: 73). And we know, in retrospect, that ‘the renewed dynamism of the EC from the mid-1980s had coincided with significant activism by supranational institutions. Moreover, the single market initiative and its accompanying logic smacked of functional spillover’ (Ibid.: 99-100).

And yet, following the so called Luxembourg crisis in 1965 and the consequent developments in the 1970s (e.g. creation of the European Council in 1974), the neofunctionalist idea of the withering away of a power-based states system was open to two sorts of criticism:

‘The first was alleged implausibility. It was argued that the empirical evidence pointed overwhelmingly to the continued relevance of states and that there was no reason to suppose that this state of affairs would change. The second emerged from a more ethical-normative set of concerns. Here the argument was that nation-states are the best vessels available to mankind for the protection of certain sorts of key values (such as justice, liberty). To dissolve the states system would be to jeopardize those freedoms (Rosamond, 2000: 73).

2.1.3 Liberal intergovernmentalism as a baseline rationalist theory

Reflecting the ‘slowdown of integrative momentum, but also the reassertion of nationalist sentiment at elite level in West European politics’ (Rosamond, 2000: 75), a new ‘intergovernmentalist’ school of integration theory emerged, beginning with Hoffmann’s (1966) claim that the nation state, far from being obsolete, had proven ‘obstinate’. As Pollack (2005: 360) puts it:

‘Most obviously with de Gaulle, but later with the accession of new Member States like Britain, Ireland, and Denmark in 1973, member governments made clear that they would resist the gradual transfer of sovereignty to the Community, and that EC decision making would reflect the continuing primacy of the nation-state’.

Under these circumstances, Ernst Haas himself (1975) admitted that neofunctionalists had underestimated the resilience of the nation-state and even pronounced the ‘obsolescence of regional integration theory’ (cf. supra). During the 1990s, ‘intergovernmentalism’ was substantially reformulated by Andrew Moravcsik (1993 and 1998), who put forward a modified 'liberal intergovernmentalist' (LI) theory of European integration which was,
Theorizing the emergence of the Social OMC's according to its 'father', not only able to explain the crisis in the EU from the mid-60s, but was also able to account for the EU's historic successes in the 50s and 60s, as well as the relaunching of the integration process during the 80s. It will not come as a surprise then, that LI emerged, throughout the 90s, as the leading theory of European integration which 'has quickly acquired the status of a baseline theory against which new theoretical conjectures are tested and which is used as a 'first cut' to explain new developments in European integration' (Schimmelfennig, 2004: 75).

What are the main assumptions and propositions of the liberal intergovernmentalist theory of European integration, then? Put simply, Moravcsik's liberal intergovernmentalism is a three-step model combining a liberal theory of national preference formation with a bargaining theory of international negotiations and a functional theory of institutional choice. Clearly, this model reflect LI's 'International Relations' perspective (policymaking in international politics generally takes place in intergovernmental negotiations) and its rational institutionalist framework (actors calculate the utility of alternative courses of action and choose the one that maximizes their utility).

In the first or liberal stage of the model, 'national chiefs of government (or COGs) aggregate the interests of their domestic constituencies, as well as their own interests, and articulate their respective national preferences toward the EU. Thus national preferences are complex, reflecting the distinctive economics, parties, and institutions of each Member State, but they are determined domestically, not shaped by participation in the EU as some neofunctionalists had proposed' (Pollack, 2005: 360-361). Even though LI regards the issue-specific preferences of domestic interest groups as fundamental and acknowledges that the derived state preferences are neither fixed nor uniform (they may vary within the same state across time and issues), LI does consider the state as a unitary actor. Thus, it is assumed that domestic actors do not play a significant independent role in negotiations beyond the state (Schimmelfennig, 2004: 77). State preferences are predominantly economic (reflecting the commercial interest of powerful economic producers and the macro-economic preferences of ruling governmental coalitions), but Moravcsik does allow for some impact of ideological geopolitical preferences.

In the second or intergovernmental stage of Moravcsik's model, 'national governments bring their preferences to the bargaining table in Brussels, where agreements reflect the relative power of each Member State and where supranational organizations such as the Commission exert little or no influence over policy outcomes. By contrast with neofunctionalism, who emphasized the entrepreneurial and brokering role of the Commission and the upgrading of the common interest among Member States in the Council, Moravcsik and other intergovernmentalists emphasized the hardball bargaining among Member States and the importance of bargaining power, package deals, and side payments as determinants of the most important EU decisions' (Pollack, 2005: 361). As a consequence, 'Those who gained the most economically from integration compromised the most on the margin to realize it, whereas those who gained the least or for whom the costs of adaptation were highest imposed conditions' (Moravcsik, 1998: 3).
Finally, Moravcsik puts forward a rational choice theory of institutional choice, arguing that EU Member States adopt particular EU institutions – pooling sovereignty through qualified majority voting or delegating sovereignty to supranational actors like the Commission and the Court of Justice of the EU (CJEU) – in order to increase the credibility of their mutual commitments. In this view, sovereign states seeking to cooperate among themselves invariably face a strong temptation to cheat or defect from their agreements (Pollack, 2005: 361). Thus, by transferring sovereignty to international institutions, governments effectively remove issues from the influence of domestic politics (for example: parliamentary control), which might build up pressure for non-compliance if costs for powerful domestic actors (such as trade unions) are high. They also remove them from decentralized intergovernmental control, which may be too weak to secure compliance, in particular if powerful Member States violate the rules (Moravcsik, 1998: 973). It seems important to note here that LI incorporates a factor traditionally attributed to neofunctionalist (or ‘supranationalist’, as Moravcsik calls them) accounts of European integration: the delegation to supranational organizations capable of acting against the short-term preferences of governments (Stone Sweet, 2003).

The particular status of LI as a ‘baseline theory’ should be rather obvious by now: LI is meant as a ‘grand theory’ seeking to explain the ‘major steps toward European integration’ (Moravcsik, 1998: 4) and other issues of unanimous decision-making (Moravcsik, 1999) in a multicausal framework; secondly, by the standards of European integration theory, it is ‘parsimonious theory’, which can be summarized in a few general propositions (the 3 steps described above). Last, but not least, there is widespread agreement that LI does explain much of the state of behaviour in the EU (Schimmelfennig, 2004: 75). It is hardly surprising, then, that ‘Moravcsik’s liberal intergovernmentalism has been a major influence upon contemporary work in EU studies. Most, if not all, conceptually informed work on the EU engages with his work’ (Rosamond, 2000: 145). This, of course, also encouraged significant critical reflection, which can be grouped under three headings:

- **biased case selection**: even if one accepts that LI is a theory of constitutional change rather than day-to-day policy-making, the selection of cases may appear biased in favour of LI: a theory based on economic interests and intergovernmental bargaining was bound to have a high degree of a priori plausibility for the intergovernmental negotiations focussing on issues of economic integration and requiring unanimous agreement (Scharpf, 1999: 165).

- **neglect of integration dynamics.** Many scholars have rejected Moravcsik’s spare, institution-free model of intergovernmental bargaining, as an accurate description of the integration process (Pollack, 2005: 361). In particular, supranational organisations will ‘work to enhance their own autonomy and influence within the European polity, so as to promote the interests of transnational society and the construction of supranational governance’ (Stone Sweet and Sandholtz 1998: 26). The most important institutionalist case against LI is the

---

4 That is, the intergovernmental conferences and treaty amendments that have changed the core policies and the institutional set-up of the EU. Note that according to Moravcsik there is nothing to rule out the use of liberal intergovernmentalism for the analysis of everyday decisions (Moravcsik, 1995: 613).
specific empirical anomaly of the autonomy and power of the Court of Justice of the European Union and the legal integration it promoted.

- *ignorance vis-à-vis EU norms and rules:* sociological institutionalist and constructivist scholars raised even more fundamental objections to Moravcsik’s theory, ‘rejecting the methodological institutionalism of rational choice theory in favour of an approach in which national preferences and identities were shaped, at least in part, by EU norms and rules’ (Pollack, 2005: 362).

Some of these criticisms are being addressed in institutionalist analyses, and more particularly the ‘New Institutionalisms’, which ‘have arguably become the dominant approaches to the study of European integration’ (Pollack, 2004: 153-154) and which will be discussed in the next section.

### 2.1.4 New institutionalisms: bringing the institutions back in

Over the past fifteen years at least three different analytical approaches have appeared, each of which calls itself ‘new institutionalism’ and each of which involves ‘bringing institutions back in’ to the explanation of politics and society (Schmidt, 2005). Hall and Taylor (1996) labelled these 3 schools of thought ‘historical institutionalism’, ‘rational choice institutionalism’ and ‘sociological institutionalism’. Even though, as Thelen illustrates, these three schools in fact represent a sprawling literature characterized by tremendous internal diversity and even though the walls dividing the three perspectives have been eroded by ‘border crossers’ (Thelen, 1999: 370), it seems useful to have a closer look at the different objects, goals, and standards of explanation that characterizes each of these approaches\(^5\). From the outset it should be clear that we are not dealing here with ‘grand theory’, but with ‘middle range’ theories ‘which purport to explain elements of particular slices of the EU polity’ (Rosamond, 2000: 126)

**Rational choice institutionalism**

Firstly, ‘rational choice institutionalism’ focuses on intentional, interest-motivated strategic interaction and seeks to make universal generalizations or predictions about what actors with a fixed set of preferences or tastes will do with a given set of institutions, seen as coordinating mechanisms sustaining equilibrium outcomes (Thelen, 1999: 381; Scharpf 1997: 10). Rational choice institutionalists see politics as a series of collective action dilemma’s, i.e. instances when individuals acting to maximize the attainment of their own preferences are likely to produce an outcome that is collectively suboptimal\(^6\). Rational choice theorists take a ‘calculus approach’ to the problem of explaining how institutions affect individual action: institutions deeply affect behaviour primarily by providing actors with greater or lesser degrees of certainty about the action that other actors are likely to take. More specifically, institutions provide information

---

\(^5\) For the following section I heavily draw on Hall and Taylor (1996), who provide ‘The best treatment of the defining features, as well as the characteristic strengths and weaknesses of each’ (Thelen, 1999: 370).

\(^6\) Classic examples include the ‘prisoner’s dilemma’ (two purely ‘rational’ individuals might not cooperate, even if it appears that it is in their best interests) and the ‘tragedy of the commons’ (self-interested behaviour leads to depleting common resource).
relevant to the behaviour of others, enforcement mechanisms for agreement, penalties for defection, and the like (Hall and Taylor, 1996: 939). Still according to this calculus approach institutions persist because they embody something like a Nash equilibrium: they survive because they provide more benefits to the relevant actors than alternate institutional forms (Ibid.: 945).

Rational choice institutionalists have devoted increasing attention in the past decade to the question of delegation to, and agency and agenda-setting by, supranational organizations such as the Commission. They ask why and under what conditions a group of (member-state) principals might delegate powers to (supranational) agents, such as the Commission. And, even more importantly, the ask what happens if an agent behaves in ways that diverge from the preferences of the principals (Pollack, 2004: 142-143). Thus, rational choice institutionalists have engaged in an increasingly sophisticated research programme into the nature of EU judicial polities and the role of the European Court of Justice in the integration process which is summarized as follows by Stone Sweet and Caporaso (1998: 129): 'the move to supremacy and direct effect must be understood as audacious acts of agency' by the Court.

**Historical institutionalism**

Whereas rational choice theorists tend to view institutions as coordinating mechanisms sustaining equilibria, ‘historical institutionalism’ emphasise how institutions emerge from and are embedded in concrete historical processes (Thelen, 1999: 369). Institutions are explained by the (often unintended and) path dependent outcomes of purposeful choices and historically unique initial conditions. Historical institutionalism tends to conceptualize the relationship between institutions and individual behaviour in relatively broad terms, combining the abovementioned calculus approach and the cultural approach which is central in ‘sociological institutionalism’ (cf. infra) and which helps historical institutionalists to explain that institutions are resistant to redesign because they structure the very choices about reform that an individual is likely to make. The historical institutionalist take on institutions also emphasises the asymmetries of power associated with the operation and development of institutions. It also seeks to locate institutions in a causal chain that accommodates a role for other factors, notably political, economic and social (change comes from the interaction of different institutional orders within a society) and the diffusion of ideas or beliefs.

In a sophisticated presentation of this strand of institutionalism Paul Pierson contends that political institutions are characterised by ‘increasing returns’ or ‘positive feedback processes’ (Pierson, 2000). Increasing returns dynamics, first, pinpoint how the costs of switching from one alternative to another will, in certain social contexts, increase markedly over time. Put differently: positive feedback will strengthen the arguments of sticking to the first choice, thereby creating ‘path dependence’ once a certain direction has been chosen. Existing institutions may remain in equilibrium for extended periods (‘inertia’, or ‘lock-ins’), despite considerable political change and even when the resulting outcomes are manifestly inefficient. Thereby historical institutionalism explicitly rejects the usual functionalist explanation of institutional design. Secondly increasing returns analyses draws attention to the issues of timing and sequence, paying particular attention to ‘triggering events’ (relatively small and
contingent events at critical junctures early in a sequence shape events that occur later). In an increasing returns process, it is not only a question of what happens but also when it happens. Therefore, increasing returns arguments justify efforts to stretch the temporal horizons of political analyses. Equally important, working from essentially rationalist assumptions, Pierson argues that despite initial primacy of member governments in the design of EU institutions and policies, gaps may occur in the ability of member governments to control the subsequent development of institutions and policies (Pollack, 2005: 363-364).

**Sociological institutionalism**

**Sociological institutionalism, thirdly,** tends to define institutions very broadly. As regards the relationship between institutions and individual action, sociological institutionalism follows a 'cultural approach' (which contrasts to the 'calculus' approach central in rational choice institutionalism and equally present in historical institutionalism, cf. supra). This cultural approach: (1) sees individual action as depending on the interpretation of the situation rather than on pure calculation; (2) considers individuals are satisficers, rather than utility maximisers; (3) sees institutions as providing moral or cognitive templates which not only provide strategically-useful information but also affect the very identities, self-images and preferences of the actors. Consequently, institutions influence behaviour not simply by specifying what one should do but also by specifying what actors will want to do in a given context. Accordingly, many sociological institutionalists emphasise the highly interactive and mutually-constitutive character of the relationship between institutions and individual action. Sociological institutionalists emphasise that actors may well be purposive, goal-oriented or rational, but what an individual will see as rational action is itself socially constructed. Thus, it may well be that organizations adopt a new institutional practice, not because it enhances means-end efficiency but because it enhances the social legitimacy of the organization of its participants, even if those practices are actually dysfunctional with regard to achieving the organization's formal goals.

Sociological institutionalism has been applied, for example, to the question of comitology: according to historical institutionalists, comitology is not an arena for hardball bargaining or a means of control designed by Member State principals to control their supranational agent (the Commission), as rationalists assume, ‘but rather for a technocratic version of ‘deliberative democracy’ in which informal norms, deliberation, good arguments, and consensus matter more than formal voting rules, which are rarely invoked’ (Pollack, 2004: 144). This example illustrates why some claim that in a sociological institutionalist account actors are expected to behave according to a ‘logic of social appropriateness’, which can be contrasted to the ‘logic of path dependence,’ assumed by historical institutionalism, whereas the rationalist approach invokes the ‘logic of interest’ (Schmidt, 1999: 2).

**The 3 ‘New institutionalisms’: insights and limitations**

The discussion of the 3 ‘New Institutionalisms’ clearly has shown that each approach provides a partial account of the forces at work in a given situation and captures different dimensions of ‘real life’ human action and the institutional impact present there. That is why it seems that – on
at least a number of approaches – a syntheses, or at least a combination, should be possible. Take, for example the abovementioned 'calculus' versus 'cultural' approaches to the relationship between institutions and action: it should not be so hard for proponents of respective approaches to acknowledge that a good deal of behaviour is goal-oriented or strategic, but that the range of options canvassed by a strategic actor is likely to be circumscribed by a culturally-specific sense of appropriateness (Hall and Taylor, 1996: 956). Another illustration of the added value of integrating different is research showing that historical actors select new institutions for instrumental purposes, much as rational choice analysts would predict, but draw them from a menu of alternatives that is made historically available through the mechanisms specified by sociological institutionalism (Hall and Taylor, 1996: 957). In any case it seems there is no necessary incompatibility between the rational choice and historical variants. It is perfectly possible to be a ‘rational choice historical institutionalist’ (Rosamond, 2000: 118).

Finally, it seems that the 3 ‘New institutionalisms’ can usefully be combined, not only with each other, but with other European integration theories. Indeed, both rational-choice and historical institutionalisms ‘are essentially mid-level theories, concerned largely with the effects of institutions as intervening variables in EU politics. As such, neither theory constitutes in and of itself an adequate theory of European integration, the ultimate causes of which typically remain exogenous to the theory’ (Pollack, 2004: 154). In this context Ben Rosamond claims that ‘perhaps the majority (but by no means all) of the institutionalists working on the EU would side with Mark Pollack (1996 and 1997) who claims that the new institutionalism has the virtue of beginning with the intergovernmentalist claim about member-state primacy, but then taking account of the way in which institutions structure individual and collective policy choices.’ (Rosamond, 2000: 116). Similarly, historical institutionalism will be able to explain how functional or political spill-overs, predicted by neofunctionalists, are constrained by past institutional choices. In a way, then, the new institutionalisms help to bridge the neofunctionalist and the intergovernmentalist approaches discussed above. To be successful in this endeavour, however, it seems that we would be helped by an approach which helps us to explain where and how the actors operating in different institutional settings, at the domestic as well as the supranational level, in governments as well as outside, interact and shape European policies. The ‘policy network’ perspective can give us a hand in this respect.

2.1.5 Policy network analyses: of epistemic communities and advocacy coalitions

Most authors would agree that ‘there exists no ‘theory’ of policy networks that would lead us to predictive claims about European integration or EU policy-making’ (Peterson, 2004: 120). Yet,
most analyses of the EU which imply the policy network as a metaphor seek to test the basics proposition that, in any given EU policy sector, the way in which networks of private and public actors are structured will substantially determine, and thus help explain policy outcomes. More particularly, policy network analyses argues that EU policy outcomes are determined by how integrated and exclusive policy-specific networks are, and how mutually-dependent are actors within them. Thus it seems clear that, like institutionalism, we are dealing with a ‘middle range’ theory here.

Peterson (2004: 118-119) sees three features of European Union governance that give sustenance to policy network analyses: first, the EU is an extraordinarily ‘differentiated polity’ (Rhodes, 1997). Accordingly, one of the basic assumptions of policy network analyses is that the policy process must be disaggregated to be understood because ‘relationships between groups and governments vary between policy areas’ (Rhodes, 1997: 32); second, EU policy-making is highly technical. Consequently, experts who share specialized knowledge and causal understandings tend to identify and 'bond' with each other, and often seek to depoliticize the policy process; the politics of expertise then becomes a crucial determinant of outcomes; third, EU policy-making is underpinned by an extraordinarily complex labyrinth of committees that shape policies before policies are 'set' by overtly political decision – makers. Thus, another basic assumption of policy network analyses is that governments remain ultimately responsible for government, but policy networks can narrow options and shift the agenda, or even determine their own environment.

Policy network analyses also assumes that modern governance is frequently non-hierarchical, i.e. involves mutuality and interdependence between public and non-public actors, as well as between different kind of public actors. The approach draws attention to the decisive impact of informalities in the everyday politics of the EU and therefore directs empirical research away from the formal arena of decision-making. Policy network analyses can also help us explain why EU policy outcomes in a particular sector reflect purely technocratic rationality or, alternatively, the overtly political agenda of key actors (Peterson, 2004: 121). And it draws our attention to management and legitimacy concerns, e.g. because supranational networks of government officials and experts are usually subject to less scrutiny than is the case at the national level. Finally, most proponents of policy network analyses reject as artificial and false the dichotomy between ‘intergovernmental’ and ‘supranational governance’, since virtually ‘no administrative [EU] action can be deployed without national administrative authorities being associated with it’ (Azoulay, 2002: 128).

Two prominent examples of network analyses are the literatures on ‘epistemic communities’ and the ‘advocacy coalition framework’, which ‘bring actor-based analyses into the issue of agenda setting’ (Rosamond, 2000: 125). The concept of ‘epistemic communities’ was developed by Peter Haas (1992: 3) as a way to describe how policy-making can become dominated by ‘network[s] of professionals with recognized expertise and competence in a particular domain’, has an interest, or ‘stake’ in a given [...] policy sector and the capacity to help determine policy success or failure’ (Peterson and Bomberg, 1999: 8).

9 By some accounts, policy network analyses is actually a variant of institutionalism (see Hall and Taylor, 1996).
particularly those subject to internationalized policy-making (Peterson, 2004: 121). ‘Even if the crucial decisions are made through negotiations between the national executives, Haas’ arguments suggest that there exist influential forms of non-state authority that acquire power through access to and expression of knowledge. Epistemic communities are bound together by shared beliefs, shared understandings of cause and affect within their particular domain of knowledge and shared notions of what actually constitutes valid knowledge. […] Such an approach to EU-policy formulation challenges the intergovernmentalist emphasis on the primacy of governmental preferences’ (Rosamond, 2000: 125).

The knowledge-interest-relationship also lies at the heart of Paul Sabatier’s ‘advocacy coalition’ framework, which holds that policy shifts usually occur when the sectoral agenda is seized by overtly political networks consisting of various kinds of policy activists, including public officials representing multiple levels of government, who ‘share a particular belief system’ (a mixture of knowledge, perceptions and core values) and work together over relatively long periods of time to force policy change (Sabatier, 1993: 25). Thus, unlike the largely technocratic character of epistemic communities, advocacy coalitions purposefully seek policy goals. Sabatier’s approach is not only distinctive because it identifies a new form of influential non-state actor, but also because it rejects the idea that the influence of groups will be determined by their relative endowment of power. Or, as Heclo (1978: 102) puts it: ‘Looking for the web of the few who are powerful, we tend to overlook the many whose webs of influence provoke or guide the exercise of power’. Rather, ‘what Sabatier calls ‘policy oriented learning’ within and across coalitions is important [...] in environments where the prestige of expertise is acknowledged’ (Rosamond, 2000: 126).

In sum, it seems Rosamond (2000: 123) is right when he says that ‘image of networks is an attempt to depict the highly segmented nature of EU policy-making in which advice, consultation, expertise and technocratic rationality are the means used to cope with the regulatory thicket of day-to-day decision-making. And yet policy network analyses is open to lots of criticism: it may be a useful metaphor, but not a model or theory; it lacks a theory of ‘power’; the literature on policy network is often vague; policy-making in Brussels is too fluid and uncertain for stable networks to exist etc. (see Peterson, 2004: 126-129). On the other hand, ‘policy network analyses may not answer many important questions about EU governance. However, it often points the analyst to where the answers may be found: the subterranean netherworld of officials, and experts, a world often quite distant from the political world of ministers and parliamentarians’ (Peterson, 2004: 127). Unsurprisingly, then, it seems that policy network analyses often works ‘best’ (only works?) when deployed together with other theoretical accounts of EU politics or policymaking: its explicit task is to study the meso or sectoral level of analyses (explaining day-to-day policy-making), and is thus ‘compatible with intergovernmentalist or neofunctionalist accounts of decision-making at the highest political levels’ [...]. Policy network analyses is also congruent with most institutionalist treatments of the EU [...]. Policy network analyses also has affinities with constructivist accounts that highlight the ability of international organizations such as the EU to generate new categories of actors and norms’ (Ibid.: 121-122).

Having discussed four of the most promising theories of European Integration, it seems fair to
conclude, especially in view of the fact that the EU is arguably the most complex polity ever created by human artifice, that no single theory will be capable of explaining the dynamics of the European Union, let alone that it would be able to predict its outcome. In the words of Schmitter:

‘understanding and explanation in this field of inquiry are [. . .] best served not by the dominance of a single 'accepted' grand model or paradigm, but by the simultaneous presence of antithetic and conflictive ones which – while they may converge in certain aspects-diverge in so many others. If this sort of dialectic of incompleteness, unevenness, and partial frustration propels integration processes forward, why shouldn’t it do the same for the scholarship that accompanies them?’ (Schmitter, 2004: 70).

In the next section I will retrace the historical step-by-step emergence of EU-co-operation on social protection, throughout the 1990s, which will illustrate why this case of European integration cannot be explained by any ‘grand theory’, but should be approached with a ‘limited eclectic’ approach, combining the four most promising European integration theories discussed above.

### 2.2 Ten steps towards the launch of the social protection OMC’s

If it is true that at Lisbon the Heads of State and Government placed modernising social protection, and in particular pension systems, high on the political agenda, this did not come ‘out of the blue’. In socio-economic terms, the 90s were characterised by low economic growth, high unemployment, and poverty was increasingly becoming a concern on the agenda of governments. Social protection throughout Europe was seen as under siege. In this context, the first milestone in raising social protection to the European agenda was taken in 1992, when the Council of the EU adopted 2 (largely but not purely) symbolic Recommendations, one of which essentially identified commonly held objectives (‘guiding principles’) with regard to social protection (Council of the European Union, 1992a) and the other pertaining to the definition of common criteria to assure sufficient resources and social assistance in the social protection systems of the Member States (Council of the European Union, 1992b). De la Porte and Pochet (2002: 41) rightly point out that the method proposed at the time to implement these Council recommendations ‘resembles a premature version of the OMC, consisting of regular reporting on the steps taken in the Member States, measured according to appropriate criteria, agreed upon with the Member States’.

However, neither the Green Paper nor the White Paper on European Social Policy issued by the Commission in the two following years (European Commission, 1993 and 1994), produced any significant progress in the formulation of an EU-wide approach to social protection. The same can be said about the 2 European Commission Communications that followed suit: the one on ‘The Future of Social Protection’ (which merely proposed a wide range of issues for discussion), the other on ‘Modernising and improving Social Protection’ (European Commission, 1995 and 1997).
Thus, it seems correct to claim that while the two Council Recommendations of the beginning of the 1990s prepared the ground for enhanced EU co-operation based on common objectives and multilateral surveillance, the European level returned, by the end of the 1990s, to a scenario in which the direct involvement of the EU with social protection was ‘limited to, first, the co-ordination of social security systems, with the aim of assuring free movement, and, second, to the nurturing of debates through Communications (the European level as a platform for the exchange of experience)’ (Vanhercke, 1998: 19-20).

What brought social protection back to the European political agenda? Some claim that it was a ruling by the European Court of Justice which helped to create the political momentum of a more ambitious EU initiative on social protection. What happened, then? In order to continue and extend the existing ‘Poverty 3’ Programme to combat poverty and social exclusion, the Commission submitted, on 22 September 1993, a proposal for a Council Decision establishing a ‘Poverty 4’ programme. By late June 1995, it was apparent that the proposal would not be adopted by the Council, notably because of German resistance. The European Commission then decided that it would use part of the 1995 general EU budget which was earmarked for the Poverty 4 proposal to fund 86 projects to combat social exclusion. Following this decision, the United Kingdom government, seized the European Court of Justice for annulment of the decision by the European Commission. The European Court of Justice judged that the purpose of the contested projects was, contrary to what the Commission had argued, not to prepare future Community action or launch pilot projects. The Court therefore concluded that the Commission was, as the UK claimed, not competent to commit expenditure necessary to fund projects to combat social exclusion. The Commission’s decision to fund these projects was therefore annulled (European Court of Justice, 1998), in spite of attempts of the European Commission to ‘open up’ to NGO’s ‘in the hope that the NGOs would be able to avert that political blockage’ (Interview DC & FVN by Jonathan Zeitlin, 2002).

Clearly this ruling by the European Court of Justice meant a serious blow for the European Commission. But it also created a momentum to launch a more ambitious EU project with regard to social protection. For example, the ECJ ruling on the Poverty IV programme was instrumental in stimulating European-wide mobilization of social NGOs, who pressed for the incorporation of the social inclusion competency in the Treaty. This was also the period when the European Anti-Poverty Network (EAPN) was created (in 1989), with invaluable support from the European Commission, which ‘can make common cause with NGO’s, against the Member States, [who are] in the middle if you like’ (Interview DC & FVN by Jonathan Zeitlin, 2002). This momentum was strengthened by the entering into force of the Amsterdam treaty on 1 May 1999, which granted the Union explicit competencies with regard to combating social exclusion and included a new Title (VIII) on employment, thereby giving a specific legal base to the European Employment Strategy.

10 Obviously the inclusion of a Treaty provision for the fight against poverty would provide these organisations with a strong formal source of institutional support for its action.

11 The Treaty of Amsterdam incorporated into the EC Treaty the Maastricht ‘Agreement on social policy’ (see Chapter 1 of the new Title XI and new Articles 136 to 145). Under Article 137 the Council may adopt measures designed to encourage the combating of social exclusion.
The European Commission seized the opportunity very rapidly and published, in July 1999, merely 14 months year after the aforementioned 'Poverty 4' ruling by the European Court of Justice, a Communication in which it proposed a 'Concerted Strategy for Modernising Social Protection' (European Commission, 1999a). Interestingly, the Communication was published almost 4 months after the Santer Commission had resigned, and yet was still in office, as the Treaty requires, until a new Commission was in place. It should indeed be noted that the publication of this Communication was not kept ‘on hold’ until the start of the new Commission, only a few weeks later, i.e. September 1999. Admitted, in legal terms this is possible, as the resigning Santer Commission underlined in its resignation Statement: ‘Under the Treaty the powers of the Commission in the current circumstances are not limited’. Yet, importantly, the Statement continued: ‘We have, nonetheless, decided to exercise our powers in a restrictive manner, i.e. to deal with current and urgent business, and to comply with our institutional and legal obligations, but not to take fresh political initiatives’ (European Commission, 1999b: §3-4).

Was this Communication ‘current and urgent business’? What the Commission proposed in its ‘Concerted Strategy’ Communication, was to launch a European strategy for social protection systems, which aims at deepening the co-operation between the Member States and the EU, based on common objectives, mechanisms for exchanging experience and monitoring of ongoing political developments in order to identify best practices (European Commission, 1999a: 12). Work would be organised around 4 key objectives, which are key issues of concern to all Member States: ‘to make work pay and to provide secure income; to make pensions safe and pension systems sustainable; to promote social inclusion and; to ensure high quality and sustainable health care’ (Ibid: 12-14).

The European Commission furthermore proposed that Member States would designate high level senior officials to act as focal points in this process. The result of the work (starting from the 4 key objectives) would be published by the Commission every year in a ‘report on social protection’, which would be based on contributions by the Member States and would be submitted to the Council together with the Joint Employment report (Ibid: 15). In sum, the European Commission did no less than what the European Parliament had called on the institution to do: ‘to set in motion a process of voluntary alignment of objectives and policies in the area of social protection, modelled on the European employment strategy’ (European Parliament, 1999). One could label this a ‘fresh political initiative’ indeed, rather than ‘current and urgent business’.

The reason why the Commission could follow this ‘proactive’ (rather than the formally required ‘restrictive’) course of action is eminently political: by the time of the publication of this Communication in 1999, eleven out of fifteen governments were headed by social democrats (Schäfer, 2004: 10), who tend to be more supportive of European social policy initiatives. Consider the contrast with the situation in at the beginning of the 1990s, when only 2 out of 12 Member States were governed by the left (Ibid: 6). Thus, it will not come as a surprise that a majority of the Member States supported the approach proposed by the European Commission.

---

in its Communication on a ‘Concerted Strategy’, as can be seen in the written contributions some of them sent to the Commission and the other Member States during the autumn of 1999.

These contributions suggest, amongst others, what should be the aim of the concerted strategy: the elaboration of a ‘Europe-wide vision with regard to social protection’ (Social Questions Working Group, 1999b). The European Commission is proposed as a ‘broker’ between the Member States when it comes down to exchanging best practices and stimulating bilateral contacts between Member States (Ibid.). The contribution from the United Kingdom encouraged the European Commission to be more ambitious in its proposal (Social Questions Working Group, 1999a), while others suggested that the High Level civil servants involved in this process should report directly to the competent ministers (Social Questions Working Group, 1999c: §10). It should be added that European Parliament, the Economic and Social Committee and the Committee of the Regions also supported the Commission’s Communication.

This large support from the Member States and EU institutions alike explains why merely 4 months after the publication of the Commission Communication, the Council adopted a Concreted strategy on social protection. This does not mean that Member States were not critical towards the Commission’s initiative. This criticism may explains why Vandenbroucke states that, ‘The Council of Ministers of Labour and Social Affairs approved this proposal on 29 November 1999, but not without discussion: although this process clearly does not violate the current distribution of competences, some Member States were suspicious’ (Vandenbroucke, 1999: 15).

This suspicion may also shed some light on why the Council of ministers of Labour and Social Affairs, in its Conclusions on this issue not only

> ‘[n]otes with satisfaction the views expressed by the Commission in its Communication’ and ‘Endorses the four broad objectives as identified by the Commission’, but also ‘recalls the competence of the Member States for the organisation and financing of social protection, and stresses that decisions in matters covered by the Community competence should complement and not weaken the conditions under which national social policy is conducted’ (Council of the European Union, 1999a: §1,2,6).

After the aforementioned political decision by the Council to launch a ‘Concerted Strategy’ on social protection, the Finnish Presidency of the EU (July - December 1999) acted quickly to operationalise it. In fact, this should not be a surprise since the aforementioned Council Conclusions not only supported the Commission’s suggestion to establish a group of high-level officials, but stressed ‘the necessity to create this group as soon as possible, and in the meantime asks the Member States and the Commission to designate, as soon as possible, for an interim

13 The European Parliament (2000 :157) welcomed the Commission’s Communication ‘in that it provides the necessary framework for social convergence’; the Economic and Social Committee equally welcomes it and is especially pleased with its intention to involve all stakeholders in the debate on the modernisation of social protection (EESC, 2000 :4). The Committee of the Regions refers to the Communication as a ‘milestone’ and insists on the key role played by regional and local authorities in implementing the policies designed to attain the four key objectives (Committee of the Regions, 2000: 2). CEEP, finally, is supportive of the Commission’s intentions (including the four key objectives), but ‘would like the part to be played by the social partners to be indicated clearly’ (CEEP, 2000: 4).
period, high level officials to launch the above-mentioned debate’. To underline the urgency of such initiatives, the Council added that ‘Work should begin immediately and a progress report should be prepared in the context of the European Council in June 2000’ (Council of the European Union, 1999a: §12, our emphasis).

So, the Finnish Presidency acted accordingly. On December 13 1999, i.e. within 2 weeks after the decisive Labour and Social Affairs Council (and even a few days before its Conclusions were formally adopted, by another Council formation, on December 17 1999), the acting President of the Council, requested her colleagues to appoint 2 high level civil servants: one member and one deputy member. In the letter she wrote, the President of the Council urged Member States to appoint these officials within a months time: thus, it was argued, the interim High Level Group would be able to meet for the first time during the last week of February 2000, i.e. at the very beginning of the Portuguese Presidency (Council of the European Union, 1999b). The first meeting of the Interim High-Level Working Party on Social Protection indeed took place on January 26 2000, i.e. less than one month after the formal adoption (on 17 December 1999) of the ‘Concerted Strategy’. Work started ‘immediately’, indeed.

Two months after that first meeting of the High-Level Working Party on Social Protection, which prioritised 2 issues (social inclusion and pensions), the Concerted Strategy was politically approved at the highest level: the Lisbon European Council considered that ‘modernising the European Social Model, investing in people and combating social exclusion’ was part of the overall strategy that was needed to reach the aforementioned new ‘strategic goal for the next decade (European Council, 2000: §5). The social protection OMC’s were on (fast) tracks.

2.3 Theorizing the emergence of the social protection OMC’s

The question now is: can any single one of the European integration theories described in section 2.1 of this chapter account for the emergence of EU co-operation on social protection, as I have begun to describe it in section 2.2. The answer is, somewhat summarised: no. Instead, a ‘limited eclecticism’ is needed to explain this case of European integration, as I will try to illustrate in this final section.

2.3.1 Neo-functionalism

Surprisingly enough, very little has been written so far about the origin of the social protection OMC’s. Based on the (limited) historical account in section 2.2, a neofunctionalist account could plausibly explain the emergence of EU cooperation on social protection. Indeed, I have illustrated how the European Commission was (and, for that matter, still is) an important ‘norm entrepreneur’ which kept the debate about social protection going throughout the 90s, by regularly publishing policy documents. Crucially, when it felt the time was ripe, it published an important political document that contained the outline of the future co-operation on social

---

14 Following linguistic corrections, the ‘Fisheries’ Council formation of 16/17 December 1999 adopted the Council Conclusions on the strengthening of cooperation for modernising and improving social protection, without debate (Council of the European Union, 1999c: 3).
protection (European Commission, 1999a) whereas it should have restricted itself to ‘ongoing business’ in view of the fact that the (Santer) Commission had resigned. Also note that a number of Member States themselves, in their 1999 reactions to the Commission Communication on a Concerted Strategy, indicated the Commission as a ‘broker’ in the area of social protection (Social Questions Working Group, 1999b). In sum, the European Commission did not seem to reflect intergovernmentalist’s image of supranational organizations that would remain ‘more-or-less obedient servants of the Member States’ (Pollack, 2005: 361).

Rather, it would seem, that the launch of the social protection OMCs is a textbook example of what Tranholm-Mikkelsen (1991) calls ‘cultivated spillover’. Thus, van Riel and van der Meer (2002: 13) argue that the concerted strategy on social protection can be considered as a political spillover of EMU, ‘prompted mainly by a need to enhance the support and legitimacy of the EU’s policy, by indicating to voters that the EU is concerned about issues that matter to citizens, such as work and income security’. One could argue, that especially for the new Member States (Austria, Finland and Sweden joined the EU in 1995) this was an important issue (Danish voters in 1992 rejected the Treaty in a referendum), but the legitimacy crisis was more substantial than that: there was the ‘resignation of the Santer Commission, but also the referenda results in […] Ireland, Norway and France throughout the past decade, and the record abstention to the 1998 European Parliament election’ (Chalmers and Lodge, 2003:12). Having said this, neofunctionalism cannot specify exactly what the social protection OMCs can be considered a spillover of.

2.3.2 Liberal intergovernmentalism

Surely Andrew Moravcsik would not see the necessity of lowering oneself to a neofunctionalist explanation for the emergence of EU co-operation on social protection. And, admitted, there are some solid arguments which fit into the liberal intergovernmentalist approach. For example some have argued that by the late 1990s, EU cohesion policy had run its course as the central plank of the center-left at the EU level, amongst others because Swedish, Dutch and German social-democrats were increasingly reluctant to contribute to EU Social Funds (Hooghe, 1998; Hooghe and Marks, 1997). Thus, an alternative explanation to the spill-over hypotheses could be that the theme of social protection – with its electorally popular connections to employment policy and active labour market policies – promised a new common platform for the center-left. Put differently: adopting a concerted strategy on social protection could be seen as a self-interested move of the large majority of the social democratic governments, because it brought the ‘rich’ social-democrats (some of whom may have considered the OMC as ‘cheap talk’) back on board.

Adding to this intergovernmentalist argument, one can convincingly argue that ‘accepting’ the social protection OMC’s to be launched at the Lisbon European Council was nothing more than a condition, in Moravcsik’s terms, ‘imposed by those who gained the least’ to Tony Blair and others, who, still in line with intergovernmentalist reasoning, ‘compromised on the margin’ at Lisbon to obtain a political commitment for a largely neo-liberal political agenda focussing on jobs and growth. And thus the launch of the social protection OMC’s could be interpreted as part of the usual ‘hard bargaining’ at the EU level, which De Ruiter (2007) qualifies as pre-emptive
strategies by some of the (new) Member States, who hoped that launching the OMC would decrease that chance that ‘other’ EU instruments (read: legislation) would, some day, be applied to the sensitive issue of social protection. In that sense the prudent integration through the OMC on social protection can be seen, contrary to the neo-functionalist logic of spillover, as preventing (at least for the time being) stronger forms of integration on this issue.

Finally, it is clear that some of the Member States who played a major role in launching the social protection OMCs had domestic interests in doing so. Three examples can illustrate the latter point. Firstly, the Belgian minister for Social Affairs and Pensions, Frank Vandenbroucke, returned to the Belgian government in 1999 after being elected with the ‘European poverty norm’ as the main campaign issue, and he saw the OMC as the means to get there. By the end of the Belgian Presidency of 2001 Vandenbroucke claimed to have delivered on this electoral promise (referring to the Laeken indicators). Secondly, the French minister for Employment and Social Affairs, Martine Aubry was running in the local elections in 2000 and resigned from the government the day after she had obtained an agreement in the Council of the EU on the Common Objectives regarding social inclusion (Erhel et al., 2005: 233). Finally, during the 1997-1999 period Finland showed the highest increase in poverty in the EU. It was an issue on the national agenda, while Finland was also concerned about negative social effects of Economic and Monetary Union (de la Porte, 2005:13). It seems that in all 3 examples domestic preferences were not dominated by economic interest but by what Moravcsik (very broadly) calls ‘ideological geopolitical preferences’ (cf. supra).

### 2.3.3 Neo-institutionalism

A neofunctionalist account of the emergence of the OMC would, as we have seen, describe the event as a political (arguably not a ‘functional’) spillover of some previous technical cooperation. In the abovementioned analyses by van Riel and van der Meer (2002), the authors argue that both the launch of the European Employment Strategy and the co-operation on social protection can be seen as attempts to correct for the legitimacy deficit caused by the introduction of the EMU at Maastricht. Whether that is indeed true remains open for empirical examination: a case could be made that the OMC is in fact a direct spillover of the European Employment Strategy, and not of the EMU (interview with Frank Vandenbroucke, February 2006). Consider that, according to a high-level civil servant in the European Commission:

> [...]’during the 1990s ‘social protection throughout Europe was seen to be under threat. [...] What happens in the employment strategy? The employment ministries get their own process and, what do the do? They also shift somewhat the focus onto incentive issues and things like that. So in a sense [...] they almost shift onto the offensive and take aim at the social protection ministries’ (Interview DC & FVN by Jonathan Zeitlin, 2002).

Thus, it could be argued that ‘Some ministers for Social Affairs within the Party of European Socialists, as well as academics, reacted to the primacy given to employment since 1997 and underlined social protection as a productive factor, and the fact that ensuring social protection is a goal in itself, not just a tool to increase employment. The launch of EU-cooperation on social protection should be seen in that perspective’ (interview with Frank Vandenbroucke, February
2006). Another reading could be that social security ministries, observing that their counterparts from employment ministries strengthened their national (negotiating) role through the EES, saw a similar exercise on social protection as a way to rebalance their own position. In sum, there seem to be some arguments to hypothesise the social protection OMC as a spill-over of the employment strategy.

In any event, the emergence of the social protection OMC’s seems to be a case in point of historical institutionalist’s claim that institutions emerge from and are embedded in concrete historical processes. Whether a spill-over from the EMU or the EES, it is clear that the concrete architecture of the social protection OMC is mirrored on the Employment Strategy (and is thus constrained by past institutional choices). Note, for example, that the UK’s initial observations on the Communication in 1999 were not simply supportive, they also stressed that:

‘the proposed machinery for bringing together the Commission and the Member States could usefully be more ambitious [than what the Commission proposed, BV], so that social protection is accorded at least some of the status enjoyed by the Union’s handling of its employment policy’ (Social Questions Working Group, 1999a: 2). On the other hand the UK observed that ‘it would not be appropriate to apply the Luxembourg model to social protection’. Indeed, ‘The main difference from the Luxembourg process is that the reviews would not be based on formal national action plans’ (Ibid: 4).

After which the UK proposed a rather detailed, and indeed ambitious, blueprint for Peer Review and monitoring, very similar to the Luxemburg Process. Following its path-dependent way, the process did contain formal national action plans, illustrating that bargaining power, in this case, was not the decisive factor.

Another element supporting a ‘new institutionalist’ account of the emergence of the social protection OMC would be the crucial impact of the ‘Poverty IV’ ruling by the European Court of Justice, which contributed to the mobilisation around the issue of social inclusion at EU level and created a ‘gap’ (Pierson, 1998) in the ability of member governments to control the subsequent development of institutions: after the Court ruling and the mobilisation by NGO’s the Treaty change discussed above became very difficult to avoid.

Finally note that sociological institutionalism allows us to understand actors sometimes redefine their interests and goals in the process of communicative interactions with others. Thus, during the 18 October 2001 meeting of the Social Protection Committee, several Member States raised strong doubts about the desirability of launching an OMC on pensions, notably out of fear that the European Commission would come up with a ‘ranking’ of Member State performance in this sensitive area (see chapter 3). A strong intervention from the Director General of the European Commission’s DG Employment and Social Affairs, immediately followed by supportive interventions from four Member States, completely reversed the tide. After this cascade of positive interventions (among which the visible interventions from the previous, current and incoming Presidencies of the EU), Member States who had not made up their minds followed a logic of social appropriateness and decided to be cooperative. Those who were critical but fiercely opposed to launching the pensions OMC resisted intervening (again) because this
Theorizing the emergence of the Social OMC’s seemed inappropriate. Though it looked very improbably at the beginning of the meeting (in view of the unanimous decision-making in this policy area), the outcome of the SPC meeting was that the door was wide open for a full blown OMC to be launched in the field of pensions by the end of that same year.

2.3.4 Policy networks analysis

The historical description of the launch of EU-co-operation on social protection made it clear that neither the Commission nor the Member States appear to have played a truly dominant role in this process. Rather, an advocacy coalition seems to have emerged, consisting of the social democratic ministers (including consecutive EU Presidencies) of a majority of the Member States, key people within DG Social Affairs of the European Commission and representatives of a number of European NGO’s, especially EAPN. Renowned social scientist were closely involved in the political engineering of the process (e.g. reports and personal advise to EU Presidencies in 1999 and 2000), which may not come as a surprise in view of the technical complexity of the debate on social protection. Arguably one of the goals of this advocacy coalition was to off-set pressures from the side of employment ministries (who had gained influence through the EES, cf. supra) as well as from the ECOFIN Council and DG ECFIN within the Commission, which seemed to form another advocacy coalition that had been dealing with the pension issue for some time.

According to Schäfer (2004) the social-democratic advocacy coalition in 1999 (11 out of 15 governments were headed by social democrats, cf. supra) can also help to explain why this center-left coalition relied on ‘soft law’ for social protection policy (and mimicked the ‘soft’ employment strategy), while a center-right coalition opted for hard law in monetary and fiscal policy in Maastricht. Indeed, the ‘magical return’ of social democrats by the end of the 90s brought New Left to power, most prominently New Labour in Britain. Thus, ‘[w]hile the Christian democratic-liberal coalition at Maastricht scored high on integration-mindedness, support for further transfers of power subsequently plummeted with the ascending social democratic majority’, even if the latter tended to support European social policy (Schäfer, 2004:12). Seen this way, the advocacy coalition framework can help to explain why political entrepreneurs choose, at a time where social protection was seen to be in crisis, for the spill-over option and not for one of the other options available to them according to neo-functionalist thinking (spill-back, spill-around, and muddle about cf. 2.1.2).

It seems important to also consider the role of European anti-poverty-NGO’s here: the European Commission actively sponsored ‘a new social exclusion lobby’ (Peterson, 2004: 122) which helped to raise the salience of the issue of the fight against poverty, both at national and domestic level. ‘This is clearly an example where ‘the Commission retains ‘virtually a free hand in creating new networks’ (Marks et al., 1996: 359) and is often empowered to by its position at the ‘hub of numerous highly specialised policy networks’ (Marks et al., 1996: 359). The European anti-poverty-network (EAPN), more particularly collaborated closely with the Finnish
President in 1999\textsuperscript{15} and had regular contacts with the European Commission as well as with key people within the Portuguese Presidency in 2000. Key people of EAPN afterwards held key positions within DG V of the European position, seemingly resulting in important inputs by EAPN in the social protection strategy (Interview Director EAPN by Caroline de la Porte, 7 December 2004). In sum, this seems to be an application of Heclo’s warning that looking for the web of the few who are powerful, we tend to overlook the influential (cf. 2.1.5). The important agency and impact of small Member States (like Finland, Belgium and Portugal) during the launch of the social protection OMC’s seems to be another illustration of the value of Heclo’s claim, and of policy network analyses more generally: sometimes ideas and influence matter more than bargaining and voting power.

2.4 Conclusions: towards a constructivist interpretation of neofunctionalism

This chapter asked the question how the most promising approaches in European integration theory can explain the emergence of EU cooperation on social protection, later formalised by the launch of the social protection and social inclusion OMC. I have tried to answer this question by looking through four theoretical lenses, seemingly competing theories which in fact shed a different light on the same issue. In retrospect it would seem that a ‘constructivist interpretation of neofunctionalism’ along the lines of the framework developed by Haknoh Kim (2007) provides a promising way to synthesise rationalism with constructivism and therefore reconcile at least some of the approaches presented above.

Neofunctional constructivism takes actors’ self-interests seriously. Thus, the self-interested reasons impelling (largely socio-democratic) governments to support EU cooperation on social protection and social inclusion provide a good ‘baseline’ or ‘first cut’ explanation. Indeed, some EU governments were increasingly reluctant to pay for the Social Funds, others saw ‘soft’ cooperation as a pre-emptive strategy to keep more binding initiatives off the agenda, while for still other Member States the new cooperation on social protection and social inclusion served their domestic (electoral) agenda. At the Lisbon European Council, critical (and powerful) Member States ‘compromised at the margin’ and accepted the OMC, as part of the usual intergovernmental bargaining, in exchange for an important political commitment to a largely neo-liberal reform agenda.

At the same time, this chapter clearly illustrated that actors are animated by their perception of interests, which is not ‘fixed in stone and cannot simply be deduced from structural needs. Thus, neofunctionalists are aware of the possible discrepancies between actors’ objective interests and their perceptions thereof, which are determined by their structural positions, but also by their ideas, norms, values, ideologies, intersubjective conceptual frameworks, and so on (Kim, 2007: 24). An illustration of how such actors may redefine their interests and goals in the process of

\textsuperscript{15} Social Affairs Minister Perho ‘was informed and supportive of the approach developed within the EAPN. She had been involved with the national Finnish EAPN network and also the European EAPN network, to make social protection an issue on the agenda of the Finnish Presidency’ (de la Porte, 2005: 10).
communicative interactions with others came from the Social Protection Committee’s crucial debate about the pension’s OMC in October 2001 (section 2.3.3). This seems to be a case in point, where actors have learned, in this case very quickly, about the possible unintended effects of their own purposive actions, as a consequence of which they modify their perception of realities and redefine their preferences and strategies (Haas, 1964).

Neofunctional constructivism’s take on actors’ perception of their own interests also makes it clear that progress in European integration ‘does not require actors to have identical perception of interests and values. Rather, integration takes place if perceived interests and values of actors converge’ (Kim, 2007: 25): the latter occurs if a sufficient number of influential actors expect some benefit from it. This helps us to understand how, in the day-to-day decision-making of the Brussels arena, the different parts of the puzzle come together. Or, as this chapter explained, how many different actors were involved in the emergence of EU co-operation on social protection and social inclusion, but none of them were truly dominant: rather an advocacy coalition emerged, consisting of social democratic ministers of a majority of Member States, key people within DG Social Affairs of the European Commission, representatives of European NGOs (actively supported by the Commission), and even lead social scientists. The agency of small Member States (such as Finland, Belgium and Portugal) was equally key for the launch of the social protection and social inclusion OMCs.

Each of these actors had their own values, interests and expectations, which converged towards the new EU cooperation, resembling the image of the EU as ‘a mass of ambiguities in motion’ (Hoffmann, 1963: 545). In this ‘social democratic’ advocacy coalition, actual bargaining power seems to have been less crucial than ‘influence’ through networking. Consider, for example, the important influence of some small Member States and NGOs, who managed (following the ‘gap’ that was created by the ‘Poverty IV ruling’ of the European Court of Justice) to define poverty and social exclusion as a European problem, and persuaded key actors that an EU solution was required (leading, in the end, to a Treaty change giving a legal base to anti-poverty initiatives).

The neofunctional constructivist approach also allows us to account for the crucial agency displayed by the European Commission in the emergence of the Social OMC. This chapter described the emergence of EU cooperation on social protection and social inclusion as a textbook example of ‘cultivated spillover’ in which the European Commission kept the debate going for almost a decade through a series of policy and overtly political documents (even when it had resigned), by supporting European NGOs in an effort to counter Member States’ opposition etc. The Commission thereby became a ‘broker’ in the area of social protection and social inclusion, even in the absence of any legal competence in this field. What exactly the social protection and social inclusion OMCs are a spillover of remains to be tested empirically: a functional spillover of EMU (tasked with the expansion to social protection, as an attempt to correct the legitimacy deficit caused by Maastricht) or a political spillover of the EES (Social OMC as a reaction of social affairs ministers and EU as well as national civil servants to pressure from the employment side), or both. A strong case can indeed be made that the OMC is the result of the strategic interaction of actors who wanted to counterbalance the dominance of economic and employment issues in the EU.
Finally, a constructivist interpretation of neofunctionalism allows us to complement the 'spillover' story with institutional analysis, more particularly by showing how the Social OMCs emerged from and are embedded in concrete historical processes. Whether a spillover from EMU or the EES (and arguably both, since functional spillover may give rise to political spillover as a result of learning), it is clear that the architecture itself was modelled on the Employment Strategy, and was thus constrained by past institutional choices. At the same time, the detailed process tracing of the further development of the Social OMC made it very clear that being ‘constrained’ by past choices by no means equals being ‘determined’ by them: clearly actors in the fields of social inclusion, pensions and health care have made very different choices, illustrating the mutually constitutive relationship between institutions and actors. Indeed, one of the key characteristics of the (different strands of) the social OMC is that a certain degree of institutional continuity has been paralleled by ongoing redefinition and reinterpretation of the meaning of the OMC as an institution, consolidating it at some points, weakening it at others, while modifying it throughout.

Even though different theoretical approaches ‘cannot easily be lumped together to form a grand theory of integration’ (Diez and Wiener, 2004: 16), I have tried to show that using several of these approaches has the potential of contributing to a more faceted and nuanced picture of the particular case of European integration, i.e. the emergence of EU-wide co-operation on social protection. These theories can therefore be seen ‘as stones in always-incomplete mosaic’ (Ibid.). It seems plausible indeed that, since the actors in this instance of European integration operate with different sets of expectations and interests, this means that theorizing it requires a corresponding degree of eclecticism. It is just our luck, then, that King, Keohane and Verba (1994:20) remind us that parsimony is not an unalloyed goal, and that ‘theory should be just as complicated as all our evidence suggests’. The reader will judge whether our evidence is indeed complicated enough to legitimise the use of the (limited) eclectic theoretical approach that neofunctional constructivism is.

References


115


Hoffmann, S. (1966), 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe', *Daedalus*, No.95, pp.862-915.


Interview Director EAPN by Caroline de la Porte, 7 December 2004

Interview with Frank Vandenbroucke, February 2006


Schäfer, A. (2004), ‘Beyond the Community Method: Why the Open Method of Coordination was Introduced to EU Policy-making’, European Integration Online Papers (EIoP) Vol.8, No.13.


Strategic questions about the development of the Social OMCs


CHAPTER 3

Variations in institutionalisation of the Social OMC’s: the choice for non-constitutionalisation and the emergence of ‘hard soft law’


3.1 Policy coordination after Lisbon

In March 2000 the Heads of State and Government set ‘a new strategic goal’ for the Union: to become, within a decade, ‘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, 2000a: §5). The European Council meeting, which was held in Lisbon, envisaged implementing this strategy ‘by improving the existing processes, ‘introducing a new open method of coordination’ (Ibid.: §7). The Presidency Conclusions of this Lisbon Summit refer to the OMC as ‘the means of spreading best practice and achieving greater convergence towards the main EU goals’. Still according to the same source, this involves: fixing guidelines (with specific timetables), establishing quantitative and qualitative indicators and benchmarks (against the best in the world), national and regional targets and periodic monitoring, evaluation and Peer Review organised as mutual learning processes (Ibid.: §37).

Based on these features, Vandenhove (2001a: 2) summarised that open coordination ‘launched a mutual feedback process of planning, examination, comparison and adjustment of the social policies of Member States, and all of this on the basis of common objectives’. Thus, in terms of governance, the Open Method of Coordination is, like other forms of policy coordination, a form of European ‘soft law’: there is no legislation involved, only ‘governance by persuasion’ (Streeck, 1996: 80) or governance by objectives. Wallace (2000: 28) therefore identify ‘policy coordination and benchmarking’ as one of the 5 variants of the EU policy process.1

---

1 I substantially revised the text of this chapter for my ‘Second Year Paper’ (Vanhercke, 2007). This revision included a new section 3.4 describing the institutionalisation process of the Health Care strand of the Social OMC. The revised text also includes new insights I drew from presenting at the WAGE and NEWGOV/CONNEX conferences in 2006 (see section 1.6 for further details) about the limitations of the ‘legalisation’ perspective: these have been introduced in section 3.6 of the present chapter, and have been further elaborated in the concluding chapter.

2 The other modes are (1) the ‘community method’ or ‘hard law’ (e.g. common agricultural policy), (2) the ‘EU regulatory model’ (e.g. internal market or competition legislation), (3) ‘multi-level governance’ (e.g. structural funds) and (4) ‘intensive transgovernmentalism’ (e.g. Economic and Monetary Union) (Wallace, 2000).
3.1.1 Open coordination: old wine in new bottles?

The OMC provides a Europe-wide approach to, amongst others, social policy and is now being applied to social inclusion (winter 2000), pensions (winter 2001) and health care (autumn 2004). But that is only the beginning of the story: the Lisbon Council Conclusions stipulated the introduction of the OMC ‘at all levels’ (European Council, 2000a: § 7), and, apart from social exclusion, explicitly referred to the use of the OMC with regard to information society/e-Europe (Ibid.: § 8), innovation and research and development (Ibid.: § 13). Furthermore, even though the term OMC was not explicitly used with regard to social protection (pensions more particularly), enterprise promotion, economic reform and education and training, the wording of the Lisbon Council Conclusions were such that they gave, de facto, authorisation to launch or strong political backup to continue open coordination in a host of policy areas. According to Rodrigues (2001) the OMC was up and running in no less than 11 policy areas at the turn of the century. Furthermore Zeitlin (2005: 20) points out that since the Lisbon European Council ‘OMC-type processes and approaches have also been proposed by the Commission and other European bodies as mechanisms for monitoring and supplementing EU legislative instruments and authority such as immigration and asylum […], as well as in areas like youth policy where the Union has few if any legal powers’.

Is the OMC as introduced by the Lisbon European Council then an entirely new mode of EU policy-making? At first sight certainly not: even though the concept of open coordination saw the daylight in 2000, the actual practice of policy coordination at EU level was by no means introduced by the OMC. Conceptually the OMC finds its roots in the Broad Economic Policy Guidelines which were introduced by the Treaty of Maastricht (1992) and which involved non-binding recommendations from the Council to Member States to monitor the consistency of national economic policies with those of the European Monetary Union (Caviedes, 2004: 295). Furthermore, the Luxembourg European Council (1997) brought the Treaty chapter on employment (introduced in Amsterdam) to life through what is now referred to as the Luxembourg process and which uses a similar set of instruments for policy coordination. Thus, a number of pre-existing European policy coordination processes have retrospectively been interpreted as full or partial examples of OMC avant la lettre (i.e., before the Lisbon European Council labelled the policy instrument as such). Apart from the BEPG and the Luxembourg process, one could also mention the Cardiff Process for structural economic reforms, the Bologna Process for cooperation in European higher education, and the code of conduct against harmful tax competition (Zeitlin 2005:20). Some have argued that policy processes such as that the OECD Economic Surveys3, the Employment strategy undertaken by the Nordic Council4 and the Article

---

3 To ensure that OECD Member States follow the code of conduct for sound economic policies laid down in the OECD Convention, the OECD produces, every 12 to 18 months, an Economic Survey for each country. Such a report results from a detailed surveillance procedure (Schäfer, 2004: 5).

4 The Nordic cooperation in the employment field involves Iceland, Finland, Norway, Sweden, Denmark, Greenland, the Faroe Islands and the Aaland Islands. Officials as well as experts meet on a regular basis within the ‘Nordic Committee of Senior Officials for Labour Market and Working Environment (or ‘EKA’) in order to discuss experiences with their national labour market policies (Nedergaard, 2005: 19).
IV Consultations by the International Monetary Fund (IMF), all of which have been up and running for at least 2 decades, are OMC-types of cooperation between countries as well (Schäfer, 2004; Nedergaard, 2005).

The question still remains whether the OMC brought something new under the sun as compared to these pre-existing ‘soft law’ processes? Schäfer, for example, sees no substantial differences whatsoever between the longstanding OECD Jobs Strategy and the new European employment strategy: ‘these procedures are forms of multilateral surveillance that do not differ in kind’ (Schäfer, 2004:1). According to the same author ‘comparative analyses of the OMC refutes claims to its novelty’ (Ibid.).

By contrast, Borrás and Jacobsson see no less than seven different points that make the OMC distinct from the ‘old soft law procedures and contents’ (Borrás and Jacobsson, 2004: 188). But it seems that questions can be raised with regard to the distinction made by these authors between the OMC and what they refer to as ‘the traditional soft law’. For example, Borrás and Jacobsson hardly provide any evidence for their claim that the European Court of Justice considered the ‘old soft law procedures and contents’ (a category which is not specified by the authors) as a source of law, thus giving it a strong supranational dimension which would contrast with the intergovernmental approach of the new OMC’s. Similarly, the authors claim that one of the differences between the OMC and the old ‘soft law’ is the high level of political participation in the OMC, both in the policy formulation phase and the monitoring phases. It remains to be shown whether political participation is indeed so high in all, or even most, of the (new) OMC’s, especially since the revision of the Lisbon Strategy in 2005. Just as it remains to be shown that previous ‘soft law’ in the EU or the Peer Review process of the OECD are really only managed at the administrative (and not at the political) level. Finally, the claim that OMC aims at enhancing learning processes and traditional ‘soft law’ does not, should be underpinned by empirical evidence, since there is no reason to assume, at face value, that older ‘soft law’ procedures ‘such as collective recommendation, review and monitoring, and benchmarking’ (Ibid.:188) were not aimed (explicitly or in practice) at enhancing learning.

It seems that the other differences between OMC and old ‘soft law’ identified by Borrás and Jacobsson are more significant. Thus, clear procedures and iterative process, systematic linking across policy areas, interlinking EU and national public action and seeking the participation of actors could be seen as features of the (new) OMCs. These can be contrasted, to some extent at least, to weak and ad-hoc procedures, no explicit linking of policy areas, no explicit linking of EU/national levels and no explicit mobilization of a wide range of actors, all of which could be considered as characteristic for pre-existing ‘soft law’.

The crucial question then is, however, whether these remaining differences between OMC and old ‘soft law’, even if they can be empirically confirmed, suffice to substantiate the claim that the OMC’s launched by the Lisbon European Council or thereafter actually represent a substantially ‘new’ pattern of EU governance as compared to the policy coordination processes which existed

---

5 The ‘Article IV Consultations’ consist of an annual multilateral surveillance procedure, used with a view to ‘firm surveillance’ of the exchange rates of the IMF members (Schäfer, 2004: 7).
before (in the EU as well as on the international scene). Similarly, the question is how one should discriminate amongst the (new) OMC’s: is open coordination some kind of fixed recipe that is being applied to every one of these new OMC’s? Or are there substantial differences between them? This chapter looks at the variations in the institutionalization of the Social OMCs, beginning in 1999 with a Commission Communication.

3.1.2 A Concerted strategy on social protection

In July 1999 the European Commission published a Communication in which it proposed a Concerted Strategy for Modernising Social Protection (European Commission, 1999). The proposed strategy would aim at deepening the co-operation between the Member States and the EU, based on common objectives, mechanisms for exchanging experience and monitoring of ongoing political developments in order to identify best practices (Ibid.: 12). Work would be organised around 4 key objectives, which are key issues of concern to all Member States:

- ‘to make work pay and to provide secure income;
- to make pensions safe and pension systems sustainable;
- to promote social inclusion and;
- to ensure high quality and sustainable health care’ (Ibid.: 12-14).

Four Months after the publication of the Commission Communication, ‘The Council of Ministers of Labour and Social Affairs approved this proposal on 29 November 1999, but not without discussion: although this process clearly does not violate the current distribution of competences, some Member States were suspicious’ (Vandenbroucke, 1999: 15). After the decision by the Council, under Finnish Presidency⁶, to get the Concerted Strategy on social protection on the tracks, things moved very quickly (see chapter 2 for a detailed account of this emergence of the Social OMC). Indeed, merely two months after the first meeting of the Interim High-Level Working Party on Social Protection, the Lisbon European Council considered that ‘modernising the European Social Model, investing in people and combating social exclusion’ was part of the overall strategy that was needed to reach the aforementioned new ‘strategic goal for the next decade (European Council, 2000a: §5). The social protection and social inclusion train was on fast tracks, and recognized at the highest political level.

The next sections looks into more detail at the institutional development and outcome of three social OMC’s which have developed since Lisbon: the social inclusion (discussed in section 3.2), pensions (section 3.3) and health care (section 3.4) strands of the Social Protection and Social Inclusion OMC. Section 3.5 looks beyond the surface of streamlining the three strands. The question whether these processes can be considered as different institutional architectures will be considered in section 3.6, in which I will propose and apply a theoretical framework for that purpose: legalisation. Section 3.7 concludes this chapter.

---

⁶ Finnish Presidency of the EU: July - December 1999.
3.2 Social inclusion: a sense of urgency, leading to a full-blown OMC

3.2.1 From a blueprint to a detailed architecture for the social inclusion OMC: 2000

The Lisbon European Council stated that ‘The number of people living below the poverty line and in social exclusion in the Union is unacceptable. Steps must be taken to make a decisive impact on the eradication of poverty’ (European Council, 2000a: §31). In order to achieve this goals the Heads of State and Government stated that 'Policies for combating social exclusion should be based on an open method of coordination' (Ibid.: §32). Following the political guidelines laid down by the European Council meetings in Lisbon and Feira, the Council of Employment and Social Affairs reached agreement (at its 17 October 2000 meeting) on the implementation of the OMC on social inclusion, through the final adoption of (1) Objectives in the fight against poverty and social exclusion and (2) practical arrangements to pursue these objectives (Council of the European Union, 2000a).

The four objectives of the new strategy are as follows (Ibid.: 5):

- to facilitate participation in employment and access by all to the resources, rights, goods and services;
- to prevent the risks of exclusion;
- to help the most vulnerable; and
- to mobilise all relevant bodies.

The four common objectives (including their more detailed elaboration) reflect the Council’s wish, first, to adopt a multi-dimensional approach towards social inclusion ‘which require the mobilisation of a wide range of policies’, second, to mainstream the objective of fighting poverty and social exclusion into relevant strands of policy (Ibid.: 3) and, third, to involve the full range of the bodies concerned, in particular the social partners and NGOs (Ibid.: 5). The Nice European Council (December 2000) ‘approves the objectives of combating social exclusion adopted by the Council’ and confirms the request to submit national action plans (covering a two-year period) by June 2001, as well as the need and to define indicators and monitoring mechanisms (European Council, 2000c: §18). On the latter issue the European Social Agenda, which was also endorsed by (and annexed to) the Nice European Council, requested ‘progress, as from 2001 […] towards achieving compatibility as regards […] indicators and the defining of commonly agreed indicators’ (European Council, 2000d: 16).

3.2.2 Operationalisation of the social inclusion OMC: 2001

This open-ended mandate with regard to indicators was further detailed by the Stockholm Spring European Council in March 2001, which ‘asks the Council to improve monitoring of action in this field by agreeing on indicators for combating social exclusion by the end of the year’ (European Council, 2001a: §29, underlining BV). The Stockholm meeting also invited the Council and the European Parliament ‘to agree in the course of 2001 on the proposal for a social inclusion programme’ (Ibid.). Following the request by the Nice European Council, Member
States indeed submitted their first National Action Plans during June 2001, presenting their priorities and efforts in promoting social inclusion and combating poverty and social exclusion. According to Pochet (2005: 58) these were ‘NAPs/Incl with wide diversity both in form and in their degree of compliance with European priorities’.

At the Informal meeting of the minister for Employment and Social Affairs in Liege (July 2001), the Belgian Presidency made it clear that it wanted to adopt ‘at the Laeken Summit, a set of commonly agreed and defined key indicators on social inclusion’ (Council of the European Union, 2001a:6). By referring to commonly agreed and defined indicators, the Belgian Presidency clarified any remaining doubts: the objective was to establish a harmonised statistical tool (Belgian Presidency of the European Union, 2001a: 28). The work on indicators during the second half of 2001 was built around 3 strands (SPC, 2001a: 8):

- the work carried out by the SPC Indicators Sub-Group (which started meeting in February 2001). At the aforementioned Informal Council in Liege the Chair expressed his expectation that ‘Ministers are following the work undertaken in the Sub-Group through their representatives, which undoubtedly will facilitate our political decision-making’ (Council of the European Union, 2001a: 6).
- the structural indicators suggested by the Commission in its 2001 Spring report (European Commission, 2001a) and the Draft Joint Report on Social Inclusion which the Commission prepared on the basis of the 15 national Action Plans submitted in June (European Commission, 2001b);

As can be read in the first Report of the Chairman of the Indicators Sub-group of the Social Protection Committee, these different strands worked, effectively, closely together:

‘We [the SPC-Sub-Group, BV] have been well informed of the work being done on indicators in preparation for the Belgian Presidency of the EU. The report on ‘Indicators for Social Inclusion in the European Union’, drafted for the Presidency under the coordination of Professor Sir Tony Atkinson, has been submitted for comments to all the members of the Indicators Subgroup. I have had informal discussions with Professor Sir Tony Atkinson and his colleagues and we were given a presentation of this work by Brian Nolan and Bea Cantillon at our meeting on July 2nd.

---

7 Earlier European Council Conclusion were much less specific when referring to ‘commonly agreed indicators’ (European Council, 2000a: §32) and ‘common approaches and compatibility’ with regard to indicators (Council of the European Union, 2000a: 5). Indeed, these Conclusions left doubts about what aspect of the work on indicators would be ‘common’ (i.e., ‘commonly agreed indicators’ can be interpreted as a ‘common’ understanding about which ‘national’ indicators and definitions are acceptable).

8 Sir Tony Atkinson, Warden of Nuffield College (Oxford, UK).

9 David Stanton, Department for Work and Pensions (DWP), United Kingdom. David Stanton has now retired from the DWP, but is still President of the Indicators Subgroup.
Members of the Indicators Subgroup also attended the Presidency September Conference on 'Indicators for Social Inclusion: Making Common EU Objectives Work'. Some of the recommendations report reflected the Indicators Subgroup's own thinking and is therefore useful independent support for our work' (SPC, 2001a: 8).

Thus, 8 months after the Indicators Sub-group started meeting, the Chairman of the Subgroup, presented his Report to the Social Protection Committee which included an agreement on precise definitions of 18 indicators in the field of poverty and social inclusion, i.e. 10 primary indicators and 8 secondary indicators (SPC, 2001a: 11-12). This initial set of indicators covers four aspects of social exclusion: financial poverty, employment, health and education, thus reflecting the multidimensional approach taken. As far as the key dimension of housing is concerned, the Subgroup was not yet able to put forward a proposal for a harmonised indicator, but, its members agreed on a common approach of the issue in the National Action Plans (Ibid.: 20-21). It should be stressed that these 18 indicators are all 'commonly agreed and defined', i.e. harmonised at EU level, and based on 9 formalised methodological principles for the construction of social indicators (SPC, 2001a: 11). The indicators are deliberately focussed on policy outcomes rather than policy effort (Ibid.).

A few days after the Sub-Group's agreement on the first set of indicators, the European Commission published (on 10 October 2001) its first Draft Joint Report on Social Inclusion (European Commission, 2001b), which analyses the national action plans on social inclusion (NAPs/Incl) submitted in June and is structured around the abovementioned Nice common objectives. Importantly, the report states that is 'does not evaluate the effectiveness of the systems already in place in different Member States. Rather it [...] examines Member States' NAPs/Incl focussing on the quality of analysis, the clarity of objectives, goals and targets and the extent to which there is a strategic and integrated approach' (Ibid.: 4). On this topic the Commission is rather straightforward: 'Only a few [Member States] have moved beyond general aspirations and set specific and quantified targets which provide a basis for monitoring progress' (Ibid.: 7).

Insisting on this point, the Commission also established, in this first version of the Draft Joint Report, a 'typology [...] in order to highlight how NAPs/Incl develop a strategic and integrated approach to tackling poverty and social exclusion, without analysing the performance of every country'. Thus, the Commission judged that (European Commission, 2001b: 22):

- The NAPs/Incl of Denmark, France and Netherlands provide a comprehensive analysis of important structural trends [...]. The overriding response in these NAPs/Incl is proactive, set in a framework that includes time horizons, objectives and quantitative targets extending beyond 2003 [...].

10 National Action Plans should contain quantitative information covering three issues: (1) decent housing, (2) housing costs, and (3) homelessness and other precarious housing conditions (SPC, 2001a: 20-21).

11 Six of these 'methodological principles' refer to individual indicators (e.g. 'an indicator should capture the essence of the problem and have a clear and accepted normative interpretation'); the three remaining methodological
• The NAPs/Incl of Portugal, Finland, Sweden and the UK are solidly underpinned by diagnoses of key challenges and risks and set out reasonably coherent and strategic approaches [...].
• The NAPs/Incl of Belgium, Germany, Spain, Italy and Ireland contain elements of a national strategy that is being improved in order to reflect new realities or made more coherent. [...] None of these NAPs/Incl have either set overall targets or developed a comprehensive set of regional or local targets [...].
• The NAPs/Incl of Greece, Luxemburg and Austria basically provide a snapshot analyses of the situation on poverty and social exclusion [...]. The analysis of longer term structural trends [...] is less developed and as a result these plans do not present long-term quantified targets [...].

According to many Member States, the European Commission crossed a line by proposing this typology: this feeling was further strengthened by the fact that the Commission also referred, in the same Draft Joint Report, to:

'Member States with the most developed welfare systems [...] such as Luxembourg, Denmark, Netherlands, Sweden and Germany', which stand in contrast with 'Member States with less developed welfare systems', among which the Commission counted Portugal, the UK and Greece (European Commission, 2001b: 13-14).

The combination of the proposed typology and the identification of ‘most/less developed Member States’ led to a highly tensed meeting of the Social Protection Committee on 18 October 2001, in which some Member States accused the Commission of a naming and shaming exercise. It seems relevant to summarise the most salient interventions of this SPC meeting:

Germany refers to the typology as a ranking and has serious problems with it; the UK finds the typology difficult to deal with and classifies the label ‘less developed welfare state’ as unacceptable; Finland refers to ‘a ranking, a classification, whatever you want to call it’ and calls it ‘not wise and politically confusing’; Sweden states that a ranking is not reasonable under OMC; Italy believes that this is not what was agreed upon at Nice; Austria wonders about the added value of the typology and states that ‘we would better not give school grades to one another’; Greece would prefer a holistic approach; Ireland fears the negative consequences of a similar ranking and claims to have been ‘crucified’ in the press because of the country’s low place in it (SPC, 2001e; participant observation).

The Commission argued, at the end of the meeting, that removing the typology now might have perverse effects in the press. But, in the end, it would rewrite the most sensitive paragraphs:

• the typology was replaced by the identification of Member States that performed well (and not bad) on one or more of the following three criteria: (1) a high a high quality analysis of the key risks and challenges, (2) the establishment of clear priorities and (3) an integrated and multi-dimensional approach to policy development. The Commission also adds that ‘All principles refer to the portfolio of indicators (e.g. ‘the portfolio of indicators should be balanced across different dimensions) (SPC, 2001a: 11).
Variations in institutionalisation of the Social OMC’s

...plans contain some or all of these three dimensions to a greater or lesser extent’ (European Commission and Council of the European Union, 2001:28).

- the reference to ‘most developed Member States’ simply became, in the redrafted proposal by the Commission, ‘Member States with high per capita social expenditure levels’. Similarly, ‘less developed Member States’ became ‘In some Member States there are lower levels of expenditure on social protection’. Portugal and Greece are still mentioned in the latter category, but without quoting the relative poverty rates, as was the case in the first version of the text. The UK is no longer mentioned in this section (Ibid.: 17).

In spite of the tensions which arose in the Social Protection Committee in the context of the Draft Joint Inclusion Report, the Committee reached agreement, during that same meeting on 18 October 2001, on the 18 indicators of poverty and social exclusion (including their precise definition and the underlying methodological principles), as well as on an agenda for further work on social inclusion indicators (SPC, 2001b: 3-4). The Social Protection Committee also called for the further development of the EU and national statistical capacity, and ‘recognises the importance of increasing the involvement of excluded people in the development of indicators’ (Ibid.: 5). Finally, the SPC agreed with its Sub-Group that the indicators should be ‘used [...] in the next round of National Action Plans on Social Inclusion and [...] in the Joint Report on Social Inclusion’ (Ibid.: 3).

After the redrafting by the European Commission, the Draft Joint Report, too, was adopted by the SPC (November 2001). According to some, an important part of this achievement was played by Frank Vandenbroucke (then Chair of the Council for Social Affairs and Employment), in that he helped to restore confidence in the OMC amongst some of the most critical Member States in the aftermath of the stir around the Draft Joint Inclusion report. As an illustration of the significance of the stir that was caused at the time, note that the aforementioned league table, which presented Germany as a rather bad performer, ‘caused significant internal upheaval in the Federal government and even Chancellor Schröder learnt about this issue’ (Büchs and Friedrich, 2005:273). That is why Vandenbroucke called an informal meeting in Berlin, on 9 November 2001 with high level civil servants from Germany, the UK and the Netherlands, and assured them that he would never accept that the OMC would become a naming and shaming exercise (participant observation). As we will see below, this Berlin meeting was also crucial in gathering the necessary support for the launch of the OMC on pensions.

Following adoption by the SPC, the December 2001 Council meeting of Ministers for Employment and Social Policy ‘adopted a series of indicators and approved the Commission and Council Joint Report’ (Council of the European Union, 2001b:16). The same session of the Council also welcomed the final agreement that was reached, in conciliation with the European Parliament, on the aforementioned Community Action Programme that would explicitly support the OMC on social inclusion (European Parliament and Council of the European Union, 2002).

---

12 Vandenbroucke was invited by his German colleague Walter Riester to address the International Conference on Open Co-ordination and Retirement Provision (Vandenbroucke, 2001b).

13 The Commission’s proposal for a Decision establishing a Community Action Programme to combat social exclusion was published in June 2000 (European Commission, 2000a). A long codecision procedure, and disagreement
The programme allows for a range of actions, as from January 2002, in a transnational framework.\textsuperscript{14}

Still in December 2001, the set of indicators and the Joint Report were endorsed at the highest political level, by the Laeken European Council (European Council, 2001c). In two years' time the OMC social inclusion was fully operational, using nearly all instruments available to it.

3.2.3 \textbf{Further strengthening of the Social Inclusion OMC: 2002-2003}

Nearly all instruments, indeed, because what was not required yet in the social inclusion OMC, was the use of targets. The European Commission tried to change this in 2002, and partly succeeded. Indeed, in its Spring Report to the Barcelona European Council, the Commission tried to convince the Heads of State and Government to adopt an EU-wide poverty target:

'\textit{The European Council should set a target for 2010 of halving the number of people at risk of poverty across the European Union. Member States should indicate in their two year National Action Plans against poverty and social exclusion how they will contribute to its achievement. Work should build on the social inclusion indicators endorsed by the European Council in Laeken}' (European Commission, 2002a:16).

The Heads of State and Government gathered in Barcelona did not accept the Commission's proposal to set an EU-wide target, but they did agree to introduce the requirement to set national targets.\textsuperscript{15} At the same time the European Council was clearly more ambitious than the Council of Labour and Social Policy, which had, urged, in a rather vague wording, ‘the Employment and Social Protection Committees to continue working towards the adoption of specific objectives to reduce social exclusion’ (European Council, 2002: 46). As from June 2002, and with a view to maintain momentum, the European Commission started a reflection on how to take the social inclusion OMC forward (1) with regard to the preparation of the 2\textsuperscript{nd} Round of NAPs/Incl, and more particularly the common outline the Member States would use as a guide for writing their plans, and (2) regarding possible adjustments to the Nice common objectives (SPC, 2002a: 1).

---

\textsuperscript{14} The programme aims at (1) analysis of characteristics, causes, processes and trends in social exclusion, [...], the study of quantitative and qualitative indicators, the development of common methodologies and thematic studies; (2) exchange of information and best practices encouraging the development of quantitative and qualitative indicators, [...] assessment criteria and benchmarks and monitoring, evaluation and Peer Review; (3) promotion of dialogue involving the various actors and support for relevant networking at European level between organisations active in the fight against poverty and social exclusion, in particular non-governmental organisations.

\textsuperscript{15} The European Council stresses the importance of the fight against poverty and social exclusion. Member States are invited to set targets, in their National Action Plans, for significantly reducing the number of people at risk of poverty and social exclusion by 2010’ (European Council, 2002: 9).
Commenting on the Nice objectives, the Commissions judged, in the aforementioned June 2001 introductory discussion paper, that only ‘two issues should be given a higher degree of political impetus through amendments’ (SPC, 2002a: 2). First, the common objectives should reflect the Conclusions of the Barcelona European Council, i.e. Member States must ensure that the second round of NAPs/Incl are more strategic and concrete by setting clear and specific targets based on careful analyses of trends and causes. Secondly, Member States should address the gender dimension of poverty and social exclusion more fully (Ibid.: 4).

Using revised common objectives and the common outline agreed upon in the SPC as a framework, the then 15 Member States submitted their second National Action Plans for Social Inclusion in July 2003, explaining their priorities and actions for the period mid-2003 until mid-2005. According to the European Commission, the second round of NAPs/Incl represented a significant step forward. They were better focussed and more strategic (e.g. clear effort to set quantitative targets) and most adopted a more multidimensional approach. There was also more involvement of key stakeholders of civil society (especially NGOs), and Member States have ‘significantly strengthened their institutional arrangements for mainstreaming poverty and social inclusion into national policymaking’ (European Commission, 2003a: 6). The European Commission's analyses of the NAPs/Incl was published (in December 2003) in the second Draft Joint Inclusion report (European Commission, 2003a).

Both the Member States (while preparing their NAPs/Incl) and the European Commission (while drafting the Draft Joint report) were able to use a revised set of common indicators, which was adopted by the Sub-Group on Indicators at the very beginning of June 2003 (SPC, 2003a), and approved by the SPC a month later (SPC, 2003b). The revised set (now containing 19 indicators) consisted in fact of a refining and widening of the Laeken indicators, the definition of which posed a number of difficulties, e.g. with regard to self-perceived health, jobless households, working poor and literacy (SPC, 2003a: 4-7). The Sub-Group was not able yet to draw common guidelines for reporting on the non-monetary dimension of poverty, let alone to agree on common indicators (Ibid.: 8). The Sub-Group also agreed ‘that it is important to give children a special focus within indicators to be used in the fight against poverty and social exclusion. We therefore agreed to a standard breakdown by age of all the Laeken indicators, where relevant and meaningful’ (Ibid.: 8-9).

On 18 December 2003 European Commissioner Anna Diamantopoulou and the Social Affairs Ministers of the acceding countries formally signed 10 Joint Memoranda on Social Inclusion (JIM), one for each of the countries joining the Union in 2004. The purpose of these Joint Inclusion Memoranda was to prepare the country for full participation in the Open Method of Coordination on social inclusion upon accession. The JIM outline the principal challenges in relation to tackling poverty and social exclusion, present the major policy measures taken in the light of the agreement to start translating the European Union's common objectives into national policies and identify the key policy issues for monitoring and further review.
3.2.4 Extension of the Social Inclusion OMC to ten New Member States – preparing for streamlining: 2004-2005

The second Commission and Council Joint Report on Social Inclusion was adopted in time for the 2004 Spring European Council, by the Council of Employment and Social Policy (European Commission and Council of the European Union, 2004). Shortly after the 2004 Spring European Council, the European Commission published its synthesis of the abovementioned Joint Memoranda on Social Inclusion (European Commission, 2004a). The publication of this report was almost immediately followed, in July 2004, by the submission by the ten new Member States of their first National Action Plans against poverty and social exclusion, covering the two year period from mid-2004 to mid-2006.

The lessons drawn from this evaluation of the NAPs/Incl of the new Member States, served as an important input into the first Draft annual Joint Social Protection/Social Inclusion report which was published, in January 2005 and which replaces, in preparation of the new streamlined policy coordination in this area, the bi-annual Joint reports on Social Inclusion (cf. section 3.5) (European Commission, 2005a; European Commission, 2006b). The Council of Employment and Social Policy adopted the Joint Social Protection/Social Inclusion report at its 3 March 2005 session (Council of the European Union, 2005a:9) and submitted it to the Spring European Council (Ibid.: 9). As in 2004, the Heads of State and Government did not make an explicit reference to the report, but the European Council affirmed that ‘Social inclusion policy should be pursued by the Union and the Member States, with its multifaceted approach, focussing on target groups such as children in poverty’ (European Council, 2005: §36).

The 15 ‘old’ Member States who submitted their National Action Plans 2003-2005 (in July 2003, cf. supra) have submitted, in the summer of 2005, reports on the implementation and impact of these plans together with an update on action proposed for the period 2005-2006. Also, some of the new Member State, who submitted their first National Action Plans in mid-2004, accepted the invitation to submit updates reporting on new initiatives since submission of their National Action Plans. In section 3.5 below we will see what happened to the Social Inclusion OMC when it became, as of 2006, one strand of the Streamlined Social Protection and Social Inclusion OMC.

3.3 Pensions: a more prudent approach, leading to a ‘partial’ OMC

In this section we will look at the rather distinct development of the OMC on pensions, between November 2000 and October 2005. It followed a more prudent development path, leading to an unfinished architecture.

3.3.1 A progress report and a Commission communication: 2000

As explained above, the historical roots of the European co-operation on pensions in the context of the Open Method of Coordination can be traced back to the political agreement in the Council of Ministers of Labour and Social Affairs in the winter of 1999 to adopt a Concerted Strategy on social protection. And to organise work around 4 key concerns of the Member States, the 2nd of
which being 'to make pensions safe and pensions systems sustainable' (Council of the European Union, 1999: 7).

Following suit, the Lisbon European Council, rather than immediately requiring the development of common objectives or targets (as was the case with social inclusion, cf. section 3.2), gave a mandate to the High-Level Working Party on Social Protection to prepare, ‘a study on the future evolution of social protection from a long-term point of view, giving particular attention to the sustainability of pension systems [...]'. A progress report should be available by December 2000’ (European Council 2000a:§31). Importantly, this progress report, which the High-Level Working Party needed to deal with ‘as its first priority’, needed to be prepared ‘on the basis of a Commission Communication’ and ‘taking into consideration the work being done by the Economic Policy Committee’ (Ibid.). Also note that the Lisbon European Council did not explicitly refer to the OMC when considering pensions. Similarly, the Santa Maria Da Feira European Council of June 2000 did not refer to pensions when it enumerated a number of policy fields (amongst which social inclusion) where the OMC should be developed and improved (European Council, 2000b: §38).

As requested by the Heads of State and Government at Lisbon, the European Commission indeed published its Communication on Safe and Sustainable Pensions in October 2000 (European Commission, 2000b). The High-Level Working party did deliver its progress report to the Nice European Council (High-Level Working Party, 2000), which ‘takes note’ of the report (European Council, 2000c:§20) and ‘approves the Council's approach, which involves a comprehensive examination of the sustainability and quality of retirement pension systems’. As a follow up, The Nice European Council request a preliminary overall study on the long-term viability of pensions, which should be based on a presentation by the Member States of their national strategies in this area. The new study ‘should be available in time for the European Council meeting in Stockholm’ (Ibid.: §21). The Social Agenda, which was equally adopted by the Nice European Council, confirmed the need to continue cooperation and exchanges (as before, no explicit reference is made to the OMC) on pensions and already mentions ‘a study on this subject to be sent by the Employment and Social Policy Council to the European Council in Göteborg (June 2001), which will determine the subsequent stages’ (European Council, 2000d: 17).

3.3.2 Three new reports, another communication and a detailed architecture for the Pension OMC: 2001

We are not in Gothenburg yet, though. First, in preparation of the Stockholm European Council, the European Commission, in its February 2001 Spring report, announced that it ‘will adopt in September 2001 a Communication promoting co-operation at European level on the issue of pensions’ (European Commission, 2001a). Two weeks later the SPC adopted the requested preliminary study on pensions, in which it asked the Commission to give a detailed description, in its announced Communication on pensions, of the possibilities for further co-operation in this field (SPC, 2001c: 11).

At their first regular Spring European Council meeting in Stockholm (March 2001) the Heads of State and government for the first time made explicit reference to the Open Method of
Coordination in the field of pensions. In fact, the Council Conclusions stated that in the field of pensions ‘the potential of the open method of coordination should be used to the full’ (European Council, 2001a:32). The requested SPC’s follow-up to the preliminary study was adopted in May 2001 (SPC, 2001d). The document was discussed at the Council for Employment and Social Policy on 11 June and was ‘generally considered as a good point of departure for future work in the sector of social protection’ (Council of the European Union, 2001c:8). Crucially, the Commission announced, during the same Council meeting, that it would advance the publication of its Communication (announced for September), the planning being ‘to adopt the communication in mid-June in time for the ministerial meeting in July’ (Ibid.), i.e. in the first week of the Belgian Presidency in 2001. This was by no means a coincidence, but part of the games real actors play, as shown in box 3.1.

**Box 3.1 Games real actors play**

During the spring of 2001, the Belgian Minister for Social Affairs and Pensions, Frank Vandenbroucke, preparing at that time the EU Presidency later that year (July-December 2001), received a special visitor in his cabinet. Odile Quintin, then Director General of DG Employment, Social Affairs and Equal Opportunities of the European Commission, was invited to share her views on the priorities of the future Belgian Presidency and altered them. Indeed, up to that point Frank Vandenbroucke wanted to limit the agenda to, first, further developing EU co-operation with regard to social inclusion and, second, finding agreement on the modernisation of former Regulation 1408/71. Obviously, Odile Quintin had made a correct judgement when she firmly insisted on speaking directly to the minister, and not to the Head of Cabinet: one hour of discussion later, the Social Affairs side of the future Belgian Presidency had a third priority, suggested by Odile Quintin: preparing the Open Method of Coordination on pensions.

Frank Vandenbroucke asked something in exchange: he urged the Commission to publish the blueprint of the pensions OMC (through a Communication) two months before it had intended to do so. The reason was simple: the Belgian Minister’s ambition went beyond preparing the ground for the incoming Spanish Presidency. His ambition was to arrive at a final decision, i.e. launching the OMC in this field, during his own Presidency during the second half of 2001. On 11 June, during the Council for Employment and Social Policy, European Commissioner Anna Diamantopoulou officially announced that the Commission would indeed advance the publication of its Communication (previously announced for September 2001) to mid-June. Odile Quintin honoured Diamantopoulou’s promise: the Pensions’ Communication was published 3 days before the Informal Council in Liege on 6-7 July 2001 (Council of the European Union, 2001d). Frank Vandenbroucke did his part of the job, and got the pensions OMC on tracks 6 months later.

(Interview with Frank Vandenbroucke, 27 February 2006; participant observation).

The SPC’s first full-blown pensions study was then submitted to the Göteborg European Council in June 2001, which endorsed the 3 broad principles (the triple challenge) for securing the long-term sustainability of pension systems, and which relate to meeting social objectives, maintaining financial sustainability and meeting changing societal needs (European Council, 2001b: §43). This European Council meeting also determined the ‘subsequent stages’ of the

---

work on pensions: the Social Protection Committee and the Economic Policy Committee were requested to prepare, ‘in conformity with the open method of coordination’, a joint ‘progress report for the Laeken European Council, on the basis of a Commission communication setting out the objectives and working methods in the area of pensions, in preparation for the Spring 2002 European Council’ (Ibid.). Note that for the previous reports the SPC was only asked, by the Lisbon and Stockholm European Councils, to take into account the work being done by the Economic Policy Committee (European Council, 2000a: §31; European Council, 2001a: §33), whereas now the requirement is to prepare a joint report with the SPC. Importantly, the Göteborg European Council also concluded that: ‘The results of the work will be integrated into the Broad Economic Policy Guidelines’ (European Council, 2001b).

The European Commission published its Communication on 3 July 2001, just in time, as requested by the Belgian Presidency, for the informal Council meeting in Liege on 6-7 July (European Commission 2001c). The core of the Communication is a detailed proposal of 10 common objectives for future pension provision, 2 of which under the heading Adequacy, 5 under the heading financial sustainability, and 3 under the heading modernisation of pensions. The Communication also stressed that it would be necessary to measure progress towards these objectives using a large variety of (commonly agreed and defined) indicators, a first list of which should be submitted to the Barcelona European Council (Ibid.: 8-9).

The Commission invited the Council to endorse the objectives and working methods which should be presented to the European Council at its meeting in Laeken in December 2001. National strategy reports should be updated ‘as appropriate’ in subsequent years, and in 2005 ‘a major review should be carried out’ (Ibid.: 11). Note the open-endedness of the working methods proposed by the European Commission: it is not clear at all what happen after the publication of the first Joint Report or the major review. Some exploited this open-endedness later to argue that the OMC pensions was never meant as a cyclical process, but as a one-shot exercise.

In spite of the reservations of a majority of the Member States (including Spain, Portugal, UK, Sweden, Ireland, France, Italy and Austria) with regard to the ambitious the schedule of the Belgian Presidency (Belgian presidency of the European Union, 2001b:2-5) the SPC and the EPC got to work immediately, and were able to present an agreement on objectives and working methods in the field of pensions to the Council of Employment and Social Policy of 3 December 2001. This implies that the Member States accepted the interpretation of the Belgian Presidency and the European Commission that the progress report for the Laeken European Council would contain a political agreement on the objectives and working methods in the area of pensions.

Regardless of the progress made by the SPC and the EPC with regard to the common objectives by the fall of 2001, an important hurdle needed to be taken in order to reach an agreement. Indeed, as discussed before, the publication of the first draft Joint Inclusion Report on

---

17 The Göteborg European Council Conclusions did leave some doubt about which document should be ‘setting out the objectives and working methods in the area of pensions’: the progress report for the Laeken European Council, the Commission communication, or both (European Council, 2001b: §43).
10 October 2001 (European Commission, 2001b) caused a big stir in the meeting of the SPC of 18 October 2001: some Member States accused the Commission of ranking Member States performance (cf. section 3.2). Since pension policies are a politically even more sensitive issue than social inclusion policies, it will be no surprise that many questions were raised about what would happen if the OMC on pensions was actually adopted: would the Commission, again, come up with a ranking of performance? As mentioned above, it seems that Vandenbroucke played an important role in restoring confidence among some of the most critical Member States in continuing work on the OMC on pensions, i.e. during the aforementioned meeting in Berlin, on 9 November 2001 with high level civil servants from Germany, the UK and the Netherlands. Vandenbroucke assured the participants of the meeting that he ‘would never accept that the OMC would become a naming and shaming exercise’ (participant observation).

The Social Protection Committee and the Economic Policy Committee presented their Joint Report on Objectives and Working Methods in the area of pensions to the December 2001 Council meeting of Employment and Social Policy, which was invited to endorse it (SPC and EPC, 2001). The core of the Joint Report is obviously the set of 11 broad common objectives, which relate to (Ibid.: 6-7; the full list of common objectives can be found in Annex 3):

- Adequacy of pensions (3 objectives): Member States should safeguard the capacity of pension systems to meet their social objectives.
- Financial sustainability of pension systems (5 objectives): Member States should follow a multi-faceted strategy to place pension systems on a sound financial footing.
- Modernisation of pension systems in response to changing needs of the economy, society and individuals (3 objectives).

These common objectives were, as was the case with the Nice Common Objectives on social inclusion, accompanied by a proposal to the European Council for working methods, which constitute the detailed architecture of the pensions OMC (SPC and EPC, 2001: 8-9). The open-endedness of working methods proposed in the July 2001 Commission Communication is also reflected in the SPC-EPC agreement. Indeed, the working methods agreed by the two Committees stipulate that ‘The Council and the Commission will assess before the end of 2004 the objectives and working methods established here and will decide on the objectives, methods and timetable for the continuation of this coordination’. Again, some claimed that by referring to ‘this coordination’ and not to ‘the OMC’, these working methods were inconclusive with regard to the question whether the OMC was there to stay (i.e., a cyclical process), rather than a one-shot exercise which should be integrated later in existing coordination processes like the BEPG.

The Council for Social Affairs and Employment of 3 December 2001 approved the first Joint report on Pensions and ‘held an exchange of views in which those Member States which spoke supported the method followed but also urged vigilance in view of the sensitivity of the subject’ (Council of the European Union, 2001b:18). The Council then submitted the report to the Laeken European Council, not for adoption but, note the nuance, ‘with a view to preparation for the Barcelona European Council in spring 2002’ (Ibid.). What happened, then, at Laeken? The European Council did not ‘endorse’ the progress report, but simply ‘noted the Joint report on
pensions drawn up by the Social protection Committee and the Economic Policy Committee’ (European Council, 2001c: §30).

3.3.3 Operationalisation of the Pensions OMC: 2002-2003

At the Spring 2002 European Council meeting it became clear why the operational part was left out of the Laeken Conclusions with regard to the pensions OMC: the Barcelona European Council ‘stresses the importance of the joint Commission and Council Report on Pensions to the Spring 2003 European Council’, and calls for the preparation of ‘National Strategy Reports due in September 2002’ (European Council 2002:25), thus confirming the launch the OMC on pensions at the highest political level under Spanish Presidency. As President Aznar had wished it.

After the Barcelona Spring European Council the Member States started to prepare their first National Strategic Reports, based on a common SPC-EPC outline. The Social Policy Agenda adopted at Nice (December 2000) already asked for the development of ‘appropriate indicators’ in the field of social protection, a mandate which was confirmed, with regard to the 3 broad strands of the OMC on pensions (adequacy, financial sustainability and modernisation of pension systems), by the 2003 Spring European Council. And yet, after 2.5 years of work in the SPC and especially its Subgroup on indicators, agreement has only been reached on a very limited number of indicators (compare this to the 18 Laeken indicators on social exclusion, which were agreed upon within a period of 6 months). So, even though work on indicators continued, progress has been very slow and revealed to be ‘particularly difficult in the context of pensions’ (SPC, 2002b: 2), leading the SPC to acknowledge that ‘indicators developed to date represent second-best measures of the success of current and future pension systems […]’ (Ibid.: 3).

The National Strategic reports were submitted in September 2002 and followed by the adoption of a Draft Joint Report on pensions in December (European Commission, 2002b). Note that the European Commission, before adopting its Draft Joint Report on Pensions allowed the SPC, first, to discuss an outline of the Report, then a first draft, and finally took the effort of engaging in bilateral discussions with all the Member States on the pre-final draft. The first Joint Commission/Council Report on Pensions was endorsed both by the Council on Employment and Social Policy and by the Council on Economic and Financial Affairs on 6 and 7 March 2003 respectively (European Commission and Council of the European Union, 2003).

The European Council in March 2003 welcomed the joint report and ‘calls for the continued application of the open method of coordination in the field of pensions and a review of the progress achieved in 2006’ (European Council, 2003:§49). Thus, formally speaking it is the European Council itself, under Greek presidency, which confirms that the OMC is there to stay, and not a one-shot exercise.

3.3.4 Extension of the Pensions OMC to 10 New Member States – preparing for streamlining: 2004-2005

After completion of the first cycle of the OMC on pensions, and the strong confirmation of its continuation by the Heads of State and Government, a number of initiatives were taken, at the
request of the 2003 Brussels Spring European Council, to ‘maintain the momentum for cooperation by delivering special studies focusing on common challenges for pension systems’ (European Council, 2003: 49). Thus, studies were adopted on ‘promoting longer working lives’ (SPC, 2004a) and on ‘Privately managed Pension Provision’ (SPC, 2005a).

The new Member States submitted their first National Strategic Report on Pensions, and the old Member States their second one, in July 2005, based on a Guidance Note endorsed by the SPC and the EPC (SPC and EPC, 2005), and 11 Common Objectives which were not changed since the first Round (SPC and EPC, 2001). The analyses undertaken by the European Commission primarily served as input in the 2005 Social Protection and Social Inclusion report (the Joint Pension Report was abandoned under the new streamlined process, cf. section 3.5). On September 14 and 15 the 2nd Round of Peer Reviews on the national Strategy Reports took place, completing the 2nd cycle of the pensions OMC. Section 3.5 below discuss what happened to the Pensions OMC when it became, as of 2006, one strand of the Streamlined Social Protection and Social Inclusion OMC.

3.4 Health care: the European Commission’s purposive opportunism, Member States’ foot-dragging and discursive juggling

As with the two OMC strands discussed above, European co-operation on healthcare in the context of the OMC originated in November 1999, when the EU Social Affairs Council identified ‘high quality and sustainable health care’ as the fourth objective which should be pursued a the EU level (Council of the European Union, 1999: 7).

3.4.1 Setting the terms of the healthcare debate: discursive imagination and Commission agency: 2000-2002

Contrary to the social inclusion and pensions OMC, the healthcare OMC was not launched by the Lisbon European Council, which merely stated that social protection needs to be adapted to be able, amongst others, to provide quality health services. The Social Agenda which was adopted at Nice in December 2000 did provide for a (rather cryptic) mandate to start work in this field:

‘Before 2003, conduct a study on how, with due regard for the requirements of solidarity, a high and sustainable level of health protection can be guaranteed, taking into account the impact of ageing (long-term care) [...]. Examine, on the basis of studies undertaken by the Commission, the evolution of the situation with regard to cross-border access to quality health care and health products (European Council, 2000d: 17).

The reader will notice that a period of no less than two years is provided as the time span for the requested study, which is very long when compared to the very short time spans provided for the initial social inclusion and pensions reports. Secondly, it should be noted that in this initial mandate the SPC is simply requested to ‘take into account the impact of ageing’, notably when studying the long-term care dimension.
Variations in institutionalisation of the Social OMC's

The mandate to continue work on this issue is modified in an important way by the Gothenburg European Council in June 2001: whereas so far reference was made to healthcare, which was dealt with under the heading ‘modernising social protection’, the European Council now refers to healthcare and care for the elderly, which is now considered, together with pensions, as part of the ‘meeting the challenge of an ageing population’ agenda (European Council 2001b:§43). The mandate to continue work in this area was not only modified but also made more precise by the European Council: it stipulates that the initial report (i.e., the Study requested at Nice), should be prepared by the Social Protection Committee and the Economic Policy Committee, which should provide orientations by the Spring of 2002. Note that, first, no reference is being made so far to the term Open Method of Coordination, and, second the European Council so far has not requested the European Commission to support this emerging form of EU-cooperation.

In spite of this, using its right to initiative, and arguing that it acts ‘in the spirit of the conclusions of the Lisbon European Council, which defines the Open Method of Coordination as being based on partnership between different actors’, the Commission esteems that drawing up a Communication is no less than ‘the task conferred upon it’ by the Gothenburg European Council (European Commission, 2001d: 3). The short Communication on the future of health care and care for the elderly was published less than two weeks before the Laeken European Summit (December 2001) and, by no means coincidentally, two days before the international Conference organized by the Belgian Presidency of the EU in December 2001 on European Integration and National Health care Systems. The Communication identifies the common challenges all EU-Member States are confronted with in their healthcare policies\textsuperscript{18}, describes the diversity of national systems and the impact of Community policies on national health care systems. It concludes that health care systems in the EU (and the candidate countries) all face the challenge of attaining simultaneously the three-fold objective of access to health care for everyone, a high level of quality in health care and the financial viability of health care (European Commission, 2001d:14). Note that the Communication essentially deals with healthcare (systems), far less with care for the elderly.

The agency from the side of the Commission worked out well for this institution: the Laeken European Council (December 2001), first of all calls on the Council to prepare the initial report on health care and care for the elderly (asked for at Nice and Gothenburg, cf. supra) ‘in the light of the Commission communication’. Secondly, and even more importantly, the Heads of State and Government gathered at Laeken ask the (Social Affairs and Health) Council ‘to take a similar approach’ as the one that was used when drawing up the first Joint Report on Pensions (European Council, 2001c:30). Thereby the European Council endorsed, at a very early stage, the broadly-based approach taken by the Commission in its health Communication, in which it balanced access, quality and financial sustainability. In other words: the Commission, which was called upon by the Belgian Presidency to fine-tune the exact wordings of the Laeken Council Conclusions on this issue, successfully set the terms of the healthcare debate .

\textsuperscript{18} Demographic ageing, growth of new technologies and treatment, improved wellbeing and a better standard of living.
The requested (very brief) initial Report on health care and care for the elderly was drafted by the SPC and the EPC at the beginning of 2002, on the basis of the aforementioned Commission Communication (which represents ‘a good basis for future co-operation’) while also drawing on financial projections undertaken by the Ageing-Subgroup of the EPC (EPC and SPC, 2002). It recalls that the debate on healthcare and care is still ‘at an early stage’ and that it is ‘even a more complex process’, making it necessary to involve those responsible for health policy (Ibid.: 3). On those terms the Council adopted the report, since it ‘agreed on the need to initiate and to develop cooperation between the Member States over 2002 and 2003’ (Council of the European Union, 2002:§12), namely around the 3 long-term objectives set out in the Commission Communication: accessibility, quality and financial sustainability of systems. These were also endorsed, with the initial report, at the highest political level in Barcelona in March 2002 (European Council, 2002: §25).

Whereas by now the Common Objectives on Social Inclusion (2000) and on Pensions (2001) have been adopted by the European Council (cf. supra), the Council seems prudent with regard to the next steps to be taken with regard to health: work during 2002-2003 should concentrate on information gathering and exploring possibilities for mutual learning and co-operation. In practice a questionnaire to elicit the information necessary to start the exchange will be prepared, and on the basis of the responses by the Member States a new SPC/EPC report will be drafted for presentation to the 2003 Spring European Council. Note that, once again, the wording of the mandate has shifted: the Council now starts referring to ‘health and long-term care for the elderly’, rather than ‘healthcare and care for the elderly’. The difference is subtle, yet crucial: whereas the latter label could be read as a mandate to work on healthcare (in general) on the one hand and care for the elderly (aimed at a specific age group) on the other, the new formulation clearly suggests that work deals with healthcare and long-term care, both with regard to the elderly. This interpretation is confirmed by the questionnaire on Health and Long-Term care for the elderly that is being drawn up in 2002 (SPC 2002c) around the three guiding principles for the cooperative exchange in this field (accessibility, quality and financial sustainability) (Ibid.: 1).

As said before, EU-cooperation in this new policy area has moved, at least at the level of discourse, from health care (with attention to the challenge of ageing) over health care and long-term care, to health care of the elderly and long term care. This shift was by no means coincidental, but part of the political engineering by the European Commission.

3.4.2 Health Care OMC launched avant la lettre, but Member States drag their feet: 2003

It was no coincidence either that the Commission decided to label its draft analyses of the Member States’ replies to the 2002 Questionnaire a ‘Proposal for a Joint Report’ (European Commission, 2003b), thereby linking the exercise, in terms of wording, to the up and running OMC’s on social inclusion and pensions. It should be recalled here that the term Open Method of Cooperation has not been mentioned once so far, in the context of healthcare. One could argue that the OMC on health care in practice took off through this draft Joint Report on Health care
and care for the elderly, be it still *avant la lettre*, in the absence of an agreed set of common objectives or a reporting framework.

It seems worthwhile to have a closer look at this draft Joint Report, which differs in some important respects from the Joint Report that was ultimately adopted by the ECOFIN and Social Affairs Council formations (Council of the European Union, 2003a). Most noticeable is the fact that throughout the text the large majority of references to individual Member States have been deleted from the final Joint report, to be replaced by more general denominators. In some instances, it can be argued that such changes were made simply because it was felt as unnecessary and sometimes unfair that only one (or a few) Member State were quoted in a specific context, while examples of other countries could have been given. A few examples can illustrate this:

- the final Joint Report states that ‘only a few countries are running ranking systems of hospitals by quality of service rendered’ (Council of the European Union, 2003a: 17), the addition ‘such as the UK’ (European Commission, 2003b: 11) having been dropped from the Draft Report.
- whereas ‘Finland, the UK and Sweden’ were quoted in the Draft Joint report as being amongst those to ‘have identified staff shortages, high turnover and increasing work pressure’ (European Commission, 2003b: 13), the final Joint Report refers to ‘A number of Member States’ (Council of the European Union, 2003a: 19).

In a few other instances it seems the Member States (through the SPC and EPC) wanted to avoid naming with regard to politically sensitive issues:

- The Commission Draft Joint report referred to ‘countries such as Belgium, Germany, Italy, Luxembourg and Portugal’ as Member States in which ‘rapid expenditure growth is causing concern’ (European Commission, 2003b: 14). The final Report only refers to ‘a number of Member States’ (Council of the European Union, 2003a: 22);
- The claim that ‘Spain is among the Member States that have introduced market mechanisms to the greatest extent into the health sector’ (European Commission, 2003b: 17) was deleted in the final Joint report (Council of the European Union, 2003a: 26);
- The (prudent) criticism that the French and Portuguese reports ‘do not state whether they are effective in controlling costs’ (European Commission, 2003b: 18) is abandoned in the final Report (Council of the European Union, 2003a: 28);
- The reference to ‘Luxembourg where the decency insurance is still in its infancy’ (European Commission, 2003b: 18) is equally abandoned in the final version of the Joint Report (Council of the European Union, 2003a: 27).

Finally, the Member States agreed that a process of mutual learning and co-operative exchange should be continued on the basis of a new Commission Communication, but with 3 important caveats: (1) this cooperation should not pre-empt the outcome of discussions in the High Level Process of reflection on patient mobility (2) this cooperation will take place in full respect of Member States’ competencies in the field of health care and (3) the Council deleted the reference
made by the Commission to the particular focus on indicators (Council of the European Union, 2003a:30). In other words, the Council remains very prudent.

The Joint Council/Commission report on health care and long-term care for the elderly was ultimately adopted by the 2003 Spring European Council, which highlighted the need to intensify the ‘cooperative exchange on this topic on the basis of further proposals which the Commission should present by Autumn 2003’ (European Council, 2003:§49). Before setting to work on this Communication, the European Commission tried to obtain a more ambitious mandate from the next Spring European Council, in March 2004: in its annual Spring report, the Commission asked the European Council to ‘Extend the open method of coordination in the social protection field to the modernisation of healthcare schemes’ (European Commission, 2004b: 26). Significantly, the 2004 Spring European Council did not take the bait. By contrast, the European Parliament in March 2004 does explicitly ask ‘the Council to adopt as a matter of principle the application of the open coordination method’, and calls for the Commission to submit proposals in this view (European Parliament, 2004:§7).

3.4.3 Formal launch of the Healthcare OMC, but subject to conditions and with a provisional institutional architecture: 2004

Explicitly drawing legitimacy from this European Parliament resolution while lacking a clear (European) Council mandate, the European Commission continued to work: it presented its Communication in April 2004 (more or less 6 months later than it had planned to) and now formally proposes to support national strategies on health care and long-term care by ‘using the ‘open method of coordination’ (European Commission, 2004c). Note that any reference to the elderly is now completely dropped. Apparently the Commission no longer felt the need to sell this new OMC as being part of an ageing agenda.

The Commission proposes common objectives evolving, as expected, around accessibility of care, high-quality care and financial sustainability; it refers to the involvement of the many actors in this sector (social partners, health professions and patient representatives) and to the close links the SPC will should forge with other competent bodies: EMCO, EPC, the High Level Group on Health Services and Medical Care (European Commission, 2004c); it refers to exchanges of experiences underpinned by joint indicators, work on which should start immediately (Ibid.:7). Finally, as the next step to be taken the Commission proposes that the Member States should (again) write preliminary reports, which would be used, first, to establish the (health care) common objectives if the future streamlined social security process and, second, as part of the 2007 Joint report on social protection and social inclusion (Ibid.:12).

The formal decision to launch an OMC on Health and Long-term Care was taken in October 2004 by the EU Council formation of ministers for Health and Social Policy (Council of the European Union, 2004a). The Council also confirms that the Member States will write a new set of preliminary reports by March 2005 (see also the pensions approach, and the contrast with the start of the social inclusion OMC), ‘covering the challenges facing their healthcare systems, current reforms and medium term policy’ (Council of the European Union, 2004a: 10). It thereby overruled the Economic Policy Committee, which had ‘strong doubts’ on the preliminary reports,
as they ‘may create very little value-added’, and would ‘create a too heavy burden on the Member States’ services’. The EPC therefore proposed that ‘the reporting on the OMC on health care should only start with the streamlined process in 2006’ (EPC, 2004: 2-3).

Note that the Council not only stressed that the health care OMC should be introduced ‘in a progressive and flexible manner, while placing a strong emphasis on added value’ (Council of the European Union, 2004a: 9), but also decided it should:

‘be subject to the following conditions: it should not impose an excessive administrative burden; health ministries should be directly involved in the OMC process; overlaps with the follow-up of the high level reflection on patient mobility should be avoided; coherence of views should be ensured within the single EU Council formation of ministers of health and social policy; the joint working with the Economic Policy Committee should continue’ (Ibid.: 9).

This is not the prose of the newly enamoured. There are more indications pointing to a very prudent stance from the side of the Council: while approving the launch of the OMC in this new policy area, the Council did not explicitly endorse the Common Objectives proposed by the Commission. Instead, it followed the SPC which stated in its Opinion on this matter that Member States, while drawing up the preliminary reports, ‘should not refer systematically to the full range of sub-objectives’ […]. Further work on defining common objectives for the health and long-term care pillar […] will be needed (SPC, 2004b:4). Unsurprisingly, the new developments had not escaped the attention of the Economic Policy Committee, which duly noted that:

‘It should first be recognized that defining objectives in 2004 only for the area of health care, which would primarily be valid for the possible 2005 exercise on health care, and might then by Spring 2005 be superseded by joint objectives for all three areas of social protection […] seems heavy handed’ (EPC, 2004: 2, emphasis BV)

Other examples of hesitation to engage in this new OMC are, first, the insistence on the respect, at all times, on ‘the responsibilities of the Member States for the organisation and delivery of health services and medical care’ (SPC, 2004b:3), second, the insistence on taking stock of data already available from a range of sources (rather than on indicators to be developed) (Ibid.: 5). Arguably, this hesitation was also shining through in the fact that the Council’s decision to launch the OMC in the field of healthcare and care was not even listed amongst the ‘Main Results of the Council’ of 4 October 2004.

3.4.4 Occupying the territory and adoption of a light basic architecture: 2005-2006

In view of the above, it will not strike the reader as a surprise, that even though the 2005 Luxemburg and UK Presidencies declared to pay due attention to ‘the extension of the open method of co-ordination to health’ (Council of the European Union, 2004b:22), the next steps were again taken with great care. Thus, the 2005 Key Messages paper of the Social Affairs Council, which was adopted 4 months after the formal launch of the healthcare OMC, very prudently referred to ‘the planned extension of the OMC to health care’ (Council of the European
Union, 2005b:7). The same wording was used in the first Joint Report on Social Protection and Social Inclusion, which was adopted by the Council in February 2005 without addressing the healthcare issue in any substantive way, either in the Joint Report itself, or in its technical annexes (European Commission and Council of the European Union, 2005). As significant, and in great contrast to the two OMC strands discussed above, is that the Spring European Council did not confirm the launch of the health care OMC at its 2005 gathering.

This clearly did not stop the co-operation at EU-level: responding to the SPC/Council’s request, the Member States submitted Preliminary National Reports, on the basis of a guidance note prepared by the European Commission (European Commission, 2005b). The reports identified many issues for further work, as one can read in the memorandum of the SPC on this issue (SPC, 2005b), and fed into the 2006 Joint report on Social Protection and Social Inclusion. This report for the first time contained separate sections and analyses on health care and care, both in the core report and in the Country Profiles (European Commission and Council of the European Union, 2006). Maybe most importantly, the initial reports helped, in the words of the Belgian head of Delegation in the SPC (interview Elise Willame, 26 June 2007) to ‘occupy the health care territory’, vis-à-vis the Economic Policy Committee and the High Level group on Health Services and Medical Care.

The National Preliminary Reports also inspired the European Commission’s Streamlining proposal of late 2005, which also covered the area of health care and care, including Common Objectives in this strand (European Commission, 2005c). With the adoption of the streamlining by the (European) Council the healthcare OMC is now one of the three strands of the streamlined Social Protection and Social Inclusion OMC, as can be seen in the 2007 Joint Report (see section 3.5).

### 3.5 Beyond the surface of the streamlined Social OMC

In March 2007, the 7th Spring European Council adopted the Joint Report on Social Protection and Social Inclusion, i.e. the first Joint Report after the endorsement of the streamlining of the open methods of coordination on social inclusion, pensions and health care. Indeed, the new Joint Report is based on integrated National Reports on strategies for Social Protection and Social Inclusion (rather than separate National Action Plans and Strategic Reports) and assesses Member States’ progress in reaching the new streamlined objectives (rather than separate objectives for every process).

At first sight the 2007 Joint Report looked pretty straightforward: a very short actual Joint report summarising the key policy messages; a supporting document that analyses the economic and demographic context in which social policies take place in Europe; and another supporting document with separate sections covering in more detail the 3 policy strands of this OMC, namely social inclusion, healthcare and long-term care, and pensions (SPC and European Commission, 2007).
And yet, a closer look reveals important differences between the policy-specific sections of the Joint Report. Thus, the analyses of the Social Inclusion strand is based on the third round of National Action Plans for which Member States were asked to identify 3-4 key priorities which they think best contribute to achieve the Common Objectives, and they were ‘requested to explain and justify’ why these particular policy objectives have been selected (SPC and European Commission, 2006: 8). Based on these justifications, this section of the Joint report assesses ‘how well policy priorities have been based on an effective analysis of the situation in the Member States’ (European Commission, 2006a: 3).

By contrast, the healthcare and long-term care section of the Joint Report is based on the very first round of National Reports (not Action Plans) on this issue, and highlights (rather than assesses) common challenges and ongoing/planned strategies in the policy area (which need not be justified by the Member States), and it proposes a number of policy issues where European action (e.g. through mutual exchange and learning) could bring the most added value. Finally, the pensions section of the Joint Report is based on light updates – reports on key reforms to Member States’ pensions systems in the last year – of the second round of National Strategy Reports that all Member States submitted in 2005. Rather than assessing policies (as is the case in the social inclusions section), this section outlines significant new developments in the area of pensions and furthermore reports on the recent work carried out on (replacement rate) indicators as well as on the results of in-depth analyses carried out on two topics: the design of minimum income provisions for older people and the link between flexibility in the age of retirement and longer working lives.

In sum, there are significant differences between the sections of the first streamlined Joint report, both in terms of the kind of analyses and the source these are based on. The differences between the 3 strands are also apparent in the European Commission’s assessment of the use (by the Member States) of indicators, targets and monitoring in policymaking. Whereas the Social Inclusion section of the Joint Report deals more or less elaborately with this issue, the pensions and health sections barely mention it at all. In a way, this is not so surprising since the Joint report draws on the new ‘Portfolio of streamlined Social Inclusion, Pensions and Health indicators’ which was adopted in June 2006 by the SPC: apart from a list of overarching indicators, the list clearly shows the imbalance between the statistical tools available for each strand of this OMC (SPC, 2006). Indeed, the streamlined social inclusion objectives are underpinned by a full-blown battery of commonly agreed EU indicators (largely drawn from the existing set of Laeken indicators), and one commonly agreed national indicator. The pension’s indicators are still confronted with a number of methodological problems, and only cover some of the dimensions dealt with in the context of the OMC. The list contains a significant amount of commonly agreed national pension’s indicators, which do not allow for direct cross-country comparison. Finally, the health and long-term care indicators portfolio is labelled as preliminary, amongst others because the area of long-term care is, in spite of its high relevance not well covered by internationally available and comparable statistics. The health portfolio is largely made of commonly agreed national, and not EU, indicators (SPC, 2006: 37-48).

These differences between the 3 strands of the streamlined OMC are to a certain extent the logical consequence of the fact that the Guidelines for preparing the abovementioned integrated...
Social Protection and Social Inclusion National Reports, on which the Joint Report is based, vary significantly between each policy strand (SPC and European Commission, 2006). Thus, the guidelines, which were agreed between the Member States and the Commission, invite the Member States to ‘set clear specific quantified targets’ in their NAP/Incl (Ibid.: 8), while a detailed Appendix on ‘Setting Targets’ details how they should go about this (Ibid.: 20). No reference is made to targets in the guidelines for the pensions or health sections. Also note that after the first debate in the SPC on the draft Guidelines, a sentence was added, in the 2nd version of the text, specifying that ‘Many Member States may draw [...] from more detailed national plans on poverty and social exclusion which may be attached as an annex if so wished’ (Ibid.: 6).

Still with regard to Social Inclusion, ‘Member States are invited therefore to be forward looking [...] rather than just report on existing actions’ (Ibid.: 6). Neither the explicit suggestion to attach (and thus continue to draw up) full-blow National Action Plans, nor the request to be forward looking is formulated for the pensions or health strands. Also note that the Guidelines invite Member States to outline, in their NAP/Incl., ‘what forms of dialogue they are using to ensure the involvement of as broad a range of actors as possible [...]’ (Ibid.: 8) and ‘what new or additional arrangements will be put in place during the period of the plan’ (Ibid.: 10). The guidelines for the pensions and health sections merely refer to reporting on ‘the involvement of and consultation of stakeholders’ (Ibid.: 4).

More examples could be given to illustrate that beyond the surface of a streamlined OMC on Social Protection and Social Inclusion many differences subsist between the 3 previously existing OMC’s. To some extent, this is not so surprising; these variations clearly reflect the understanding between Member States and the Commission that ‘In bringing together the three pillars into a streamlined process [...] it will be important to respect the specificities of each strand and to take account of the rather different characteristics and stages of development of each’ (SPC and European Commission, 2006:1). This position has been repeated by a number of the stakeholders involved in the social protection OMCs, and at the political level, it was confirmed when the Chairman of the SPC declared in the Social Affairs Council on 10 March 2006 that ‘the specific characteristics of each strand in the Reports will be respected’ and ‘the National Action plans for inclusion will be retained’ (Council of the European Union, 2006: 2). Thereby he confirmed the key concern which had been expressed by the SPC, and was endorsed by the Council as far back as in October 2003, concerning the ‘importance of maintaining the distinct public identity that has been created for the different processes [...]’ (Council of the European Union, 2003b:13). The first Joint Report on Social Protection and Social Inclusion, adopted in March 2005 by the Heads of State and Government had requested the same respect for ‘the specificity of each strand’ (European Commission, 2005a:11).

3.6 Making sense of differences and similarities in ‘soft law’ modalities and procedures: the concept of legalization

In a similar fashion as Radulova (2007) has done with regard to the Employment Strategy (EES) and the Research OMC, I will employ the concept of legalization as developed by Abbott et al. (2000) in order to make sense of the differences between the coordination procedures that have proliferated since the Lisbon European Council. The concept of legalization is understood by
Abbott and colleagues as a particular form of institutionalization (Ibid.: 401) characterized by three components: obligation, precision and delegation. Any institution can, according to the authors, be described in terms of these three dimensions of legalization.20

How are these dimensions defined then?

Obligation, first of all, refers to the degree in which states or other actors are bound by a rule or commitment or by a set of rules or commitments (Ibid.: 401). Given that we are discussing international public law, in practical terms this category demands a measure for the subjective acceptance by states of a particular rule as a legal rule or not, i.e. as binding or non-binding as a matter of international law (Radulova, 2007). The subjective acceptance refers to the fact that compliance with rules occurs for many reasons other than their legal status: concern about reciprocity, reputation, and damage to valuable state institutions, as well as other normative and material considerations, all play a role (Abbott et al.: 419).

Precision is the extent to which rules unambiguously define the conduct they require, authorize, or proscribe (Abbott et al., 2000: 401). A precise rule specifies clearly and unambiguously what is expected of a state or other actor (in terms of both the intended objective and the means of achieving it) in a particular set of circumstances. And precision implies that the rules are related to one another in a noncontradictory way, creating a framework within which case-by-case interpretation can be coherently carried out. In other words: precision narrows the scope for reasonable interpretation (Ibid.: 412-413).

Delegation, the third dimension of legalization, is the degree to which states and other actors delegate authority to designated third parties—including courts, arbitrators, and administrative organizations—to implement agreements, to interpret, and apply the rules to particular facts; to resolve disputes; and (possibly) to make further rules' (Ibid.:401; 415). Following Abbott and Snidal, I will make a distinction between ‘managerial’ delegation i.e. the power to apply and elaborate agreed rules, and ‘enforcement’ delegation i.e. the power to evaluate, judge and sanction performance (Abbott and Snidal, 2000: 430).

Importantly, each of these dimensions of legalisation is a matter of degree and gradation, not a rigid dichotomy, and each can vary independently (Ibid.: 401), as can be seen in Figure 3.1. Thus, the subjective commitments of Member States can vary widely along the continuum of obligation, ranging from unconditional obligation to a binding rule to commitments to instruments which explicitly negate any intent to create legal obligations (Ibid.: 410), such as recommendations and guidelines in the framework of the OECD or the OMC. With regard to precision institutions vary between, on the one hand, precise and highly elaborate, determinate rules and, on the other, vague and general provisions which are so imprecise that one cannot meaningfully assess compliance, casting doubt on their legal force. Delegation, finally, varies

---

19 In the international relations literature, the conventional conceptual definition of ‘hard’ and ‘soft’ law is laid out in a special issue of International Organization entitled ‘Legalization and World Politics’ (Goldstein et al., 2000).

20 I would like to thank Elisavetta Radulova for pointing this out to me during an intense Summer School discussion in Florence in 2006.
between binding third-party decisions and binding regulations on the one hand and pure political bargaining on the other (see Figure 3.1), with the issuing recommendations and monitoring (gathering and disseminating information) by third parties taking a position in between those extremes.

Consequently, the concept of legalization encompasses a multidimensional continuum, ranging from the ideal type’ of legalization, where all three properties are maximized; to ‘hard’ legalization, where all three (or at least obligation and delegation) are high (e.g. much of European Community law); through multiple forms of partial or ‘soft’ legalization involving different combinations of attributes (e.g. the various OMCs); and finally to the complete absence of legalization (i.e. the absence of legal obligation, precision or delegation), which represents another ideal type (Ibid.: 401-402).

**Figure 3.1  The dimensions of legalization**

<table>
<thead>
<tr>
<th>Obligation</th>
<th>Expressly nonlegal norm</th>
<th>Binding rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Precision</td>
<td>Vague principle</td>
<td>Precise, highly elaborate rule</td>
</tr>
<tr>
<td>Delegation</td>
<td>Diplomacy</td>
<td>International court, organization domestic application</td>
</tr>
</tbody>
</table>

*Source: Abbott et al. (2000: 404).*

In the remainder of this section, the particular arrangements of the Social OMC's are plotted on the obligation, precision and delegation dimensions of the legalisation concept. This should allow to depict variations in the degree of legalization, and thus of institutionalization, between them. Where relevant I will indicate, within each of these OMCs, variations in the degree of institutionalization over time. My key hypothesis is that the Social OMC has been growing teeth over time: partly in a similar fashion between the 3 strands, but also with important differences remaining.

### 3.6.1 Obligation

The first question is: how to operationalise the concept of ‘obligation’ in a way that one can compare the scores on this dimension between the social inclusion, pensions and health care OMCs?

A first way of measuring the degree in which states or other actors are bound by the commitments of these OMC’s would be to differentiate ‘between coordination procedures that have been codified in the treaties, and to coordination procedures based on an European Council mandate. The rationale of distinction here is that if Member States wished to demonstrate that they feel legally bound to coordinate their policies, they would have enshrined this in the
Variations in institutionalisation of the Social OMC’s primary law of the Union’ (Radulova, 2007). Since, in contrast to the European Employment Strategy, this is neither the case for the social inclusion OMC, nor for the pensions or health care strands (only the Social Protection Committee has a legal base in the Treaty\(^\text{21}\)), it would seem, at first sight that this dimension does not depict lots of variation between the three processes: they draw their legitimacy merely from (European) Council Conclusions.

However, one should not disregard the fact that the Amsterdam treaty (which came into force on 1 May 1999), granted the Union explicit competencies with regard to combating social exclusion\(^\text{22}\). Apart from the fact that this Treaty base is in itself bound to increase Member States’ subjective commitment to EU action in the field of social inclusion (including the OMC), this commitment was further increased by the formal adoption (through a European Parliament and Council Decision), based on these explicit Treaty competencies, of a Community Action Programme that was explicitly aimed at supporting the OMC on social inclusion. This Action Programme, which was decided upon in 2001, was consequently used to strengthen the technical infrastructure of the OMC inclusion, namely through the setting up of a new statistical tool to be named EU-SILC.

Importantly for our argument about ‘obligation’, EU-SILC (a) retains the Laeken indicators on social inclusions (b) was accompanied by various informal and formal means of collaboration between Eurostat (European Commission) and the Subgroup on Indicators of the SPC and (c) was institutionalised in a formal way, namely through a set of clear legal acts and implementation regulations (e.g. a Framework Regulation of the European Parliament and the Council). Thus, it can be argued that the Amsterdam Treaty and the Action Programme increased both the subjective and the legal commitment of the Member States to the social inclusion OMC. So far, there has been no similar financial foundation for the pensions or healthcare OMC. Future research will need to establish whether the current shift with regard to the financial foundations of the OMC, namely the replacement of the Community Action Programme by the new PROGRESS Programme (2007-2013), which will now also underpin the pensions and health care OMCs, are increasing the level of obligation within these OMCs.

Are there other indicators of varying degrees of obligation between the three social protection OMC’s? It seems there are. Within the framework of the social inclusion OMC Member States are committed to writing National Action Plans (NAP/Incl), in which they are supposed to describe the policy measures they will undertake in order to meet the common objectives as well as the (national and European targets they set. By contrast, in the pensions and healthcare strands Member States merely write National (Strategic) Reports, which are even more backward-looking in the sense that they describe what has been done and achieved so far. It seems that the choice of the Member States to differentiate between NAP/Incl and NSR, which clearly have a different status, is a deliberate choice which, again, creates different kinds of subjective commitments.

\(^{21}\) The SPC was set up by a Council Decision in 2000 (Council of the European Union, 2000b).

\(^{22}\) The Treaty of Amsterdam incorporated into the EC Treaty the Maastricht ‘Agreement on social policy’ (see Chapter 1 of the new Title XI and new Articles 136 to 145). Under Article 137 the Council may adopt measures designed to encourage the combating of social exclusion.
But there is more: the previous sections of this chapter made it clear that the social inclusion, pensions and health care OMCs developed in a very different time frame. Whereas the Lisbon Council conclusions referred to pensions as the first priority it took in practice many intermediate steps to actually get to an OMC on pensions. As a result, it took 2 years to arrive at a formal agreement at the highest political level (in Barcelona) on a set of common objectives on pensions. Compare this to the social inclusion OMC, where an agreement on common objectives, was reached within 6 months. We also see this difference in development in the time needed to develop the architecture of each these OMC’s: the whole architecture of the social inclusion OMC was brought about between November 1999 (launch of the concerted strategy) and March 2002 (requirement of setting national targets at the Barcelona European Council). The operationalisation of the pensions OMC took a year longer: from November 1999 until March 2003 (endorsement of the first Draft Joint Report by the Brussels European Council), and with some crucial elements (like common indicators or national targets) still missing, as is the case with the healthcare strand.

The health care strand followed a significantly different development path. Not only has it taken much longer for it to be formally launched (1999-2004), but even after its launch Member States have been reticent to fully engage in it: Member States continue to be hesitant towards the development of joint indicators. As a result, and also because the NAP/Incl were written every two years and the NSR every three years, the social inclusion OMC went, at the time of writing of this chapter, through three full cycles. The pensions OMC only went through two cycles so far, the healthcare OMC has only gone through a single cycle (and even that one was based on preliminary national reports). Clearly, the difference in routinisation of these OMC’s creates a different kind of commitment from the side of the Member States, but especially from the other actors involved (especially in the inclusion OMC, cf. infra).

Member States are expected, in the social inclusion strand, to set national targets in their National Action Plans. Since this commitment has been adopted by the Council of the European Union (as part of the revised Common Objectives), and confirmed by the Barcelona European Council, it seems fair to say that this political obligation further increases the subjective commitment of the Member States to the social inclusion OMC. There is no similar obligation in the pensions or healthcare strands. And yet, it seems that there are at least two indications of increased obligation on the side of the pensions and healthcare OMC, as compared to the social inclusion strand. First of all, the pension reports were prepared, at the explicit and repeated request of the Council of the European Union and the European Council, in collaboration between the Social Protection Committee and the Economic Policy Committee; similarly, the major documents adopted by the EU Council (Common Objectives, Joint Report etc.) were adopted by two Council formations: the Social Affairs Council on the one hand and ECOFIN on the other. In the social inclusion strand, by contrast, the SPC and the Social Affairs Council are totally independent from any other Committee or Council Formation. Secondly, and importantly, the European Council itself decided, and repeated, that the results of the OMC on pensions and healthcare ‘will be integrated into the Broad Economic Policy Guidelines’ (European Council, 2001b), which is not the case for the social inclusion process. Both of these factors can be expected to increase, at least in theory, the degree of commitment of the Member States in the pensions and healthcare strands.
3.6.2 Precision

Are there also differences over time and between the three OMC strands in the way they narrow down the scope for reasonable interpretation, which is the main attribute of the precision dimension of legalisation? There clearly are. Most importantly, we have shown above that the basic architecture of the social inclusion OMC was completed by the adoption of a set of 18 indicators which have been harmonised at EU level, and which were endorsed at the highest political level. In 2003, the indicators have been revised and completed with new indicators; and the Luxembourg Presidency in 2005 triggered the routinisation of the involvement of external academic experts in this OMC, by commissioning an expert report with the original team (led by Sir Tony Atkinson, see section 3.2.2) that developed the indicators in 2001, so as to continue feeding the further technical redefinition and widening of the scope of the Laeken indicators. By linking these indicators, which cover multiple aspects of social exclusion, to the common objectives, the Member States are able to set precise targets, and the European Commission is able to assess in a rather precise way the progress that has been made towards reaching the common objectives. Compare this to the very slow progress with regard to the handful of pension and healthcare indicators which remain, until this day, second-best measures of the success of current and future social protection systems.

Somewhat more difficult to operationalise, but at least as important is the fact that the Common Objectives with regard to social inclusion seem to be significantly more precise than their pensions or health care counterpart. The pension objectives indeed remain very general, pointing only to long-term objectives, but not to the means to achieve them (e.g. ensure that older people are not placed at risk of poverty and can enjoy a decent standard of living). By contrast, the social inclusion objectives tend to be more precise (e.g. to make a decisive impact on the eradication of poverty; to move towards the elimination of social exclusion among children), whereas the interpretation of the more general social inclusion objectives is being narrowed down by sub-objectives (according to the format ‘To do A, in particular by doing X, Y and Z’). Also, the social inclusion objectives prioritise certain means of achieving the general objectives, e.g. by singling out child - and dependent care as a means to developing policies to promote the reconciliation of work and family life (Common Objective 1.1 (a), first indent). Finally, it seems that the common objectives on pensions are sometimes related to each other in a contradictory way (e.g. between the adequacy and financial sustainability objectives), making it difficult to carry out a coherent assessment of the National Strategic Reports. The Common objectives with regard to health care are equally vague and ambiguous, precisely because there is no fundamental agreement between the Member States (see chapter 8).

In sum, it seems that the social inclusion OMC combines somewhat more precise common objectives with very precise harmonised indicators, whereas more general pension's objectives are not underpinned by a similar battery of indicators, thus leaving much more scope for reasonable interpretation, and rendering a meaningful assessment of compliance even more difficult. However, one could hypothesise that with the streamlining on the three Social OMCs (see section 3.7 below) the pressure on the pensions and healthcare strands to bridge the gap with the social inclusion in terms of precision will strongly increase, so that they may be growing teeth in this respect.
3.6.3 Delegation

With Radulova (2007) I will consider managerial delegation of an OMC mechanism to be high if the Member States have endowed the Commission to take care of the procedural routine of an OMC iteration i.e. to issue guidance notes, to monitor the process of implementation, to collect and summarise data about performance, in short to act as a mediator and operational interface of the OMC mechanisms. Conversely, if the principles (the Member States) have not endowed an agent (like the Commission) with managerial powers but have retained them (e.g. empowering an intergovernmental body), the managerial delegation will be considered low (Ibid.). It is clear that the European Commission does indeed play the role of mediator and operational interface in both the social inclusion, pensions and health care OMCs. And yet, one could argue that it does so to a varying degree because of the fact that the managerial delegation in the pensions OMC involves two Advisory bodies (SPC and EPC) as well as two DG’s of the European Commission. Each of these DG’s can (and does) invoke the possibility of the other DG/Advisory body not agreeing with elements of the operational tasks as an argument to agree or at least not to oppose. Consequently, it seems that the managerial delegation is larger within the pensions OMC.

However, it seems that the managerial power of the European Commission has been even stronger in the healthcare strand: above we have seen that the Commission has been the main driver all along the process, from its initiation until its integration into the streamlined process, as can be seen in the mandates it created (or at least stretched) for itself and, even more significant, in the way it went ahead even in the absence of political mandates to do so. A case in point is the way in which the Commission, first, reframed the healthcare debate into a health and long-term care for the elderly debate, and secondly, situated the future EU-cooperation on health in the demographic debate by referring to healthcare and care for the elderly, only to close the circle where it started: healthcare and long-term care.

All in all, drawing on institutionalist/rational actor accounts, the healthcare OMC seems to be a textbook example of the Commission’s purposive opportunism in the sense that this form of new governance does not significantly destabilise the independent agency of the Commission as the linch pin of Community law and policymaking. Indeed, the step-by step account of the emergence of the healthcare OMC may be read as Commission recapturing the policy initiative from the Member States, to an extent it had not been able (or willing) to do in either the social inclusion or pensions OMCs. Arguably, the insertion of the healthcare OMC in the streamlined Social Protection and Social Inclusion OMC presents the jewel on crown of the Commission’s purposive opportunism, in that it may prevent, at least in the short-term, that this strand – in which the Member States seems to be foot draggers more than anything else – would be quietly dropped, or allowed to wither through de facto lack of real participation. The more interesting question then is whether the Commission, which seems to have acquired an important role in the healthcare OMC can now expand the legitimacy it acquired in this strand to the other two strand, in the streamlined process. If it can, they could be said to be growing teeth.

23 See, for instance Armstrong and Bulmer (1998).
The enforcement delegation is another story: it will be deemed high in the case of an OMC mechanism when a third party (e.g. the Commission) has the power to propose recommendations to countries that underperform or are deemed to be on a wrong track toward the commonly desired outcome/objective (Radulova, 2007). It seems that this aspect of delegation too allows to depict variations between the 2 social protection OMC’s. Indeed, the fact that Member States submit different kinds of plans to the European Commission (more forward looking NAP/Incl and more backward-looking NSR, cf. supra), which can be combined with indicators which are at a very different stage of development (cf. supra), gives the Commission different tools for critical evaluation. To be more precise: the Commission has more leeway to issue soft recommendations to the Member States in the social inclusion OMC than in the pensions or health care OMC. The abovementioned typology in the first Draft Joint Report on Social Inclusion is a case in point, even though it seems that the Member States have effectively drawn the line for the European Commission, which may have overstated (or simply tested?) the limits of the enforcement delegation at the time. The description of the development of the healthcare OMC in section 3.4 has made it very clear that Member States find it extremely difficult to accept to be named in the Commission’s assessment.

There is another reason why the enforcement delegation of the Commission is bound to be higher in the social inclusion OMC: the institutional features of this OMC (e.g. the Community Action programme, the National Action Plans, the Joint Report, the Peer Reviews etc.), provide strong incentives for national and European NGO’s as well as other actors, which are to a large extent absent from the pensions OMC, to associate to this process. For example, a significant part (around 20%) of the Community Action Programme has been used to finance non-governmental networks of actors (like EAPN, FEANTSA, Eurochild and RETIS); EAPN routinised its voluntarily-initiated evaluation of the NAP/Incl, through which it influences the Joint Reports; a Peer Review programme was initiated through which the civil society actors lobby their specific thematic concern; an independent network of non-governmental experts in the field of social inclusion was set up by the European Commission to provide information and analysis enabling the Commission to assess the implementation of the NAPs; and the annual European Round Table on Poverty and Social Exclusion (later replaced by an Annual Convention) increases the visibility of the process and provides a forum national and European lobbying (de la Porte, 2006). Clearly, the involvement and investment of NGO’s and other actors in all these initiatives increases the expectations towards the social inclusion OMC, and thus adds pressure on the European Commission to use its enforcement delegation ‘to the full’. The question with the streamlined process is then: how will the enforcement delegation of the Commission evolve? Will it expand its rather strong enforcement delegation from the inclusion strand to the other 2? Or will its weaker enforcement delegation within the healthcare OMC become the standard for the streamlined process?
3.7 Conclusion: the emergence of ‘hard soft law’

By the end of the 1990s the Member States of the European Union felt the combined effect on their welfare states of, amongst others, the internal market programme, the Single European Act, economic and monetary union, strong global competition and factors such as ageing populations and changing household and family structures. Doing nothing was no longer an option. However, in view of the large differences in economic development between the Member States, the different development of their welfare state institutions and policies and, most importantly, the differences in taken-for-granted normative assumptions about the functions of the welfare state vis-à-vis private provisions, the option of European harmonization of market-correcting social regulations was foreclosed (Scharpf, 2002: 650). Thus, at a time when the partisan composition of the European Council allowed it, the Member States launched, in response to these pressures, EU-wide cooperation on social protection through a new governing mode: the Open Method of Coordination.

The OMCs on social protection was, contrary to its counterpart on Employment, not enshrined in the Treaty. According to a number of authors, this lower degree of legalization would make the social protection OMC’s even lighter than the EES, which would represent a harder, or ‘heavy’ coordination procedure (Radulova, 2007).

Yet, a closer analyses of the development of the social inclusion and pensions OMC questions this kind of dichotomy between ‘treaty-based/heavy OMC’ on the one hand and ‘not treaty-based/light OMC’ on the other. Indeed, nearly a decade after their launch it seems that these OMC’s have not only developed quite differently in terms of organisational features; to a certain extent, this was to be expected since the there is no legal definition of the OMC, and thus everything is possible. More importantly, the above analyses has shown that these social protection OMCs significantly differ from each other, first in terms of the (subjective) obligations they create for Member States; second, with regard to the precision of the conduct they require; and third as to the degree of delegation of the management of the procedural routine as well as of the power to propose soft recommendations.

Even more importantly, it seems that the recent streamlining of these three strands is, slowly but certainly, leading to a considerable strengthening of the streamlined SPSI OMC as a whole, through spill-over effects from one strand to another. Before streamlining it was clear that the social inclusion OMC created, in spite of the fact that it has not been constitutionalised, a higher level of (subjective and objective) commitment for the Member States, amongst others through more precise indicators and objectives, more enforcement delegation for the European Commission, higher participation of (EU and national) non-state actors, and more scope for revision of the institutional arrangements. Through streamlining, the pensions and healthcare strands have started growing teeth in a similar way as the social inclusion strand has done over the past few years.
Across the three strands there seems to be an increasing focus on governance: rather than focusing on substantive policies, the focus of the SPSI OMC seems to be shifting towards reporting on, evaluation of and learning about how policies come about. This is done by assessing whether and how indicators and targets are used, which actors have been involved at what stages of the policymaking process, what kind of measures is taken at what level of government, which kinds of interdepartmental coordination have taken place at national level etc. In other words, the SPSI OMC seems to have taken a governance turn, through which the growing of teeth has taken shape. The result of this turn, and of the strengthening of the institutional features of the OMC over time, is that the actors involved, notwithstanding the skepticism from mainstream academics and decreased attention from politicians, learn that this soft mode of governance is quite a bit harder, and much more useful, than they had thought. And thus they continue to support it.

In sum, it seems too easy to consider the Social Inclusion and Social Protection OMC as a light process, or as pure ‘soft law’. This soft, non-Treaty based institution, which was launched as a voluntary cooperation between Member States, seems to have grown, over time, much more commitment (growing teeth), than could have been expected. Further empirical research is needed to determine whether these observed institutional variations overtime have substantially different impacts at national level. More generally, this analyses raises questions with regard to the distinction that is often made between 'hard' and 'soft' law in the European Union, and underlines the need to develop theoretical tools which can help to grasp the hybrid nature of many of these instruments. Only by bridging the paradigmatic divide between constructivist and rationalist approaches to EU governance can we grasp the significance of new modes of governance for the EU's social architecture of the 21st century.

The questions whether these observed institutional variations between ‘soft law’ instruments have substantially different impacts at national level will be addressed in chapter 5, 6 and 7. But first the next chapter aims at demystifying the OMC’s learning tools.

References


Belgian Presidency of the EU (2001b), *Verslag Informele Raad 7 Juli-Ochtendsessie-Pensioendebat*, Informal Note from the Belgian Presidency Task Force Social Affairs, Brussels.


Variations in institutionalisation of the Social OMC's


Council of the European Union (2006), Contribution by the Social Protection Committee Chairman, EPSCHA Council, 10 March.


SPC (2001e) *Verslag Social Protection Committee-Vergadering van 18 Oktober*.


SPC (2004b), *Opinion of the Social Protection Committee on the Commission’s Communication on 'Modernising social protection for the development of high-quality, accessible and sustainable*
Variations in institutionalisation of the Social OMC's


Vanhercke, B. (2007), 'Is the OMC growing teeth? The governance turn in EU social policy coordination', Unpublished 'Second year' paper, University of Amsterdam.


CHAPTER 4

Benchmarking social Europe a decade on: demystifying the OMC’s learning tools

Bart Vanhercke and Peter Lelie


4.1 Introduction: puzzle, scope and limitations

The ‘Open Method of Coordination’ (OMC) was formally launched by the Lisbon European Council in 2000 as a new regulatory instrument for the EU. It raised high hopes as a mechanism for coordinating (sensitively) domestic policies in a wide range of areas where the EU has limited or no formal authority. In the social field, the open method ‘launched a mutual feedback process of planning, examination, comparison and adjustment of the social policies of Member States, and all of this on the basis of common objectives’ (Vandenbroucke 2001: 2). In other words, in terms of governance, the Open Method of Coordination is a ‘soft’ tool: there is in principle no ‘hard’ legislation involved, but rather ‘governance by persuasion’ (Streeck, 1996: 80) or ‘governance by objectives’. Precisely this (in our view misunderstood) ‘softness’ of the process led to an increasingly sceptical attitude of scholars and politicians towards the OMC: it is often seen as a weak instrument and its flaws supposedly contributed to the failure of the Lisbon Strategy.

1 Peter Lelie is an adviser in the Belgian Federal Public Service (FPS) Social Security. From 2006 until 2010 he worked as a policy officer (seconded national expert) in the European Commission in support of the Social Open Method of Coordination. This chapter reflects the views of the author and these are not necessarily those of the FPS.

2 This chapter benefitted from the further research which Peter Lelie and I conducted on the OMCs learning tools (Lelie and Vanhercke, 2013) and which helped to improve Section 4.3.4 on ‘Supporting the process through non-governmental expert and EU (civil society) stakeholder networks’. Work with Sebastiano Sabato (OSE and PPMI, 2012a, b,c) refined my understanding of mutual learning in the context of the PROGRESS Peer Reviews, which further improved section 4.3.5 of this chapter.

3 The authors wish to thank the participants of the Joint Roundtable of the Forum of Federations and the Productivity Commission on ‘Benchmarking in Federal Systems: Australian and International Experiences’ held in Melbourne, 19-21 October 2010, for their perceptive suggestions. Special thanks go to Alan Fenna, Felix Knüpling for their constructively-critical comments; to Borja Arrue Astrain, Eva Zemandl and Cécile Barbier for their invaluable contribution to section 4.2, The institutional setup and the EU’s ‘rules of engagement’; and to Susanna Gürocak and Marie-Andrée Roy for their detailed suggestions. The views in this chapter are the sole responsibility of the authors. Address for correspondence: vanhercke@ose.be.
Against such a background, it came as a surprise to quite a few observers that the Social Affairs Ministers of the Members States of the EU boldly declared, in June 2011, that the Open Method of Coordination for Social Protection and Social Inclusion (Social OMC) had proved a flexible, successful and effective instrument and that it would be reinvigorated (read: relaunched) in the context of the new Europe 2020 Strategy (Council of the European Union, 2011). The political objectives of the Social OMC (Council of the European Union, 2006) were reconfirmed: the method will continue aiming at a decisive impact on the eradication of poverty and social exclusion; the promotion of adequate and sustainable pensions; and the organisation of accessible, high-quality and sustainable healthcare and long-term care in the Member States. So Ministers confirmed the wide scope of the Social OMC: it will continue to cover not only social inclusion, but equally pensions, and health and long term care.

This chapter tries to explain the political relaunch of the OMC. It argues that while Member States recognise some of the evident flaws of the OMC process, after some initial hesitation and based on first experiences under the Europe 2020 Strategy, a majority of them decided they could not afford to lose it. To be more precise: a rather broad coalition of Member States felt that in the absence of the Social OMC’s contribution in terms of analysis and consensus framing capacity, the Social Affairs Ministers would be deprived of the necessary tools to counterbalance the one-sided focus on social protection as a cost factor in the EU’s discourse throughout 2010 and 2011. The latter was indeed striking in the first policy documents that were produced under the new strategy. In the Commission’s first Annual Growth Survey, for instance, it seemed as though pensions and health care were regarded merely as a burden on government budgets and reforms intended to ‘balance the books’ (European Commission, 2010a: 6). As importantly, social policy was narrowed down to policy against poverty and social exclusion in the setup of the new strategy. In this light, we analyse exactly what value-added the Social OMC has had as a ‘benchmarking’ tool so that Member States wanted to continue the process, faced as they were with a European Commission that — to put it mildly — was not insisting on continuing a strong Social OMC. By providing a description of what OMC benchmarking looks like in practice, we also supply a corrective to much of the existing literature on the topic, which is too often based on out-dated and incomplete assumptions about the OMC’s learning tools.

The aim of this chapter is to provide a picture of a range of benchmarking tools and the way a variety of EU and domestic actors are involved in them. For reasons of space, we do not provide a detailed discussion of the development of these tools (for example, indicator development). The chapter also focuses largely on the EU-level and it only considers one possible explanation for the OMC’s recent re-launch: its capacity to counterbalance a one-sided Europe 2020 Strategy through its benchmarking potential. We thereby omit other possible explanations, including the interest of some actors to promote ‘soft’ governance with a view to avoiding more stringent EU involvement in social policy.
4.2 Setting the scene: from an unidentified political object to the OMC

The European Union was once described as an ‘Unidentified Political Object’ by former European Commission president Jacques Delors. The fact is that it is a highly original political and economic entity, different from any other historical experiences and existing federal systems. This section tries to understand the main features of this object and thereby provides the context for a description of the emergence and further development of the (Social) OMC.

4.2.1 The institutional setup and the EU’s ‘rules of engagement’

The European Union is a supranational entity composed of now 27 independent Member States. It is often conflated with a federal state system, but two key factors distinguish it: it is merely an ‘emergent’ federation; and its powers depend entirely on the willingness of Member States to concede sovereignty in policy areas more traditionally held by the nation-state (Fenna, 2012; Majone, 2006; Laursen, 2011). With each successive treaty, the European Union undergoes steady communitarisation (‘supranationalisation’), increasing its competence and involvement in more policy areas. The European Union is, therefore, a rapidly changing institutional arrangement that poses a challenge for characterisation.

Currently, there are two essential treaties constituting the primary legislation of the EU: (1) the Treaty on European Union (TEU), laying out the institutional architecture and the general principles of the Union; and (2) the extensive Treaty on the Functioning of the European Union (TFEU 2010), which specifies its competences and function. The combination of these treaties is more commonly referred to as the ‘Lisbon Treaty’, which came into force in December 2009. Although it has reinforced its competences, the Union remains much weaker than the central governments of traditional federal states. It is ‘more than an international organisation or confederation of states, without having become a federal entity’ (Börzel, 2003: 2).

Institutional framework: formal and informal ‘rules of engagement’

The main institutions of the European Union — which to some extent reflect the separation of powers common to modern democracies — are the European Commission; the European Parliament; the European Council; the Council of the European Union; and the European Court of Justice. As for the European Central Bank, it plays an essential role since it has the full control over the Euro monetary policy.

The European Commission is often referred to as the ‘guardian of the treaties’. It is the main policymaking institution with the exclusive right of legislative initiative and stands for the observance of European law. It is the equivalent of the executive power, the symbol of the ‘supranationalisation’ of competences, and it also activates the legislative procedure and

---

4 Jacques Delors coined this famous expression on the 9th of September 1985 in his inaugural speech to the Intergovernmental Conference of Luxembourg (Bulletin EC No.9, 1985: 8).
monitors implementation of EU legislation. The European Parliament (representing citizens) and the Council of the European Union (representing the Member States) are the co-legislative bodies. The former's powers have been significantly reinforced under successive treaties; now, its agreement is necessary for the adoption of most European legislation.

Intergovernmental relations are formalised, first of all, in the context of the European Council, which consists of regular meetings between the heads of state or government that are chaired by the new 'EU president'; its purpose is to establish general orientations on the future of the European Union. The Council of the European Union consists of different sectorial formations, which are composed of the relevant national Ministers. Thus, the Ministers for Economy and Finance meet in the so-called ECOFIN Council formation, and their colleagues responsible for employment, social policy, health and consumer Affairs in the 'EPSCO' formation. The discussions in the Council on some topics are typically prepared by EU committees — such as the Economic Policy Committee (which reports to the ECOFIN Council), or the Social Protection Committee (SPC, which supports discussions in the EPSCO Council)\(^5\).

**Subsidiarity and semi-sovereign welfare states**

The EU lies somewhere between a federal system and an international organisation, with the Member States retaining their competence over many sensitive policies, such as military and defence, education and social welfare. They continue to manage all the policies that have not been expressly transferred to the European Union. In addition, while they are legally constrained in many areas by the European regulations, the Member States have the necessary financial and political instruments to implement their own policies independently. The Union relies on national support to legislate\(^6\), even in the fields that are part of its ‘exclusive competences’ (Börzel, 2003: 3).

The principle of ‘subsidiarity’ — which establishes that the Union should not exercise any responsibilities that are already satisfactorily fulfilled by the constituent units — has become one of the most important in the Union, and it ‘explicitly discourage[s] the expansion of the European Union into certain new areas’ (Moravcsik, 2001: 172). This principle is complemented by the principle of ‘proportionality’ which seeks to set actions taken by the institutions of the Union within specified bounds (that is, the involvement of the institutions must be limited to what is necessary to achieve the objectives of the Treaties).

Title X of the *Treaty on the Functioning of the EU* provides the legal framework for the European Union's competence in social policy, which is at the heart of the current chapter. Article 153 specifies the objectives to be achieved in this area by the ‘cooperation between Member States ... excluding any harmonisation of [their] laws and regulations’. In fact, the European institutions

---

5. The Social Protection Committee (SPC) is a Treaty-based committee that supports the EPSCO Council of Ministers, next to the Employment Committee. It was set up in 2000 and is formally based on Article 160 TFEU. The SPC is composed of officials from each Member State (mainly from the national Employment and Social Affairs Ministries) and from the Commission. It has a leading role in the Social OMC.

6. The ordinary legislative procedure (formerly 'codecision procedure') is the most usual legislative procedure in the European Union. It requires the approval of both the European Parliament and the Council of the European Union.
may produce social legislation but only to adopt 'minimum requirements for gradual implementation.' Moreover, the unanimity of the Council is required in order to legislate over some of the issues set out in the article.

In spite of these constraints, the European Union has an increasing impact on the social policies of its Member States through a variety of instruments that will be discussed in the next section. The result of such EU involvement is that Member States are at most semi-sovereign with regard to the development of their welfare systems (Leibfried and Pierson, 1995). This finding has become even more evident in the course of 2011, when EU pressure on the national reform process increased considerably through strengthened fiscal surveillance under the Stability and Growth Pact as well as the Euro Plus Pact (with its focus on sustainability of pensions, health care and social benefits).

**The EU’s toolbox in social policy**

Broadly speaking, the European Union currently has four instruments at its disposal to produce an action in the social field directed towards the Member States: classic European law (directives and regulations); European social dialogue (both at the inter-professional and sectoral level); financial instruments (in particular the European Social Fund, ESF); and cooperation, including (in its strongest form) the Open Method of Coordination. These instruments are different in nature, because of their distinct historical origins. Some date from the beginning of the EU (classic European law and the ESF), other from the 1990s (collective agreements and OMC). They also differ in their legal scope. Some are binding (classical law and collective agreements) while others are inciting (OMC and ESF); some are distributive (ESF), while others are regulatory (the other three). They also differ in terms of the actor-networks that are connected to them, both officially and in practice.

As far as EU legislation in the field of social protection and social inclusion is concerned, the possibilities for the European Union to take action are severely constrained by institutional (see the section on Subsidiarity and semi-sovereign welfare states) and political hurdles. Member States and EU institutions have not been willing or able — on account of national interests, political sensitivities and the huge diversity of social protection and social inclusion systems — to legislate in these areas. The EU’s legal competencies in this domain therefore constitute an unfulfilled potential. This said, the absence of ‘pure’ EU social security or social inclusion legislation does not mean that there is no process of ‘positive integration’ in these fields. Indeed, other dimensions of European integration have an indirect impact on social security and social inclusion policies, but these norms have other and prevailing objectives. One thinks first of rules of coordination of social security schemes, directives on gender equality, the fact that principles of free movement have been applied to healthcare services and the existence of legally binding acts at a procedural level’ (for a more detailed account, see Reyniers et al., 2011). Secondly, there is the European social dialogue. Following the Maastricht Treaty, the European interprofessional social dialogue takes place between representatives of European social partners. Over the years several framework agreements have been negotiated and transposed into directives, on parental leave and temporary work for example. Other ‘autonomous’ framework agreements (for example, telework) are meant to be implemented by the social partners following their own
national procedures. The European sectoral social dialogue received a major boost in 1998 with the creation of so-called European sectoral social dialogue committees, which between them have produced more than 500 joint texts, including framework agreements.\(^7\)

Thirdly, Member States draw financial resources from the EU’s financial tools. The main instruments are the European Regional Development Fund (ERDF); the Cohesion Fund; and, especially relevant in the context of this chapter, the European Social Fund (ESF). Starting as a retroactive instrument used by Member States to finance their vocational training programs in the 1950s and 1960s, the ESF evolved into a more pro-active instrument that supports a rather broad set of social (inclusion) and labour market policies. In the current EU governance setting, the ESF’s principal objective is to provide financial support for actions taken within the framework of the European Employment Strategy.\(^8\) While the impact of these financial instruments has been significant for the least developed regions and countries, their impact has also been noticeable in the most developed countries (Verschraegen et al., 2011).

The fourth and final EU instrument is cooperation between the Member States, which has been around for a long time. And yet, based on the perceived need to work together around common social policy challenges, advanced forms of cooperation aimed at coordination and convergence of domestic policies have emerged over the years: notably the Open Method of Coordination. The OMC is an example of new governance, which involves ‘a shift in emphasis away from command-and-control in favour of ‘regulatory’ approaches, which are less rigid, less prescriptive, less committed to uniform approaches, and less hierarchical in nature’. The idea of new (or experimental, or ‘soft’) governance ‘places considerable emphasis upon the accommodation and promotion of diversity, on the importance of provisionality and reversibility … and on the goal of policy learning’ (de Búrca and Scott, 2006). We turn to the OMC in the next section.

**4.2.2 OMC: emergence, general features, variation and inflation**

**Defining the elephant**

In March 2000, in Lisbon, the EU Heads of State and Government set ‘a new strategic goal’ for the Union: to become, within a decade, ‘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: para. 5). This strategy was to be implemented by improving the existing processes, ‘introducing a new open method of coordination’ (European Council, 2000: para. 7).

What is this method, then? Since there is no legal definition of the OMC in the Treaty or other binding texts, reference needs to be made to the Presidency Conclusions of this Lisbon Summit. This text refers to the OMC as ‘the means of spreading best practice and achieving greater convergence towards the main EU goals’. Still according to the same source, this involves: fixing

---


\(^8\) The ESF regulation of 1999 stipulates that the Fund should support policy measures of the Member States that are in line with the EES (European Parliament and Council of the European Union, 1999).
guidelines (with specific timetables); establishing quantitative and qualitative indicators and benchmarks (against the best in the world), national and regional targets; and periodic monitoring, evaluation and Peer Review organised as mutual learning processes (European Council, 2000: para. 37). Ultimately, the purpose is that Member States learn from one another, and thereby improve domestic policies. Conceptually, the OMC finds its roots in the Broad Economic Policy Guidelines which were introduced by the Treaty of Maastricht (1992) and involved non-binding recommendations to monitor the consistency of national economic policies with those of the European Monetary Union. Other examples of OMC avant la lettre (that is, before the Lisbon European Council labelled the policy instrument as such) include the European Employment Strategy (the ‘Luxembourg process’); the Cardiff Process for structural economic reforms; the Bologna Process for cooperation in European higher education; and the code of conduct against harmful tax competition (Zeitlin, 2005: 20).

Figure 4.1 highlights the different ‘components of what an ‘ideal’ OMC looked like in the past decade. The arrows make clear that OMC is a cyclical process (typically three years) where mutually agreed Common Objectives (political priorities) are defined, after which Peer Review (discussion among equals) takes place between the Member States on the basis of national reports (called National Strategic Reports, National Reform Programmes, etc.). Soft ‘recommendations’ (issued by the Commission and the Council) and comparable and commonly agreed indicators (and sometimes quantified targets) enable to assess progress towards the Objectives.

**Figure 4.1** OMC Cycle under the Lisbon strategy (2000-2010)

*Source: authors.*
After Lisbon: proliferation

The 2000 Lisbon Council Conclusions stipulated the introduction of the OMC ‘at all levels’ (European Council, 2000: para. 7), and explicitly referred to the use of the OMC with regard to social exclusion, information society/e-Europe (para. 8), innovation and research and development (para. 13). Furthermore, even though the term ‘OMC’ was not explicitly mentioned with regard to social protection (pensions more particularly), enterprise promotion, economic reform and education and training, the wording of the Lisbon Council Conclusions was such that it gave, de facto, authorisation to launch or at least strong political backup to continue open coordination in a host of policy areas. As a result, the OMC is now up and running in more than 10 policy areas.

This proliferation of ‘soft law’ tools did not really come as a great surprise. In view of the enlargement of the EU in 2004 and 2007, with further enlargements in preparation\(^9\), very few EU initiatives are taken with a view to finding agreement on EU social legislation, and it seems highly unlikely that legislation in the social sphere will increase substantially in the next few years. Therefore some predicted, at the turn of the century, that ‘policy co-ordination and benchmarking’ would be a typical mode in future EU policy-making, as an alternative to the formal reassignment of policy powers from national to EU level’ (Wallace and Wallace, 2001: 33). Indeed, for a number of politically sensitive areas (where no unanimity could be found on EU legislative initiatives), decision makers agreed that ‘doing nothing’ at EU level is not an option either — if only because EU Member States are faced with a number of common challenges. Such is, for example, the case for social inclusion, pensions and health and long term care, where the OMC is providing a Europe-wide approach. The next section discusses how this approach has been developed in practice over the past decade.

4.3 Benchmarking within the Social Open Method of Coordination (2000–2010): how did it really work?

For many authors ‘policy learning’ and ‘benchmarking’ are some of the core features, or even the raison d’être, of the European process. In this light it seems all the more striking that oftentimes students of the OMC remain rather vague about what they are actually talking about, when they make claims about the success or failure of ‘benchmarking’ in this context. This section fills that gap in our understanding by describing how benchmarking is actually done in the Open Method of Coordination on Social Protection and Social Inclusion (Social OMC), mainly illustrating the process with reference to the social inclusion strand\(^10\). The focus is essentially on the post-2005 and pre-2011 Social OMC. Before 2005 three separate social OMC’s co-existed: one on Social Inclusion (2000); one on Pensions (2002); and one on Health and Long Term Care (2004). In

---

\(^9\) For example towards the Balkan countries.

\(^10\) In fact the Social OMC is embedded in a broader setting where several similar processes are ongoing that can be labelled as ‘social’ and that have close links with the Social OMC: these include the employment, anti-discrimination and gender equality processes. Social benchmarking also takes place in the context of the structural funds (for example, the European Social Fund).
2006, the Open Method of Coordination on Social Protection and Social Inclusion was established, regrouping and integrating the three processes. While the Social OMC is to continue under the Europe 2020 strategy, it is already clear that there will be important changes. We will briefly comment on these in section 4.4.

The Member States and the European Commission engage in what Alan Fenna (this volume) calls ‘collegial benchmarking’. They do so through the following six steps:

- Agreeing on the framework (the mandate) — the Common Objectives;
- Selecting key issues in a multidimensional policy domain;
- Building the knowledge base; defining the issues and developing common indicators for quantitative benchmarking;
- Supporting the process through non-governmental expert and EU (civil society) stakeholder networks;
- Engaging in the benchmarking process: (different types of) Peer Reviews and OMC ‘projects’
- Drawing conclusions: joint reports on social protection and social inclusion and Commission ‘recommendations’ (lessons learned).

We discuss these steps in turn and will argue that all need to be considered together if one wants to understand the ‘learning potential’ and the impact of this process.

### 4.3.1 Agreeing on the framework (the mandate): common objectives

The starting point of benchmarking in the context of the Social OMC is the acceptance by the Member States of a set of ‘common objectives’. These provide the mandate, and thereby define the framework for the exercise. In total four subsets of common objectives have been defined: there are so-called overarching objectives, and one set for each of the three strands of the Social OMC: social inclusion, pensions, and health and long term care (Council of the European Union, 2006). The objectives concern social protection and inclusion outcomes as well as the way in which social protection and inclusion policy is developed: principles of good governance.

Because the common objectives are meant to be fairly constant over time and agreed-to unanimously (see the section on Subsidiarity and semi-sovereign welfare states) between governments from all Member States from across the political spectrum, they are quite general in nature. This aspect has been heavily criticised by some, while others (for example, Greer and Vanhercke, 2010) have pointed out the fact that it is precisely because of the ‘general’ or ‘vague’ nature of the objectives that they can be the starting point for what can be dubbed a European ‘consensus framing exercise’. A major value-added of the objectives is that they structure the policy field in such a way that a balanced policy approach to the different strands is promoted and has become widely accepted among EU and domestic policymakers alike. For example, good health care presupposes accessible and financially sustainable health care systems providing high levels of quality.
4.3.2 Selecting key issues in a multidimensional policy domain

'Social protection and social inclusion policy' has been defined, from the outset, as a broad multidimensional policy domain. Thus many issues and policies are potentially relevant with a view to a benchmarking exercise. The first priority has therefore been to work on a consensus regarding the main challenges. As far as social inclusion is concerned, Member States have singled out key issues such as: how to bring about the social inclusion of people on active age far from the labour market (active inclusion); how to tackle child poverty; and how to fight housing exclusion and homelessness. As far as pensions are concerned, one of the key issues is how to ensure both adequacy and financial sustainability of pension systems in the long run. In the area of health there has been a focus on tackling health inequalities. As the awareness of the so-called implementation gap (the perceived lack of results of the Social OMC) grew, attempts have been made to increasingly focus the process on specific issues, especially so in the area of social inclusion. Benchmarking will indeed be most effective if it is concentrated on a limited number of priority issues.

4.3.3 Building the knowledge base: defining the issues and developing common indicators

Once an agreement on common objectives and priority issues has been reached, the knowledge base needs to be developed. Any credible benchmarking in this context will need to build on a consensus with regard to the definition of the social protection and inclusion challenges and with a reliable description of how they present themselves across the European Union. This implies the development of indicators or quantification. There is indeed some truth in the idea that if at EU level a policy challenge cannot be quantified it does not exist. Or, as the Open Society Institute famously put it: ‘no Data, no Progress’ (OSI, 2010). So, to the extent possible, challenges and policy outcomes need to be quantified, even if reducing and simplifying disparate information into numbers (commensuration) involves some clear risks and the social process behind it should be acknowledged (Espeland and Stevens, 1998). Hence, the development of commonly agreed indicators has always been at the heart of the Social OMC. The commonly agreed indicators are the yardsticks for measuring policy challenges and policy success and failure. Without them, the benchmarking exercise would be reduced to endless discussions about concepts, reliability of data, etc. The indicator set of the Social OMC has been developed by a dedicated working group: the Indicators Subgroup (ISG) of the Social Protection Committee (see the section on Institutional framework: formal and informal ‘rules of engagement’), in which all Member States and the Commission participate.

The Indicators Sub-Group proceeds on the basis of a set of methodological principles. These frame the quality criteria an indicator (and an indicator set) needs to comply with. In order to ensure international comparability, harmonised EU data sources such as EU-SILC\(^\text{11}\) (previously ECHP) have been developed. The structure of the set follows the structure of the common objectives. As a result, there are four subsets: one overarching set and one set for each strand of

---

the Social OMC (European Commission, 2009a). At the request of the European Commission, the Herman Deleeck Centre for Social Policy has developed a *Vade Mecum* of the Social OMC indicator set. Data are available on the Eurostat website and on the website of DG Employment, Social Affairs and Inclusion.

The commonly agreed indicators have at times been criticised in academic circles for not being sufficiently sophisticated or innovative. This, however, somehow misses the point. The main value-added of the set is that Member States have reached a consensus on them. This is not self-evident in view of the different ways in which social protection and inclusion challenges and policies present themselves across the EU. Debates with regard to indicator development in the ISG have been characterised by a peculiar mixture of technical arguments and underlying political motives.

Over the years several developments have taken place that are of interest from the perspective of benchmarking and which we discuss in turn before briefly describing how the indicators are used for quantitative benchmarking.

**Developing common indicators: key trends**

In the framework of the Social OMC, policy documents have often stressed the multidimensional nature of social protection and social inclusion. It has, however, not been possible to develop indicators covering all dimensions at once. The agreement on the original set of social inclusion indicators in 2001 (the Laeken indicators) was a major breakthrough, but it necessarily had to focus on the ‘low hanging fruit’: indicators for which an agreement was within reach and for which harmonised data sources were available. As a result, the social inclusion indicators set has been criticised for being too income and labour market focussed. For a long time, dimensions like education, literacy, health and housing were indeed underdeveloped or invisible. Progressively and not without problems the set has been expanded in these other areas. Over the years it has become increasingly clear that international comparability is a big challenge. Agreeing on new indicators takes time and an important lead time is needed to develop new harmonised data sources.

The development of the indicators has been influenced by the progressive extension of EU Membership. The original set of social inclusion indicators was developed in the context of the EU15 (2001). In 2004, ten new Member States joined the EU and two more countries followed in 2007. Needless to say that adding such a substantial number of countries characterised by varying levels of economic development and income inequality had an impact on the process. On

---

14 http://ec.europa.eu/social/main.jsp?catId=756&langId=en See related documents. The Commission website has been widely criticised (including by the SPC) for being insufficiently user friendly.
15 One example of the difficulty in producing internationally comparable indicators concerns subjective indicators, for example in health.
a number of the indicators the EU average shifted markedly and some indicators and basic concepts had to be reconsidered. One evident example is the concept of poverty itself. In the original set of Laeken indicators, the headline indicator for measuring poverty was the relative at-risk-of-poverty rate. Since some of the new Member States were characterised by low income inequality they were among the best performers measured using this indicator, while their general standard of living (and the absolute level of the relative poverty threshold) was actually quite low. There was a lot of pressure to develop a more balanced picture of poverty that would show both its relative and absolute dimension. Consequently, in 2009 an agreement was reached on a material deprivation indicator, which reflects the share of persons who have living conditions severely constrained by a lack of resources.

Originally, the set of social inclusion indicators was exclusively outcome oriented. However, especially after the midterm review of the Lisbon strategy in 2005 and the discussion about the implementation gap, the SPC's Indicators Sub-Group progressively started working on input and output indicators so as to facilitate analysis of the links between policies and policy instruments and outcomes (which policies produce which outcomes?). This development has also been prompted by indicator development in the non-social inclusion strands, where there is a more natural focus on policy instruments (for example, pensions are policy tools). A 'national indicators' label was developed in cases where a common definition has been developed, but where harmonised data sources are missing and/or due to major institutional differences, cross-country comparability is problematic.

In order to increase political commitment and make the general objectives more concrete, the use of national targets (or quantified objectives) has been promoted from the start of the Social OMC. After the Barcelona European Council in 2002, pressure on the Member States increased. In its ‘guidance notes’ for National Strategy Reports on Social Protection and Social Inclusion (see below), the European Commission has stressed the importance of targets. Annexed to several of the guidance notes was a tool for developing targets. An increasing number of countries have effectively introduced such targets in their strategies. At the start of the Social OMC, the idea was to also produce EU level targets to drive the process but it has proved to be impossible to reach an agreement in this respect before 2010. We will briefly refer to the introduction of an EU-level target on poverty and social exclusion in 2010 in section 4.4.

**Indicators: genuine benchmarking in spite of sensitivities**

It is not so difficult to understand that Member States are particularly nervous about being ranked on indicators, but in a way, being scored on a balanced set of indicators like the Social OMC set, rather than on one single (eventually composite) indicator, increases the acceptability for the Member States. Although some Member States clearly are excellent performers on many indicators while others combine bad scores on many indicators, it helps that, in a multidimensional approach, rankings differ. Many Member States counterbalance bad performance on one indicator with good performance on others. Also, scores change over time and Member States may move up or down the ranking.
The set of indicators is continually updated and these updates of the indicators are also provided to the Member States ahead of any reporting exercise, so that they can compare their own performance with that of other Member States. Guidelines for a new round of national reports insist that the starting point for a new domestic strategy should be the assessment of progress on targets and the assessment of the social situation (there are considerable variations between Member States as to the extent in which they take on such an evidence based approach).

In spite of the sensitivities amongst (and the pressure from) the Member States, the European Commission has tried to make the best of its role of ‘independent arbiter’ in the benchmarking exercise. Thus, since the start of the Social OMC, Member States have been ranked on the basis of commonly agreed indicators in the annual joint reports, as can be seen from Figure 4.2 below. These reports (which are discussed in section 4.3.6) always contain an analysis of the indicators. The most recent trends are described, Member States are compared on the different dimensions and causal factors that could explain trends are explored. In ‘full reporting’ years, the country fiches in Joint Reports (see further) also contain a statistical profile per country (selection of commonly agreed indicators). This statistical profile compares the Member States’ scores on some key indicators with the EU averages. Benchmarking has also been a key feature of ad hoc reports produced by the Social Protection Committee, including the successive ‘Assessments of the social impact of the Crisis’ (see, for example, SPC and European Commission, 2010).

---

16 See the ‘Social situation in the EU27’ section in the most recent Joint Report 2010 (European Commission, 2010d).

Important progress in the use of indicators has been made at the occasion of the thematic reporting years. A key development was the child poverty report that was produced by an SPC-ISG task force on child poverty (SPC, 2008). It provided an example of how far the analysis (benchmarking exercise) could be pushed using the common indicators. The child poverty report contained an explanatory analysis in that it not only showed a ranking of Member States regarding child poverty outcomes, it also examined main causal factors: joblessness, in work poverty and ineffective social transfers. A six level scale is used, ranging from ‘+++’ (countries with the best performance) to ‘---’ (countries with the worst performance).

Note that the foreword to the child poverty report, signed by the SPC Chairperson and the Commission Director-General for employment and social affairs, indicates that 'Indicators have not been used to name and shame but to group countries according to the common challenges they face'. This is a clear sign that ranking countries, although part and parcel of the Social OMC, remains a sensitive issue.

In case Member States take a firm stand on figures that are to be published in highly visible political documents, the Commission will occasionally be flexible and allow them to have a footnote with a table or graph indicating concerns about reliability of data or pointing to certain particularities crucial for interpreting the data for a Member State18.

---

18 By way of illustration, Denmark insists that the at-risk-of-poverty rates should be calculated including imputed rent (income derived from home ownership). In the absence of imputed rent calculations for all Member
4.3.4 Supporting the process through non-governmental expert and EU (civil society) stakeholder networks

The key actors participating in the Social OMC are the Member States (through the Council and its preparatory Committees) and the European Commission. However, benchmarking in the framework of the Social OMC is also supported by the involvement of two additional types of actors which tend to be overlooked by OMC critics in this context: independent, or rather non-governmental expert networks on the one hand; and civil society stakeholder networks on the other.

Non-governmental expert networks

Benchmarking needs an independent arbiter with sufficient expertise and authority (Fenna, this volume). This role is played by the European Commission. Specifically with regard to the social policy area, the Commission’s DG Employment, Social Affairs and Inclusion has country desks that follow up developments in a specific Member State and thematic units that cover a specific issue across all Member States (‘vertical’ and ‘horizontal’ units). Other DG’s of the European Commission are less frequently involved in the Social OMC.

In order to assist the Commission in its policy assessment work, a growing number of thematic EU non-governmental expert networks have been put in place. The experts in these networks can be considered as the Commission’s ‘eyes and ears’ in the Member States. Members of the networks are to provide independent (that is, non-governmental) expertise. Specifically with regard to the Social OMC, two such networks are of prime importance: the Network of Independent Experts on Social Inclusion19 and the ASISP network that covers social protection issues (pensions, health and long term care)20, but others are also relevant21. Some of the analyses of these networks (especially assessments of Member States’ reports) feed into the Commission’s assessments while being kept confidential so as to increase the likelihood that the Commission will get a frank assessment. Other analyses are published. Although in some Networks Member States can comment on draft reports that will be published, it is not up to them to take decisions about their contents. The Commission sees the expert networks (which meet regularly) as partners, sets their agenda and regularly briefs them on new developments.

EU civil society stakeholder networks

It has often been stressed in the literature that the OMC actually works through the involvement of non-governmental domestic stakeholders. The Common objectives have always requested

---


21 For example, the employment experts network SYSDEM, see http://www.eu-employment-observatory.net/en/about/abt03_01.htm.
that Member States involve relevant stakeholders at the national level throughout the policy cycle.

It has also been considered important that stakeholders participate in the Social OMC process at EU level. In order to give stakeholders a voice, core funding is being provided for EU stakeholder networks through PROGRESS (PROGramme for Employment and Social Solidarity)\(^\text{22}\). These networks are intended to bring stakeholders together at national level and to support and organise their engagement with the Social OMC process at national and EU level. They are expected to assess input provided by governments, and to participate in consultations and benchmarking activities. In 2010 the Commission was funding twelve such networks\(^\text{23}\) specifically under the social inclusion theme. These networks cover themes such as the social economy, homelessness, children-in-poverty, social services, financial inclusion, and social inclusion policy in local government\(^\text{24}\).

Like the non-governmental expert networks (see section 4.3.4, Non-governmental expert networks), the civil society networks are considered as partners in the Social OMC process by the Commission, which regularly organises meetings with them to exchange information. Many of these civil society networks have organised benchmarking exercises and developed scorecards of their own, consulting their members on what governments are actually doing with regard to specific issues. For example: the European Federation of National Organisations Working with the Homeless (FEANTSA) organised some ten ‘shadow’ Peer Reviews through consultation of its members (see box 4.1 below); Caritas Europa members scored civil society involvement in the 2006–2008 national social protection and inclusion strategy design process against a series of indicators (Caritas Europa, 2007); The European Anti-Poverty Network (EAPN) recently produced a scoreboard containing their members’ assessment of Member States’ National Reform Programmes 2011\(^\text{25}\).

The role of the stakeholder networks is of key importance for the benchmarking exercise. Some of them are quite active in mobilising civil society as well as in lobbying the European Parliament (an institution otherwise only to a very limited extent reached by the OMC) and in linking up the EU process with other international (e.g., UN or OECD) related processes. The Commission has actively been promoting the development of a ‘Social OMC community’, bringing together all these actors regularly in the context of conferences and seminars, but also in the context of Peer Reviews, to which we turn in the next section.

\(^{22}\) The PROGRESS Programme is a financial instrument supporting the development and coordination of EU policy in the areas of employment, social inclusion and social protection, working conditions, anti-discrimination and gender equality.

\(^{23}\) The Commission has three yearly strategic framework contracts with the networks. They are funded by the PROGRESS programme to varying degrees (principle of co-financing), which range between very modest proportion of total funding for large organisations such as CARITAS, and very significant means for networks such as EAPN or FEANTSA.

\(^{24}\) Other stakeholder networks are funded under other themes: e.g. anti-discrimination like European Network Against Racism and AGE Platform Europe (older persons). A number of the networks work together in the Social Platform of European Social NGOs. See: http://www.socialplatform.org/.

**Box 4.1 FEANTSA’s shadow peer review on the UK Rough Sleepers strategy**

| The EU-level PROGRESS Peer Review on the Rough Sleepers Strategy (London, May 2004) inspired FEANTSA to carry out its own electronic ‘shadow Peer Review’ (2004) alongside the official EU Peer Review. The methods used in the FEANTSA Peer Review were similar to the EU Peer Review, although it involved far more countries. The network circulated a summary of the Rough Sleepers Strategy and an e-mail questionnaire to its Members (nongovernmental organizations), which are generally important actors in implementing any homeless strategy and have extensive experience of working closely with rough sleepers. They were asked for feedback and evaluation of (1) the aims and results of the strategy; (2) the transferability of the strategy in their different national contexts. The main findings of the review were published. |

---

4.3.5 Engaging in the benchmarking process: Peer Reviews and OMC projects

Peer reviews of national policies are organised on the basis of input provided by the Member States. Two main types can be distinguished: those organised at the level of the Social Protection Committee (‘SPC-Peer Reviews’) and those in the context of the Progress Programme (‘PROGRESS Peer Reviews’). Benchmarking is also at the heart of so-called OMC projects. We discuss each of these in turn.

**Peer Reviews at the level of the Social Protection Committee**

These reviews are organised by the European Commission and the Social Protection Committee (typically) in Brussels on the basis of the reports that are periodically produced by the Member States in the framework of the Social OMC. Normally, after each reporting exercise an SPC Peer Review is organised. All Member States (SPC delegates) and the Commission participate, occasionally supported by some experts. Peer reviews at the SPC level are rather closed exercises in the sense that they are not open to other actors, such as stakeholder networks.

In the early years of the Social Inclusion OMC, Member States were required to draw up National Social Inclusion Plans (NAP/Incl) every second year (full reporting year). In their plans the Member States set out how, given their particular circumstances and challenges, they intended to make progress in the direction of the common objectives. The plans were prepared on the basis of a guidance note agreed between the Commission and the Social Protection Committee. The guidance contained a common blueprint so that comparison and mutual learning are facilitated.

It is important to distinguish between two ‘waves’ of Peer Reviews. The ‘early’ Peer Reviews (organised before EU enlargement in 2004) on National Social Inclusion Plans, took place during plenary sessions (with all SPC delegations present, implying some 50 to 60 participants). They did not generate a lot of enthusiasm by participants, to put it mildly. In fact, a lot of the criticism in the literature about ‘OMC Peer Reviews’ seems to refer to this particular early type of reviews, which tended to lead to endless and frankly tedious meetings where the full National Social

---

Inclusion Plans of all Member States were presented one after the other, with nearly no time for discussion.

Since 2005-06, the ‘streamlined’ Social OMC increasingly focused on key issues, allowing for more in-depth discussions. In the full reporting years (2006 and 2008), Member States have been asked to present only their policies with regard to a limited number of strategic policy priorities in their National Strategy Reports on Social Protection and Social Inclusion. In between full reporting years, reporting has been limited to one focus theme per strand (thematic years or light reporting years). For example, in the area of social inclusion, there has been a thematic focus on child poverty (2007); on homelessness and housing exclusion (2009); and on the social impact of the financial and economic crisis (2010). There has also been a multi-annual focus on active inclusion (social inclusion of people of active age far from the labour market) over the years. In ‘thematic’ or ‘light’ reporting years, the Commission and the SPC draw up a thematic questionnaire and the review is done on the basis of Member States’ replies to the questionnaire as analysed by the Commission. The national replies to thematic questionnaires are (unlike the NSR’s) normally not published on the internet.

As a result, in more recent years the SPC Peer Reviews have become more focused with separate working groups on different themes (key topics) and have become known as ‘in depth reviews’. Some Member States introduce an issue while some others comment and ask questions. There is hardly any formal reporting but the Commission ensures that main results feed directly into the annual joint report (see section 4.3.6). For an illustration of such an in depth SPC review, see box 4.2.

---

27 In the case of social inclusion, it is suggested that the NSR should cover at most four strategic priority policies. Member States are invited to include full strategies in an annex to their NSR. NSR’s are published on the Commission website.
Box 4.2 In depth SPC review on child poverty

On 3 October 2007 an in depth SPC review on child poverty took place. Policies were assessed in six working groups with four or five countries presenting and four or five countries discussing in each group (i.e. 9/10 countries participated in each working group). The working groups focused on: family resources, access to services, access to education, children in impoverished neighbourhoods, protection of children at special risk and early prevention with a focus on pre-schooling. All discussants could comment or ask questions after each presentation.

Note that while SPC Peer Reviews may be rather closed shops, this does not mean that the nongovernmental expert networks and the EU stakeholder networks (see section 4.3.4, Supporting the process through non-governmental expert and EU (civil society) stakeholder networks) are entirely absent from the benchmarking process. In fact, the nongovernmental expert networks support the Commission in its assessment of the national strategies and Member States’ replies to thematic questionnaires. EU stakeholder networks such as EAPN, Feantsa or Caritas will produce their assessments of the national Social Protection and Social Inclusion Strategies soon after these have become available. In doing so, they attempt to influence the lessons drawn from the exercise (through the joint reports), focusing attention on their particular concerns. Assessments are widely published and sent to the Commission, Member States, the European Parliament and a wide audience of Social OMC participants.

Peer Reviews organized through the PROGRESS Program

Each year, between eight and ten Peer Reviews about specific issues relevant for social protection and social inclusion are organised in the Member States (host countries) in the context of PROGRESS. Although the Commission suggests some priority issues (linked to the SPC work program) this does not constrain the Member States in the choice of topics. There is real ownership of the Programme by the Member States: they present themselves as candidate host countries, they can propose any subject that is of interest to them, and the decision on which proposals are accepted is based on preferences for participation expressed by the SPC delegates (proposals that receive most support are accepted).

Two modalities of PROGRESS Peer Reviews can be distinguished:

- **Good practice Peer Reviews** — in this case a Member State suggests one of its policies that has produced (exceptionally) good results and might possibly be transferred to other Member States. It invites other Member States, experts and stakeholders to an in depth assessment of the policy and its potential transferability across the EU.

- **Policy problem or policy reform Peer Reviews** — in this case a Member State confronted with an ineffective policy and contemplating a policy reform invites other Member States, stakeholders and experts to study the problem and to suggest remedies, good practice examples. Academic scholars have referred to ‘learning ahead of failure’ in this context (Hemerijck and Visser 2001).
As the ‘way of doing things’ for both modalities of the PROGRESS Peer Reviews is largely the same, we discuss them together. The seminars are organised by a contractor that provides facilitators (chairing of sessions and reporting) and is responsible for the general management and the preparation of the seminar. An independent thematic expert is recruited for putting the issue in a comparative EU context and for supporting the process. In a typical Peer Review on average seven or eight peer countries and two EU stakeholder networks participate. Peer country delegations consist of two people: an official from a ministry or local authority and a non-governmental expert who is selected by the peer country. Stakeholder networks are normally represented by one person. They can be selected from the social inclusion networks (see section 4.3.4, Supporting the process through non-governmental expert and EU (civil society) stakeholder networks), but other EU stakeholder representative organisations are also regularly invited (for example, EU social partner organisations). As a rule, the host country member of the relevant non-governmental expert network is invited to participate as this person can provide the much-needed critical input based on expert knowledge of the issues discussed and of the host country.

For these Peer Reviews, a specific methodology has been developed over the years. A standard Peer Review will take two days. Well before the seminar, a discussion paper is prepared by the thematic expert (describing the policy under review and putting it in international comparative perspective). The paper will conclude with the key questions for discussion. Peer countries and stakeholder networks are invited to produce comment papers before the meeting so that all participants are in principle well informed before the meeting and the discussion can start at a higher level. The morning of the first day will be an ex cathedra introduction to the policy under review, followed by questions and answers. The afternoon will normally consist of a site visit (how is the policy implemented in practice) if relevant, or a more practical and interactive exchange between participants. The second day will be devoted to peer country and stakeholders contributions and to the drawing of lessons: discussion of pros and cons, room for improvement, transferability (if so, under what conditions?).

In order to facilitate a critical assessment the Commission insists that the host country should provide monitoring and evaluation data (this is sometimes a problem because many Peer Reviews are about pilot projects for which no evaluation data are available at the time of the Peer Review) and that local stakeholders (e.g. users of the services under review or people that are the subject of the policy) are present and can be questioned by participants. EU stakeholder networks will typically also ask their member in the host country to provide them with a critical analysis.

Between 30 and 40 people typically participate in a Progress Peer Review meeting. The limit on the number of participants aims at increasing the chances of in-depth discussion. Participation is by invitation only. In order to compensate for the closed setting, a lot of effort goes into the reporting of the discussions. A very rich website is available that contains papers, short and

---

28 The current contractor is ÖSB consulting.
29 Often the host country also produces a host country paper.
synthesis report, and — quite exceptional in a European context — minutes of the meeting. Results of PROGRESS Peer Reviews impact less directly on the central messages that come out of the Social OMC than SPC Peer Reviews. But there has been an increasing effort on the part of the Commission to disseminate lessons learned and to make sure those lessons feed into the main process.

Table 4.1 below summarizes the different features of the two types of Peer Review (‘In depth’ and ‘Progress Programme’) practised under the Social OMC since 2006.

---

**Table 4.1 Comparison of the two types of Peer Review practiced under the Social OMC (2006-2011)**

<table>
<thead>
<tr>
<th></th>
<th>'In depth' Reviews (SPC)</th>
<th>PROGRESS Programme’ Peer Reviews</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Hosting and main responsibility for agenda setting</strong></td>
<td>SPC (Especially Bureau and Secretariat)</td>
<td>One of the participating countries (‘host country’)$^{31}$</td>
</tr>
<tr>
<td><strong>Venue</strong></td>
<td>Brussels</td>
<td>In the host country</td>
</tr>
<tr>
<td><strong>Frequency</strong></td>
<td>Linked to the reporting cycle (full and thematic reporting): about one each year</td>
<td>About eight to ten seminars each year</td>
</tr>
<tr>
<td><strong>Management of the meeting</strong></td>
<td>SPC Secretariat and SPC Bureau</td>
<td>Peer review manager - organizer (external contractor: facilitators &amp; note taker)</td>
</tr>
<tr>
<td><strong>Participants</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>European Commission</td>
<td>SPC secretariat and large Commission delegation</td>
<td>Commission thematic expert, country desk, officer responsible for the programme</td>
</tr>
<tr>
<td>Member States</td>
<td>All EU Member States</td>
<td>Limited selection of peer countries (usually 7 or 8, up to 10 participating countries)</td>
</tr>
<tr>
<td>Composition of Member State delegation</td>
<td>SPC delegations</td>
<td>For every peer country two representatives (one government + one non-governmental expert)</td>
</tr>
<tr>
<td>Stakeholders</td>
<td>As a rule no participants external to the SPC, except (occasionally) some experts</td>
<td>A representative of 2 European stakeholder networks; host country stakeholders; a nongovernmental network expert</td>
</tr>
<tr>
<td>Number of participants</td>
<td>Usually more than 60 people</td>
<td>Usually between 30 and 40 people</td>
</tr>
</tbody>
</table>
| **Format** | Plenary sessions to start and to end the in depth review Working Groups | - Plenary sessions  
- In some cases: Working groups  
- Site visits |
| Reporting | No or minimal formal reporting. | Extensive reporting on website: all papers that were used as input, short and synthesis report, minutes of the meeting. |
| Follow up | Feeds directly into the Joint Report through European Commission/SPC secretariat | Weaker / more indirect link to the Joint Report (main Social OMC messages) |

---

$^{31}$ The PROGRESS Peer Review programme is not only open to EU Member States but also to accession countries and other European countries not part of the EU that adhere to the programme.
**The best kept secret in Brussels: OMC ‘Projects’**

Since the start of the Social OMC, each year the Commission has launched a call for proposals inviting project proposals on social protection and social inclusion issues. Calls have been launched on awareness raising, mutual learning projects, and social experimentation. Through these projects, the Commission is promoting some action, cooperation and exchanges ‘in the field’. Projects are funded on a co-financing basis. They typically last between one and two years. For most calls there is an explicit condition that projects be proposed by a partnership covering several Member States, and partnerships of different types of actors are encouraged — NGO’s, ministries, universities, and local government. Except for the national awareness-raising calls, in most cases the projects are actually benchmarking or Peer Review exercises where partners document policies in different countries and organise seminars in each of the participating Member States. The results of the projects are typically put on project-funded websites. They are not accessible from the European Commission’s website, so dissemination is not as effective as it should be.

The quality of the projects is certainly uneven: some have been more successful than others. Although it would require thorough analysis to trace the impact of the projects themselves, it is clear that results from the more successful projects have fed back into the central process through the participating actors: NGO’s, Member States etc. An example of a project that had a wider impact is briefly described in box 4.3.

**Box 4.3 Example of OMC Project: micro-finance exchange network**

Developing an exchange network for European actors of micro-finance (transnational exchange project 2002)\(^{32}\). Partners in this project were Association pour le Droit à l’Initiative Economique (France), Evers & Jung — Research and Consulting in Financial Services (Germany) and the New Economics Foundation (United Kingdom). The goal of this six month project was the promotion of the mutual learning and the exchange of know-how, as well as the dissemination of good practices between the microcredit operators, in order to improve the microcredit impact quality and effectiveness in terms of action against social exclusion in Europe (action in favour of self-employment of people in need). This project led to the launch of the European Microfinance Network in April 2003 (21 members). This network later developed into a core funded EU stakeholder network, which currently counts 93 member organisations in 21 European countries.

**4.3.6 Drawing conclusions in Joint Reports on Social Protection and Social Inclusion and Commission Recommendations**

Joint reports bring together the lessons learned as a result of the mutual learning/benchmarking activities during the year. A draft of the report is prepared by the Commission at the end of the year, discussed with Member States and EU stakeholder networks, and a final version approved by the Social Affairs Council at the start of the next year. A joint report consists of two parts: the actual joint report (where ‘joint’ means approved by both the European Commission and the Council) which is rather concise (typically 10–15 pages), and the more elaborate supporting...
document published as a Commission Staff Working Document (although the subject of discussions between the Commission and Member States, the final responsibility lies with the Commission). The joint report contains ‘Key Messages’ (merely a few pages) that are communicated by the Social Affairs Council to the Spring European Council, the annual meeting of EU heads of state and government that takes stock of the state of the EU.

The supporting document contains an analysis of the commonly agreed indicators (the social situation of the EU) or an in-depth analysis of the key issue in thematic years on the basis of the commonly agreed indicators (presenting graphs which rank Member States — see section 4.3.3, Indicators: genuine benchmarking in spite of sensitivities). Then there is the policy analysis part, which presents a horizontal analysis (across Member States) of the major social protection and inclusion issues reviewing challenges and Member States’ policies. Finally, there are country fiches, which summarise the results of the vertical analysis per Member State. Although the EU treaty does not provide for individual country recommendations on social protection and social inclusion (in this respect there is a difference with the European Employment Strategy) the country fiches do identify country specific ‘challenges’.

Even though the academic literature has classified these messages from the Commission as too general to have any real bite, box 4.4 below illustrates that in some cases suggestions to the Member States can be rather far-reaching, and really represent ‘soft recommendations’ which cover the three strands of the Social OMC.

Because the joint report is a rather unwieldy document that summarises lessons learned on many issues on an annual basis it is not very accessible for people looking for guidance on a specific issue. This may partly explain why in general it is only known within the OMC community. The Commission has proposed to summarise lessons learned on key issues (the results of the consensus framing exercise) in Commission recommendations (European Commission, 2008b: 5). Through such Commission recommendation, results of the mutual learning exercise can be brought together and made visible. Since the recommendation is subsequently discussed by the other European institutions, this makes it possible to involve EU institutions not normally involved in the Social OMC, like the European Parliament. The follow up, monitoring of the impact of the recommendation can then be organised within the Social OMC. Thus, a Commission recommendation on the active inclusion of people excluded from the labour market was published in October 2008 (European Commission, 2008a). In December 2008 the EPSCO council endorsed the recommendation (Council of the European Union, 2008), and in May 2009 the European Parliament endorsed it (European Parliament, 2008).
Box 4.4 Examples of country specific challenges (subtle ‘recommendations’) through the Joint Reports

**Governance**
*Austria:* While the presented objectives are by themselves very important, they are in major parts not made more concrete by target setting and rolling out a financial perspective to underpin the process (European Commission, 2004).

**Social inclusion**
*Spain* was advised that ‘Co-ordination and co-operation between the different administrative levels will be required to define a minimum standard of measures in order to tackle the inclusion issue in a more homogenous way throughout the national territory’ (European Commission, 2002).

**Pensions**
The *Czech Republic* was asked to ‘To ensure that reforms (e.g. privatization of funds) are properly thought through on the basis of past experience and the experience of other countries’ (European Commission, 2009b).

**Health care**
*Luxembourg* was asked to limit ‘the overuse of antibiotics’ and improve the use of generic medicines (with regard to quality and financial sustainability) (European Commission, 2007; European Commission, 2009b).

**4.4 Europe 2020 Strategy: is there still room for social benchmarking?**

While the previous section focussed on social benchmarking throughout the past decade, this section briefly introduces the main features of the Europe 2020 Strategy and discusses the key changes this entails for benchmarking within the Social OMC.

**4.4.1 A new strategy for Europe until 2020: objectives and governance**

*Overall objectives and general architecture of the new strategy*

In the words of the European Commission (European Commission, 2010b), Europe 2020 is a Strategy ‘to turn the EU into a smart, sustainable and inclusive economy delivering high levels of employment, productivity and social cohesion’. This new Strategy is based on enhanced socio-economic policy coordination, and is organised into three priorities, which are expected to be mutually reinforcing:

- *smart growth* — ‘strengthening knowledge and innovation as drivers of our future growth’
- *sustainable growth* — ‘promoting a more resource efficient, greener and more competitive economy’
• **inclusive growth** — ‘fostering a high-employment economy delivering social and territorial cohesion’.

Europe 2020 has been organised around three (supposedly integrated) pillars:

• **Macroeconomic surveillance**, which aims at ensuring a stable macroeconomic environment conducive to growth and employment creation. This is the responsibility of the EU ‘Economic and Financial Affairs’ (ECOFIN) Council.

• **Thematic coordination**, focusing on structural reforms in the fields of innovation and R&D, resource-efficiency, business environment, employment, education and social inclusion. Thematic coordination combines EU priorities, EU headline targets (translated into national targets that underpin them) and EU flagship initiatives. It is conducted by the sectoral formations of the EU Council of Ministers. This includes, for social protection and inclusion matters, the EPSCO Council. In other words, this is where we find the Social OMC in the new architecture.

• **Fiscal surveillance under the Stability and Growth Pact**, which should contribute to strengthening fiscal consolidation and fostering sustainable public finances.

**Europe 2020: the EU and domestic level**33

The June 2010, the European Council agreed to set ‘five EU headline targets which will constitute shared objectives guiding the action of Member States and the Union’ (European Council, 2010b). These include an EU target that aims to promote social inclusion, in particular through the reduction of poverty, by aiming to lift at least 20 million people out of the risk of poverty and exclusion. The target will consist in reducing the number of people in the EU who are at risk of poverty and/or materially deprived and/or living in jobless households (120 million) by one sixth34.

With a view to meeting these EU-wide targets, Member States then have to set their national targets, taking account of their relative starting positions and national circumstances and according to their national decision-making procedures. They should also identify the main bottlenecks to growth and indicate, in their National Reform Programmes (NRP’s), how they intend to tackle them. Member States submitted their second NRP’s in April 2012.

To underpin these targets and ‘catalyse progress under each priority theme’, the Commission has also proposed seven flagship initiatives that should encompass a wide range of actions at national, EU and international levels: ‘Innovation Union’, ‘Youth on the move’, ‘A digital agenda for Europe’, ‘Resource efficient Europe’, ‘An industrial policy for the globalisation era’, ‘An agenda for new skills and jobs’ and ‘European Platform Against Poverty’ (EPAP) (European Commission, 2010c).

Finally, ten Integrated Guidelines for implementing the Europe 2020 Strategy were adopted by the Council in October 2010 — six broad guidelines relating to the economic policies of the Member States and the EU, and four guidelines concerning the employment (and in fact also

---

33 This section draws on Frazer et al. (2010) and Vanhercke (2011).

34 The other targets relate to employment, education, research and development (R&D) and climate/energy.
social) policies of the Member States. Their aim is to provide guidance to Member States on defining their NRPs and implementing reforms, in line with the Stability and Growth Pact. All of these instruments are brought together into a time frame that has been labelled the 'European Semester' (see Frazer et al., 2010 for a more detailed discussion). The question then is whether this new framework has important ramifications for social benchmarking.

4.4.2 Benchmarking social Europe under the new strategy: a blueprint for a reinvigorated Social OMC: opportunities and uncertainties

As indicated in the introduction, the Social Affairs Ministers of the 27 Member States decided on a blueprint that outlines the main features of the future Social OMC. They did so by endorsing (in the EU jargon) an Opinion that was prepared by the Social Protection Committee (Council of the European Union, 2011).

Importantly, the SPC’s blueprint for the future Social OMC starts by reaffirming that the Social OMC will continue to work in a 'holistic' way in that it will:

- Cover the three strands of the Social OMC — inclusion, pensions and health care and long-term care.
- Encompass adequacy, financial sustainability and modernisation of social protection systems.
- Be an essential tool to support the Social Affairs Ministers in monitoring and assessing the entire social dimension of the Europe 2020 Strategy.

In other words: Social Affairs Ministers seem to see the OMC as a way to reclaim some of the territory they lost through a narrow focus of the Europe 2020 Strategy on ‘Growth and Jobs’. This seems to be confirmed by the affirmation that while 'The Social OMC ... contributes to the Europe 2020 governance cycle (European Semester)', it does so 'while maintaining its specificity' (read: its independence).

What are the main features, questions and pitfalls of the blueprint for the Social OMC in the next decade?

A general concern is whether in the longer run the Social OMC will remain viable. In view of important capacity constraints of both the dedicated Commission services and the Member States, there is considerable pressure to concentrate on one central process: Europe 2020.

It seems that a wide consensus exists around the Common Objectives on Social Protection and Social Inclusion: the existing set is reconfirmed. As indicated before, the main value of the objectives lies in their balanced approach to the social policy areas. They drive home the point that in order to be effective policies need to simultaneously reach different objectives: most importantly financial sustainability and social adequacy. The test will be whether such balanced policies will be a central characteristic of high level EU policy initiatives in the coming years. Arguably, the objectives have been somewhat strengthened through so-called ‘minor technical updating’, which includes ‘taking full account of the relevant social provisions of the Lisbon Treaty’. One of the new social provisions is the so called horizontal social clause (article 9
The reference to the Lisbon Treaty (and thus article 9) may provide additional legitimacy to the European Commission to intensify its efforts as regards the social component of its impact assessments (mainstreaming social protection and inclusion concerns in all relevant policy areas). So far, however, there are no signs that the European Commission has picked up on this.

Then, there is the 'national reporting', which so far happened through the National Strategic Reports (and National Action Plans on Social Inclusion). Here, the Council considers that the policy coordination process carried out under the Social OMC requires 'regular strategic reporting' covering policies and measures in the three strands of the Social OMC. The Member States are currently submitting their first National Social Reports, new style. The reports are supposed to be coherent with and complementary to the NRPs.

The move to annual reporting (until now NSR's were presented every three years) gives rise to some hope that the NRPs will be underpinned by comprehensive national strategies on social protection and social inclusion, and that the key elements of these will be referenced in the NRPs, but much will depend on the actual implementation: it seems more likely that the wording could lead to minimalistic interpretations of Member States’ reporting obligations.

The annual Joint Reports (adopted by the Council and the European Commission) have been abolished. They have been replaced by annual SPC Reports on the Social Dimension of the Europe 2020 strategy that are no longer formally adopted by the European Commission as a ‘college’ (decisions are deliberated collectively and the Members have collective responsibility). This raises concerns regarding a possible downgrading of the social assessment and a further reduction of its status, visibility and potential impact. The SPC opinion on the Social OMC further specifies that ‘The thematic work of the SPC could also lead to joint reports of the Commission and of the Member States’ (our italics). It remains to be seen whether such thematic Joint reports will indeed be forthcoming. A Commission recommendation on child poverty has been announced for 2012.

In line with the 'holistic' approach to the continued OMC, the decision has been taken to continue working on indicators in all three strands, while ensuring consistency with the newly established Joint Assessment Framework. Among the priorities for indicator development in the coming years recently identified by the SPC are: the monitoring of interactions between social, economic, employment, and environmental policies and addressing the situation of the most vulnerable groups, such as the Roma (SPC, 2011: 8). Again, the actual implementation of this blueprint will have to clarify what is meant with the Council’s open-ended commitments such as: ‘Member States and the Commission should continue to draw selectively, as need be, on the full set of commonly agreed indicators’ (our emphasis) in the context of the new reporting mechanisms.

---

35 This article states that ‘In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health’.

Peer reviews are reconfirmed by the Council and the SPC as essential feature of the Social OMC, but they are to be more closely linked to policy reforms and the dissemination of outcomes is to be improved (here reference is made to ‘Progress Peer Reviews’). Yet again, a key question prevails as regards the future of this tool, notably whether additional innovative Peer Review formats that have already been discussed in the SPC — in order to answer some shortcomings in the current mutual learning exercise — will be taken up. Among these formats are Social OMC workshops that could be a broader intermediary forum between individual Peer Reviews and the Social Protection Committee and follow up seminars in the host countries that would allow discussing lessons learned with a broader range of domestic stakeholders, notably also people involved in policy implementation at the local level.

While the SPC considers it important to improve the involvement of stakeholders such as social partners, NGOs, regional and local authorities as well as other relevant EU institutions, no specific proposals have been envisaged so far.

In other words, the proof of the pudding as regards the future of the Social OMC (and benchmarking as an essential part thereof) will be in the eating, as can also be seen from box 4.5 which summarises the key features, questions and pitfalls of the ‘reinvigorated’ Social OMC.

**Box 4.5  Blueprint of the Social OMC under the Europe 2020 Strategy: key features, questions and pitfalls**

1. **Common Objectives** — existing Objectives remain valid, but with ‘technical update’ (coherence with Europe 2020 and especially social provision of Lisbon Treaty); Question: will the European Commission enhance Social Impact Assessments?
2. **National reporting** — succinct annual reporting on social protection and social inclusion. Question: will key elements of comprehensive SPSI strategies be referenced in the NRPs? Risk: minimalistic interpretations of Member States’ reporting obligations.
3. **Indicators** — continue work on indicators in all three strands. Risk: Member States ‘draw too selectively’ on commonly agreed indicators in reporting.
5. **Peer Reviews** — reconfirmed as essential learning tools but should be more closely linked to policy reforms. Question: will innovative seminar formats linked to Peer Reviews be implemented? How to improve visibility and accessibility?
6. **Stakeholder involvement** — reconfirmed as important objective. Question: readiness to work on ‘voluntary guidelines’ as regards good quality stakeholder participation? Risk: further deterioration of participation as consequence of lighter reporting.
4.5 Wrapping things up: benchmarking in the social OMC demystified

This chapter started off by describing the political setting in which the OMC emerged and was further institutionalised: in some politically sensitive areas where the unanimity rule prevented EU legislative initiatives, decision makers agreed that ‘doing nothing’ at EU level was not an option. As a result, the OMC emerged as a form of ‘governance by objectives’ through which Member States wanted to learn from one another (and thereby improve policies), while affirming that European integration equally had a visible social face. Since 2000, OMC-type processes and approaches have been proposed and applied by European institutions and stakeholders as mechanisms for coordinating domestic policies in a range of issue areas for which the EU has no formal authority, but also for monitoring and supplementing EU legislative instruments.

In the absence of a ‘shadow of hierarchy’ (Héritier and Lehmkuhl, 2008), this ‘soft’ coordination tool seems hardly adequate to have any ‘real’ effect, at least this is the view of the ‘sceptical’ literature which by and large dismissed the OMC because of its institutional weakness. And yet the more ‘optimistic’ academic literature finds that at least the Social OMC (which is one of the more developed coordination processes) has a significant impact on domestic and EU policies, namely through mechanisms such as leverage and policy learning (see, for example, Vanhercke, 2010).

In an attempt to unravel these contradictory findings, we set off to describe the way benchmarking really works in the context of the Social OMC, as it was clear to us that students of the OMC are often rather vague about what they are actually talking about, when they discuss the success and (especially) failure of ‘benchmarking’ in this context. By doing so, we found that Social OMC benchmarking is quite different from how it is usually portrayed in the literature in at least five respects.

First, it seems that the OMC’s learning tool are more dynamic than is usually acknowledged: thus, we described how the Peer Review mechanism was refined over the years, from (early) Peer Reviews on comprehensive national social inclusion plans to (later) in depth reviews of specific subjects or policies. We also saw how the set of indicators became increasingly multidimensional while covering more issue areas, development of input and output statistics; and we pointed to the increased use of quantified objectives or targets.

Second, the benchmarking tools are more diversified than is usually depicted, as we found when describing ‘SPC-Peer Reviews’ versus ‘PROGRESS’ Peer Reviews, while for the latter two modalities can be identified: good practice Peer Reviews and policy problem or policy reform Peer Reviews. The latter distinction is more than just a nuance: the policy reform Peer Reviews are by no means the ‘window dressing’ exercises that are sometimes caricatured in the literature: discussions are often quite critical towards the presented policy, also because ‘site visits’ allow for a certain reality check.
Third, our in-depth description of social benchmarking in the Social OMC tool suggests that its tools have more bite than is usually assumed. OMC might look ‘soft’ but in some cases it feels quite hard to those who are touched by it. The same is true for the considerable pressure on Member States to start working with targets (even if this does not sit easily with their national culture). We presented a number of examples (e.g. child poverty) where Member States are ranked, not only as regards their outcomes, but also regarding the main causal factors of these outcomes. While country-specific messages are often deemed ‘too subtle’ even to be assessed by scholars, we provided some illustrations of ‘challenges’ for Member States identified through the JR SPSI, which in some cases are rather far-reaching, and really represent ‘soft recommendations’ which cover the three strands of the Social OMC. In other words, it is clear that ‘genuine’ benchmarking is going in the Social OMC, in spite of sensitivities, and that the ‘hard politics of soft law’ is not fiction.

Fourth, it seems that the OMC benchmarking is more open (involves a wider range of actors) than oftentimes assumed. In other words, the image of the Social OMC (especially but not only Peer Reviews) as involving a rather closed circle of non-accountable bureaucrats (Kröger, 2009: 13) is sometimes exaggerated. Thus, the existence of supporting tools such as the nongovernmental expert and EU (civil society) stakeholder networks, are rarely acknowledged. And yet, through the exchanges with other networks members and their participation in drawing up EU comparative analyses (for example, benchmarking exercises, and development of scorecards), the experts acquire cross-country knowledge and become part of what could be called the ‘Social OMC community’. They can have an important impact on the quality of the benchmarking exercise. The same is true for the actors participating in the described (yet well-hidden) OMC ‘projects’: over the years the projects have equally supported the development of the Social OMC community, through the introduction of new partners to the process and by supporting the development of the EU civil society stakeholder networks. These stakeholders contribute to ‘capillary effects’ of the Social OMC in that benchmarking as a governance tool is increasingly being promoted outside the formal OMC inner circle (mainly governments and Commission officials).

It will be clear from this chapter that these capillary effects are by no means automatic processes: they are purposefully constructed by key actors in the process, for example, through funding. The crux of the matter is this: it is not the ‘hardness’ or the ‘softness’ of the OMC that matters, but its capacity to stimulate policy learning and benchmarking (through a rather refined set of tools) and especially creative appropriation and action by European, national and sub-national actors. Indeed, OMC benchmarking can only have an impact if it is being ‘picked up’ by actors at the domestic level, who use it as leverage to (selectively) amplify national reform strategies.

Thus, social policymakers are now facing the key challenge of re-establishing a role for a wide range of actors within the heart of the Social OMC, including by implementing innovative Peer Review formats and dissemination practices, developing guidelines for the quality involvement of stakeholders. And exploring the possibility of introducing procedural requirements into ‘soft law’ mechanisms, such as rights to transparency and participation in the OMC. If they succeed,
these policymakers (and the larger OMC community) may very well reach the goal they wanted to achieve by reinvigorating the Social OMC in June 2011: to counterbalance the Europe 2020 Strategy's excessive focus on fiscal and economic considerations in the first so called 'European Semester' and the narrowing down of social policy to policy against poverty and social exclusion in the setup of the new strategy (for example in the European Commission's first Annual Growth Survey). One way to provide such counterweight would be to continue producing sound analysis and political messages about how broad 'social protection (social insurance) and social inclusion' strategies are to be considered as a productive factor.

By pursuing this avenue, the EU would live up to its own commitment to deliver 'inclusive growth' and perhaps even provide Europe's people with hope for an ever stronger Social Europe.

References


Kröger, S. (2009), ’The Open Method of Coordination: underconceptualisation, overdetermination, de-politicisation and beyond’, in Kröger, S. (ed.), ’What we have learnt: Advances, pitfalls and remaining questions of OMC research’, European Integration online Papers (EIoP), Special Issue 1, Vol.13, Art. 5 (http://eiop.or.at/eiop/texte/2009-005a.htm).

Laursen, F. (2011), The EU and Federalism: politics and policies compared, Farnham, Ashgate.


SPC (2011), Background Paper to the SPC from the ad hoc group on reinvigorating the Social OMC in the context of the Europe 2020 Strategy, Doc. SPC/2011.09/1, p. 31.


CHAPTER 5

Delivering the goods for Europe 2020?
The Social OMC’s adequacy and impact re-assessed


5.1 Introduction

In the ongoing discussions on the future of the Social Open Method of Coordination (OMC), in particular in the context of the Europe 2020 Strategy, one rather basic element seems to be missing from the debate (or at least to have been obscured) namely an assessment of the extent to which the Social OMC (with its three strands on social inclusion, pensions, as well as healthcare and long-term care), has delivered concrete results. This is a legitimate concern at a time when EU and national policy-makers are discussing the future role and content of the Social OMC and the yet-to-be created ‘European Platform Against Poverty’ (EPAP), the social dimension of the Integrated Guidelines for Economic and Employment Policies, and the institutional design of the overall Europe 2020 Strategy.

This chapter therefore assesses the results of the Social OMC with the aim of answering the question: Has the Social OMC delivered the goods?3 This issue has in fact been widely debated in the last decade in the OMC research community: once the initial praise for the OMC (both by politicians and scientists) started to wane, the process was subjected to intense scrutiny and found wanting in mainstream academic literature (Vanhercke, 2007). At first sight this should not come as a surprise.

---

1 The empirical analysis in this chapter resulted from my participation in a Commission-funded project (coordinated by PPMI) on ‘Assessing the effectiveness and the impact of the Social OMC in preparation of the new cycle’, in which I provided a ‘State of the Art Analytic Overview of Evaluation Results of the Social OMC’ (Vanhercke, 2010).

2 The research done for this chapter benefited from funding from the Community’s PROGRESS programme and was supported by the Belgian Federal Public Service Social Security (Directorate-General Strategy and Research) in the context of the ‘Europe 2020’ research project. I wish to thank Caroline de la Porte and Timo Weishaupt for the collaborative research efforts which led to this chapter; Margherita Bussi for invaluable around-the-clock research assistance; Eric Marlier, David Natali, Jonathan Zeitlin, Egidijus Barcevičius, Peter Lelie, and an anonymous reviewer at the European Commission for their constructive criticism on earlier drafts. The views expressed in this chapter are the sole responsibility of the author. Address for correspondence: vanhercke@ose.be.

3 This question is equally addressed in Vanhercke (2010), which presents a more in-depth assessment of the recent literature on the Social OMC.
Indeed, viewed in terms of its institutional characteristics, the absence of a ‘shadow of hierarchy’ (legislative and executive decisions) would suggest that this mode of governance cannot deal effectively with the problems it is supposed to solve (Héritier and Lehmkühl, 2008). Yet this chapter argues that through mechanisms such as leverage and policy learning, this ‘weak’ policy instrument does produce real effects. The crux of the matter is this: it is not the ‘hardness’ or the ‘softness’ of the OMC that matters, but its capacity to stimulate creative appropriation and action by European, national and sub-national actors.

At the same time, this chapter argues that any credible assessment of the OMC should distinguish between two key dimensions. On the one hand, the adequacy of the Social OMC is defined as the extent to which the OMC’s architecture (institutional setup) is likely to contribute to reaching its objectives at EU and national level. In other words, adequacy refers to the theoretical capacity of the OMC toolbox to produce results. On the other hand, the impact of the Social OMC is defined as the extent to which the Social OMC has actually influenced policies and policy-making processes at EU and national level. In other words: impact refers to the effects of the Social OMC ‘on the ground’. Clearly distinguishing between these two dimensions is indeed important: at least some of the disagreement between OMC ‘optimists’ and ‘pessimists’ can in our view be attributed to the fact that they are looking at different aspects of the OMC. Quite often ‘theoretically enriched’ studies assessing the OMC on the basis of its institutional architecture (adequacy) do not provide empirical evidence about whether or not these critical assessments are confirmed by the actual OMC practice.

The chapter is organised as follows: Section 5.2 explores the different dimensions of the adequacy of the Social OMC’s toolbox, reviewing the Social OMC’s communication strategy, its operational value in coordinating policies at EU level, the features of the OMC toolkit and its interaction with domestic processes. Section 5.3 assesses the impact of the Social OMC ‘on the ground’, looking at substantive policy changes, shifts in domestic governance, and its impact on EU-level policies and politics. Section 5.4 aims at reconciling the apparently contradictory conclusions with regard to adequacy and impact by looking at some of the mechanisms at work. Finally, Section 5.5 concludes, providing some forward-looking perspectives with a view to further strengthening the Social OMC’s adequacy and impact.

5.2 The adequacy of the Social OMC’s toolbox: mixed evidence (at best)

This section assesses the theoretical capacity of the OMC toolbox to produce results at EU and national level (adequacy). Wherever possible, specific attention is paid to the three strands of the Social OMC (social inclusion, pensions, as well as healthcare and long-term care).

5.2.1 Adequacy of the Social OMC’s communication strategy: public awareness and institutional visibility

Many authors concur with the finding by Kröger (2008) that the OMC is a process marked by its near invisibility in the media and to the citizens, which explains why labels such as ‘the EU’s best
kept secret' are attributed to it. A recent evaluation (INBAS et al., 2009) of stakeholder involvement in the implementation of the OMC confirms the earlier finding (e.g. Büchs and Friedrich, 2005: 275) that national reports are rarely, if ever, discussed in Parliament and that the OMC has not permeated public discourse or the media. What is perhaps even more worrying is that even for the 'inner circle' of people involved in the Social OMC, key aspects of the process remain hidden, due to the fact that the Social Protection Committee (SPC) and its Indicators Sub-Group do not make the full panoply of their internal documents (including minutes of meetings) available online (Zeitlin, 2005: 484; Marlier et al., 2007: 244). One of the rare examples of (ad hoc) public visibility of the OMC is provided by Norris (2007): in 2006, the recently-elected Portuguese President referred prominently to the inclusion plan in his address on Portugal's national holiday commemorating the return to democracy, resulting in considerable media coverage of the OMC/inclusion.

But what about the institutional awareness and visibility of the OMC, including among (sub)national governmental actors (typically ministries of social security, pensions and health) and stakeholder organisations? According to Friedrich (2006) the Social OMC remains elite-driven and opaque and is therefore limited as regards its democratic potential. Some nuance is in order, however: several national studies of the OMC/inclusion (less is known about the pensions and healthcare strands) highlight that the Social OMC's institutional visibility (and thus the awareness of its existence) varies strongly within and across countries as well as over time. In Belgium some noticeable cases were reported by Vanhercke et al. (2008) of the strategic use of the OMC as a governance tool for coordinating local and regional (social inclusion and gender) policies, indicating a considerable degree of awareness at different levels of government.

In spite of these nuances (variation across countries and over time), a recent assessment of the awareness and perception of the social inclusion strand of the Social OMC4 reaches the firm conclusion5 that it 'is clear from the experts' analysis that awareness of the social inclusion strand of the Social OMC is limited to a narrow band of actors in most Member States. [...] In most countries, there is virtually no media or public awareness of the Social OMC and no political debate about the process. In only a small number of countries does there appear to be much interest within the academic community or significant social partner engagement' (Frazer and Marlier, 2008: 2).

5.2.2 Adequacy of policy coordination at EU level: objectives, messages and reports

A second dimension whereby the OMC can be assessed is to ask whether the OMC common objectives, messages and reports are clear, pertinent and operational. de la Porte (2008) found that the OMC/inclusion objectives are sometimes criticised and sometimes praised in the

---


5 This conclusion is based on an analysis of the reports produced by the members of the EU Network of Independent Experts on Social Inclusion (unfortunately, the national contributions of these 'OMC awareness' assessments were not made public): http://www.peer-review-social-inclusion.eu/network-of-independent-experts/policy-assessment-activities.
literature for their ‘openness’. Büchs (2009) notes that the Social OMC’s objectives and guidelines contain different and sometimes conflicting elements, some of which are more likely to be interpreted in ways that promote the strengthening of the welfare state whilst others are more likely to support retrenchment. For this author key concepts are open to interpretation (e.g. ‘activation’).

As regards (the lack of) policy coherence within the OMC, de la Porte (2007) confirms that the objectives of the Social Inclusion strand reflect diverging national approaches (Anglo-Saxon, Continental and Nordic) to this issue. Hamel and Vanhercke (2009) confirm that the first Common Objective in this strand (‘to facilitate participation in employment and access by all to the resources, rights, goods and services’) was particularly conflictual and represented ‘the ultimate European compromise’ since it is obvious that these are really two distinct priorities, and not one. And yet, the same authors find that the Social Inclusion Common Objectives had a significant influence in Belgian and French policy-making. This has been most visible in terms of agenda setting and promoting stakeholder involvement, which clearly facilitated creative appropriation of the process in both countries (Ibid.). Armstrong (2005) in fact doubts whether common EU objectives are all that significant in stimulating processes of policy problem identification.

The objectives under the pensions strand represent both economic and social concerns (Pochet and Natali, 2005). On a slightly more sceptical note, Lodge (2007: 350) interpreted the principles and objectives of the pensions strand as the ‘least undesirable’ outcome of negotiations between ‘economic’ and ‘social’ actors; according to Lodge the objectives were very weak (and were intended to be so) and extremely broad, and therefore had no directing capacity since they ‘allow any policy development to comply with such standards’. Similarly, Radulova (2007) concludes that the institutional characteristics of this strand (lack of Treaty basis, Recommendations etc.) make it a ‘weak’ OMC. It should be noted that one of the rare studies available that actually studied the impact of the Pensions OMC ‘on the ground’ (Vanhercke, 2009) concluded that the Common Objectives did indeed influence the national as well as the EU agenda (see Section 5.3.1).

Discussing the healthcare strand, Greer and Vanhercke (2010) make the argument that the ‘ambiguous words’ of the Common Objectives are in fact useful when there is no fundamental agreement: they create an opening for new EU competencies while stressing that there would have been greater efforts to block the common objectives (in health) had the objectives been clear. And yet the ‘normative’ orientation of these healthcare objectives is quite clear for Flear (2009): they not only extend market rationality and facilitate governing at a distance by providing inducements for self-management, but they also promote moves away from equity and solidarity. Writing about the same OMC strand, Hervey (2008) rejects the claim that the healthcare OMC promotes neoliberal policies, while the European Centre for Social Welfare Policy and Research et al. (2008) find strong confirmation of pertinence of overarching objectives of the healthcare strand of the OMC.

Turning to the adequacy of the (subtle) country-specific messages, observers will recall the negative, collective response of SPC members to the Commission’s implicit efforts to ‘rank’ the
The adequacy and impact re-assessed

NAPs/Incl in the first (2001) Joint Report on Social Inclusion, which closed the door on anything resembling formal recommendations in the social field. Yet Hamel and Vanhercke (2009) explain how two ‘cold showers’ from the European Commission (through its Draft Joint Reports) with regard to stakeholder involvement in the elaboration of the Belgian NAPs/Incl, combined with the acknowledgment (through mutual learning) that perhaps Belgium was not the best pupil in the class after all, led to real procedural shifts; i.e. increased stakeholder involvement in the social inclusion OMC at the beginning of 2005 (see Section 5.3.2).

It is quite difficult to assess the adequacy of National Strategy reports and guidance notes for the reports. The latter are considered to be too technical by most scholars, who often do not even know about their existence. One of the rare reports that addresses the issue is from the European Anti-Poverty Network (EAPN, 2008), which found some evidence of an increase in specific social inclusion/poverty reduction targets and for specific groups as a result of the guidance notes. For the European Social Network the Commission’s guidance note should be more explicit regarding the requirement to set targets and provide budget details (ESN, 2009).

The adequacy of the National Action Plans and National Strategic Reports on Social Protection and Social Inclusion can be considered as a proxy indicator for the quality of the guidance provided. Armstrong (2005) and Marlier et al. (2007) highlighted that the second NAPs/Incl (during the 2003-2005 period) were above all reports, and called for ‘restructured’ NAPs/Incl that should become a ‘strategic planning exercise, the goal of which is to actually develop an ‘action plan’’. This diagnosis is confirmed by Jacobsson and Johansson (2009) as regards Sweden: the NAP/Incl is not a strategic document, but instead a ‘report to Brussels’ about existing activities. This view is shared by EAPN (2008), while the European Social Network contends that only a very small number of Member States have used the reports to (re)assess national social inclusion policies. An analysis of two rounds of NAPs/Incl (2004-2006 and 2006-2008) by Sirovátka and Rákoczyová (2009) confirms this gloomy picture: the NAPs/Incl reflect the low level of commitment to social inclusion/anti-poverty efforts in the Czech Republic, which are deemed even lower than in other new Member States, while the plans do not provide empirical evidence of how NGOs and civil society have or have not used the NAPs/Incl. A different view can be read in Armstrong (2005), who found that the NAPs/Incl triggered domestic responses. Norris (2007) goes even further and describes how in Ireland the processes of the National Anti-Poverty Strategy (NAPS) and the social inclusion OMC, including their targets and consultations, have largely been integrated.

The process for analysing reports, consulting with Member States/other stakeholders and drawing conclusions is, at least in part, addressed by Sirovátka and Rákoczyová (2009) who note that the Commission is harsh in its analysis of the Czech report, due to its lack of precision and commitment. Greer and Vanhercke (2010) provide illustrations of where the OMC might look ‘soft’ but, in some cases, it feels quite hard to those who are affected by it. This was confirmed by earlier research by Jacobsson (2005), who found that the Swedish government showed strong resistance to the social inclusion policy, and to assessments by the Commission. Another example, provided by O’Donnell and Moss (2005), illustrates this point. They report that the first Irish NAP/Incl lacked strategy, data, analysis of problems, and the identification of or focus on
specific target groups. After ‘shaming’ by the Commission, the second report was improved, and had a better strategy and analysis of problems.

A final dimension of the adequacy of policy coordination at EU level is the Social OMC’s capacity to stimulate a genuine policy debate and build consensus around promising policy approaches. This issue was addressed by Horvath (2007), who found that most Member States’ delegates regard it as essential for the SPC to reach a consensus or compromise at the end of all discussions. Being able to agree on ‘common opinions’ is seen as one of the main factors which determine the success of the SPC. In sum: there seems to be a normative orientation towards consensus-oriented discussions, even if SPC members who have been representatives for less than 2 years (became delegates after the 2004 enlargement) refer less often to consensus, cooperation and common values.

5.2.3 Adequacy of features of the OMC toolkit: feeding in/out, indicators and mutual learning

The links between policy strands within the OMC and with other policy areas at EU level (mutual reinforcement, feeding in/out) can be considered rather problematic, amongst other reasons due to the lack of coordination between the strands on pensions, social inclusion and healthcare. Zeitlin (2008) argues that ‘by excluding the EU’s social objectives from the integrated guidelines, the Union has effectively returned to the one-sided coordination of Member States’ social policies in pursuit of financial sustainability and employment promotion which the Social OMC was developed to overcome’. Unsurprisingly then the SPC (2009) concluded that the issues of ‘feeding in’ and ‘feeding out’ should be better covered by the Member States and the European Commission, in view of the finding that key social issues are not always properly acknowledged within the Lisbon agenda. This is corroborated by Frazer and Marlier (2009) who find that the links between social inclusion policies on the one hand and employment and economic policies on the other are in most cases modest and limited. Barbier (2010) refers to this lack of efficient feeding in/out as ‘les promesses sociales non tenues’ (i.e. the broken social promises) of the Lisbon Strategy.

In the field of health, any attempt to strengthen the adequacy of the OMC will need to acknowledge the reality, recently spelled out by Hervey and Vanhercke (2010), that no fewer than five different sets of actors are trying to expand their influence on the EU healthcare debate: the ‘social affairs’, ‘internal market’, ‘public health’, ‘economic’ and ‘enterprise’ players. Together, they have created a very crowded law and policy-making space to which actors bring their conflicting agendas and understanding of health policies. According to Greer and Vanhercke (2010) this reduces the functional capacity of this OMC strand, since it entails huge competition for time and political attention with other health policy issues and processes. Others come to a similar conclusion in the area of pensions, where diverse organised interests try to influence the existing European networks (Natali, 2009; Pochet and Natali, 2005).

The consistency and adequacy of the set of common indicators as tools for measuring progress towards the common objectives, and for providing useful guidance for self-corrective action by domestic actors (‘diagnostic monitoring’) is another key dimension of the OMC’s adequacy. In
fact, there seems to be a widely shared understanding that the availability of comparable and quantifiable indicators constitutes the ‘litmus test for the political readiness to engage in open coordination’ (Vandenbroucke, 2002). In this view, it may come as some surprise that much of the research on this topic seems to have missed the point that since the adoption of the initial set of social inclusion indicators by the Laeken European Council in December 2001 (Atkinson et al., 2002), work on indicators has continued with a view to refining and consolidating the original set as well as to extending it (Marlier et al., 2007). Similarly, important progress has been made with regard to pensions (including an overarching indicator on overall replacement rates of pensions) and healthcare indicators (Cantillon, 2010). As a result, the indicators of the Social OMC serve as a source of inspiration for those working on the analysis and measurement of social policies in a global context (Atkinson and Marlier, 2010; Social Inclusion Unit (2004).

Nevertheless, critical OMC scholars such as Flear (2009) argue that even indicators for access and quality of care ultimately seek to optimise performance, by providing the means to assess whether objectives are met, and thereby ensure that equity and solidarity are subordinated in a neoliberal frame. de la Porte (2007) suggested that over-reliance on key macro-level indicators (such as employment indicators) in Joint Reports may be misleading as employment/anti-poverty rates depend on multiple factors, not covered by the OMC, while there are no indicators for some of the OMC objectives (including on participation). Sacchi (2006) judges that indicators are too general and can be interpreted in different ways, although they can be seen as flexible tools to be adapted to national needs.

Clearly, political, institutional and national interests are present in the decision-making process on definitions and indicators of the Social OMC. This finding is corroborated by Jacobson (2005), who explains that while the Swedish and Danish governments are supportive of the OMC, both countries resist indicators/targets to monitor/assess poverty and exclusion, due to the norms of the universal welfare state. Similarly, Greer and Vanhercke (2010) find that difficulties in data collection and handling, as well as political risks, have slowed down the work on indicators in the healthcare OMC, and therefore this strand as a whole. More generally, the latter authors state that new governance mechanisms are intensely ‘political’: they are shaped both by deliberative norms and through hardboiled power games between national and EU actors (and within Directorate-Generals of the European Commission). Cantillon (2010: 2) confirms that the (political) ambiguity of the poverty concept is reflected in the overarching portfolio of social indicators agreed in the context of the OMC (on the potential role of EU indicators, see Frazer and Marlier, this volume).

The adequacy of OMC tools available for mutual learning is highly contested. OMC-sceptical researchers such as Lodge (2007) claim that the basic infrastructure for the (pensions) OMC to operate has been found wanting: standards had no directing capacity, information- gathering offered only very little truly comparative information to encourage ‘benchmarking’ or ‘learning with others’, and voluntary adjustment pressures seemed hardly present. This finding is confirmed by Kröger (2009), as she finds that the OMC does not satisfy requirements for a learning-friendly environment. Even though it is not entirely clear what such an environment would actually look like, serious questions can indeed be raised as regards the adequacy of the pensions OMC, _inter alia_ because the process is not at all visible in the national arena, and
regular Peer Review sessions (in the SPC) only allow for a superficial exchange of ideas. Furthermore, more ‘optimistic’ scholars such as Greer and Vanhercke (2010) believe that learning, at least in the healthcare OMC, is of a limited kind because the wrong people will do the learning (i.e. the international units and not the line officials).

The Tavistock Institute (2006) considers that, in the context of the Transnational Exchange Programmes, learning did take place within the programme for those involved but it did not lead to more institutional changes or partnerships. FEANTSA⁶ sees the OMC as a way to enhance ‘mutual learning’ about the involvement of NGOs (from local to EU level) in the issue of homelessness; this European Federation is pushing for more thematic Peer Reviews, which they consider as having a genuine impact (FEANTSA, 2007). ÖSB Consulting (2006) concludes that Peer Reviews were most relevant where there were similar initiatives/ governance structures/ problems among peer countries. It seems important, finally, to stress that few of the studies concerned with this issue make explicit which ‘Peer Reviews’ they actually refer to: the largely formal sessions in the plenary SPC meetings (involving all Member States), or the more in-depth reviews – in smaller groups – within the Peer Review programme⁷.

5.2.4 Adequacy of the operational framework: the national level

Another way of assessing the adequacy of the Social OMC is to look at how it relates to ongoing national processes. Thus, Letzner and Schmitt (2007) find that the OMC reports are ‘in competition’ with the three German national reports on pensions published during each legislature. Büchs and Friedrich (2005) confirm that there are only cautious signs that some German officials understand the NAP/Incl as a ‘national’ plan and have started to reflect upon a closer relation to the National Report on Poverty and Wealth (NARB). Similarly, Hamel and Vanhercke (2009) explain that the NAP/Incl continues to coexist with the biannual reports on the evolution of poverty in Belgium, which the Resource Centre for the Fight against Poverty, Precariousness and Social Exclusion has been producing since 2001.

This is why Vanhercke et al. (2008) conclude that the social inclusion OMC and pre-existing national reporting and decision-making channels (with partly overlapping responsibilities) should be better geared to one another. In a similar vein, EAPN (2008) contends that the National Strategic Reports (NSRs) should be linked to the national planning cycle and affirmed as government policy discussed in the EU and national parliaments. The latter is already the case in Ireland: Norris (2007) found that national and EU processes have largely been integrated there.

5.2.5 Adequacy of the Social OMC: wrapping things up

Summing up, this section has presented a rather mixed picture of the theoretical capacity of the OMC toolbox to produce results (its adequacy). Due to the lack of transparency of the process, both the public awareness about and the institutional visibility of the process are weak overall,

---

⁶ FEANTSA is the European Federation of National Organisations Working with the Homeless.
but there are also strong variations between countries and the OMC strands over time. In Section 5.3 we will see that this (‘lack of openness’) feature of the OMC architecture has important implications for the possibilities of ‘creative appropriation’ by actors. The Social OMC’s objectives contain ambiguous and sometimes conflicting elements, while country-specific messages are often deemed ‘too subtle’ even to be assessed; at the same time there is evidence that the very same messages as well as the Common Objectives ‘bite’ more than is generally acknowledged. The national reports produced in the context of the OMC are often seen as administrative documents (rather than planning devices), but here too important exceptions exist (i.e. triggering national responses, integration into domestic planning efforts). The adequacy of the linkages both within the Social OMC and with other policy areas at EU level is rather questionable: ‘feeding in’ and ‘feeding out’ do not work.

The adequacy of common indicators as tools for measuring progress towards the common objectives has equally been criticised by many authors, especially in the pensions and healthcare strands of the Social OMC. And yet, some prudence is in order: we pointed to fact that some of the key developments in the EU’s statistical apparatus are simply ignored by a large part of the literature. There is considerable agreement that the adequacy of the healthcare and pensions strands of the Social OMC is severely constrained by the presence of other, competing EU-level processes. At the same time, the adequacy of OMC tools available for mutual learning is a subject of intense debate in the literature, not least because the wrong people would do the learning; in this context, too, we pointed to an important methodological problem: researchers should be far more precise about the type of ‘Peer Reviews’ they are assessing, and take into account changes in the OMC toolbox. Finally, the discussion of the adequacy of the OMC operational framework at national level suggests that OMC reports are often in competition with (pre-existing) domestic processes.

In sum, while the Social OMC’s institutional setup should allow it to produce at least some results, some important flaws are also apparent from the discussion. The question now is whether the flaws imply that the Social OMC has by and large failed to deliver the goods. The next section argues that to say so would be jumping to conclusions too fast.

5.3 Assessing the impact of the Social OMC: procedural and substantive effects ‘on the ground’

This section assesses the impact of the Social OMC on domestic and EU policies and politics. This impact has been operationalised along two lines: the substantive impact of the OMC, i.e. changes in policy thinking and individual Member States’ policies; and procedural changes, i.e. the impact on the process of domestic policy-making (shifts in governance and policy-making arrangements)\(^8\).

\(^8\) For a more in-depth discussion of the substantive and procedural changes of the OMC, see Zeitlin (2009a and 2005).
5.3.1 Substantive policy change at the national level: enhancing commitment, agenda setting and mirror effects

A reasonable amount of evidence points to the OMC's impact on maintaining or enhancing commitment to the subject-matter of the OMC in the political agenda. Thus Zeitlin (2009) empirically demonstrates that the European Employment Strategy (EES) and the Social OMC have increased the salience of efforts to tackle long-recognized national problems: early exit from the labour market, childcare provision, gender segregation and the integration of immigrants. Others show how the EU commitment to eradicate poverty pushed the fight against poverty and the activation issue higher up the domestic inclusion agenda (Hamel and Vanhercke, 2009). Perhaps even more surprising is that such an impact has also been felt on ‘sticky’ institutions such as pension systems. Thus, when studying the process of pension reform in Greece (prior to the economic crisis) in the context of the ‘soft’ policy constraint emanating from the EU, Featherstone (2005) found that the OMC process lacks the strength to provide a stimulus to domestic reform; at the same time the author argues that the OMC coverage of pensions affects Greece’s interest in reform (credibility, reputation). A similar finding applies to Belgium, where EU pressure on the need to reform is strongly felt, and has become an argument in political negotiations: doing nothing is no longer an option (Vanhercke, 2009). Referring to Germany, Eckardt (2005: 263) confirms that, while the OMC’s influence on actual policy transfer seems to be very slight, it may contribute to accelerating the speed at which reforms are tackled, by repeatedly putting the overall objectives on the EU and national agendas.

It seems important to underline that not all authors agree with such a ‘positive’ account of this aspect of OMC impact. Büchs (2009) for example, concludes that it is possible that the OMC facilitated retrenching policy reforms by providing necessary discourses and justifications rendering policy reforms acceptable, e.g. with regard to ‘activation’ frameworks: national policy actors seem on average to have interpreted and implemented them in ways that did not improve or actually worsened welfare state performance. In other words: OMC makes a difference within national social policy development, but not in the way promoted by the EU or hoped for by ‘optimistic’ OMC scholars (Cantillon, 2010; Büchs, 2008).

It should be noted that some scholars have pointed out that the OMC does not merely contribute to enhancing ‘soft law’ commitments, but is also used to enhance commitment to the transposition of ‘hard law’. Thus, de la Rosa (2007) explains how ‘soft law’ mechanisms are used to increase the implementation of EU legal initiatives, for example in the area of non-discrimination. Amitis (2004) describes how the political support for ‘soft’ governance in the field of pensions seems to have spilled over to its use in the framework of Directive 2003/41 on the activities and supervision of institutions for occupational retirement provision, which uses OMC-type mechanisms (exchange of experience, benchmarking) to implement this piece of EU legislation. Hervey and Vanhercke (2010) make a more general point about the introduction of governance mechanisms within legislative instruments.

There is also considerable agreement about the fact that the Social OMC is putting new issues on the domestic political agenda: according to Zeitlin (2009) it has done so in a variety of countries (old and new Member States) and on a variety of topics, including activation, social exclusion...
The Social OMC’s adequacy and impact re-assessed

and child poverty (on the latter topic, see SPC, 2008). This finding is confirmed by Sacchi (2006), who points to a redirection of national priorities and concerns in the UK (e.g. more attention to gender issues and child poverty). Illustrating the ‘hard’ impact of the OMC, Hamel and Vanhercke (2009), show that in spite of strong resistance in both France and Belgium against the issue of child poverty, this topic – which previously was virtually absent from the national agendas – gained a place in domestic politics in both countries. It figures among the top priorities of the Belgian Presidency of the EU in 2010, and was recently associated with a specific target (halving child poverty) in one of the country’s Regions (Vanhercke, 2009a). Even more fundamentally perhaps, the OMC/inclusion put poverty on the policy agenda as a novelty for some countries: particularly in universal welfare states it was not (really) acknowledged as an issue that deserved specific attention (de la Porte, 2007). It may come as a surprise that the OMC equally put new issues on some domestic agendas in the field of pensions. Vanhercke (2009) describes how the pensions OMC contributed to the (very prudent) introduction of an entirely new element in the Belgian pensions system, i.e. that of actuarial neutrality. It should be noted that this development has not been particularly welcomed by some of the key Belgian actors: for some it ‘opens the door for a reduction of solidarity in the Belgian pension system’ (Ibid.: 12).

Another way of assessing the OMC’s impact at the domestic level is to trace whether its concepts, indicators and categories permeate domestic policy-making, an issue which has in part been dealt with in the previous paragraphs (e.g. the concept of ‘child poverty’). At a general level, it is widely accepted that the statistical efforts inspired by the Social OMC enhanced the statistical capacity of many EU Member States (for a detailed account of the French and Belgian cases, see Hamel and Vanhercke, 2009). One more concrete illustration of the permeation of pension OMC indicators into the domestic setting is the fact that the low (and decreasing) replacement rate of Belgian pensions has become an issue that for the first time is being studied by the influential Study Committee on Ageing (Vanhercke, 2009). In Germany, by contrast, EU debates about ‘replacement rates’ have had no significant echo according to Letzner and Schmitt (2007: 237), since they were already a salient issue in national debate. Another illustration of the penetration of EU categories is the use of the EU risk-of-poverty norm, which was developed in the context of the Social Inclusion strand of the SPSI OMC and which acquired a broader mobilising character, at least in some countries. Thus, Hamel and Vanhercke (2009) show how a significant increase in minimum income for the elderly (GRAPA) in Belgium was politically legitimised by pointing out that the benefit levels were below the EU risk-of-poverty norm.

Not so much is known about the effective take-up of EU recommended policies (reception and implementation of policy recommendations) within the Social OMC. Those authors who do engage with the question as to whether recommended policies are being followed often do so with a command-and-control yardstick, as it is the case for Ania and Wagener (2008: 21), who see the OMC as an ‘evolutionary game’, which ‘forces Member States to […] adopt what has turned out to be the best-performing policy option’. Unsurprisingly they conclude that ‘the plausible idea that the imitation of best practices makes policies converge to efficiency is genuinely misguided’. The assessments by Lodge (2007) and Radulova (2007) discussed in Section 5.2.2 follow a similar line of thought: since there is no (or insufficient) ‘naming and shaming’, the pensions’ OMC is necessarily weak. And yet, when studying the OMC ‘on the ground’, Vanhercke (2009) finds that the pensions OMC, in combination with pressure from the
European Employment Strategy, has made the magnitude of the early-retirement problem crystal clear to Belgian social policy-makers and contributed to an important mind-shift among trade unions. In other words: ‘naming and shaming’ may be more effective than it would appear at first glance (see also Section 5.2.2).

The literature provides a number of examples where the OMC has stimulated self-reflection on national performance. According Letzner and Schmitt (2007) the pensions OMC has stimulated auto-evaluation in Germany. In the field of inclusion, Jacobsson and Johansson (2009: 175) argue that the OMC/inclusion challenged the normative value of the universal welfare state, by acknowledging (and indeed framing) poverty and social exclusion as a challenge to be overcome in Sweden. While the EAPN (2008) contends that policy self-reflection is not always effective, process tracing in Belgium and France by Hamel and Vanhercke (2009) demonstrates how a ‘mirror effect’ can trigger significant reforms in domestic policy-making arrangements. For these authors, the need to expose the national field to others, which is necessary for any comparison, gives a clearer vision of one’s own practices (Hamel and Vanhercke, 2009: 103-105).

5.3.2 Shifts in domestic governance: horizontal and vertical integration, evidence-based policy-making and stakeholder involvement

There is some – but not a lot of – evidence that the Social OMC is leading to a more strategic approach (in terms of planning, targeting, resources assigned and policy analysis) in social policy-making: for many countries ‘governance by objectives’ was an entirely new feature in social policy-making. The impact of the OMC on horizontally-integrated policy-making seems somewhat more significant. According to Zeitlin (2009; 2005: 457-458) the obligation to draft National Action Plans for employment and social inclusion (and more recently also Lisbon National Reform Programmes for Growth and Jobs) has – in many countries – strengthened the horizontal integration of interdependent policy fields through the creation of new formal coordination bodies and inter-ministerial working groups. There is indeed some evidence that drafting the National Strategy Report was not ‘business as usual’ in Germany and led to somewhat enhanced cooperation between the social and finance ministries (Vanhercke, 2009: 4), while in Belgium the preparation of the NAP/Incl has given rise to new bodies for coordinating and rationalising policy initiatives across sectors not only at the federal level, but also at the regional level (Hamel and Vanhercke, 2009).

Examples of vertically-integrated policy-making (national, regional and local level) through the OMC have equally been found. Thus, Sacchi (2006) finds greater coordination among regional and national actors in Italy, while Armstrong (2006) explains how regional actors in the UK are involved to varying degrees, some superficially and others taking the full OMC on board for regional policy development in anti-poverty/social exclusion policy. In France the social inclusion OMC is providing inspiration for the national administration to redefine its new (coordinating) role in the context of decentralisation (Hamel and Vanhercke, 2009). In Belgium, participation in the OMC is strengthening cooperation between (autonomous) Regions, and has increased the coordination role of the federal level (e.g. through the setting of national targets for regional competencies). This increased vertical coordination has created a significant spill-
The Social OMC’s adequacy and impact re-assessed

over effect, namely prudent intra-regional policy learning between Wallonia, Flanders and Brussels (Hamel and Vanhercke, 2009).

The Social OMC has equally promoted evidence-based policy-making (monitoring and evaluation, the use of indicators, data sources and analytical capacity). There is in fact widespread agreement that the EES and the Social OMC have contributed to an increased non-state and governmental actors’ awareness of policies, practices and performance in other Member States; to the identification of common challenges and the development of shared problem diagnoses (Zeitlin, 2009). Letzner and Schmitt (2007: 238) confirm that comparison with other Member States already existed in Germany, but became more systematic and institutionalised. It is widely accepted that the OMC – notably through the EU-SILC9 statistical system – has enhanced statistical capacity-building in many countries, amongst others in Italy (Sacchi, 2006), France and Belgium (Hamel and Vanhercke, 2009).

As regards stakeholder involvement in the policy-making process, the evidence is less straightforward. The problem of late consultation has been established by a variety of sources: in several Member States, information about the NAP/Incl is often organised just before its submission to ‘Brussels’. And yet, contrary to the general claim by Kröger (2009) that the Social OMC is sometimes more closed than the Community method as it involves a rather closed circle of ‘non-accountable bureaucrats’, Preunkert and Zirra (2009) find that NGOs have been mobilised, especially in Germany and Italy, due to the OMC/inclusion process. This point is confirmed by Friedrich (2006): in Germany the NAP/Incl process provided social NGOs with additional arguments and political backing to strengthen their voice in domestic debates. This evidence supports a recent study on stakeholder involvement in the implementation of the Social OMC by INBAS et al. (2009): step-by-step, the process of involving the different stakeholders within the OMC has improved, even if wide variations persist, both between Member States and over time.

In addition, stakeholder involvement through the OMC is largely limited to the OMC/inclusion, while the other two strands (pensions and healthcare) remain closed shops. This is why de la Porte and Nanz (2004: 278) raise serious questions about the democratic quality of the pensions OMC strand which ‘fares even worse’ than the European Employment Strategy (EES) when assessed according to the criteria of transparency, public debate, learning and participation. It would indeed seem that the pension OMC only provides leverage to those policy-makers and stakeholders who are already in the ‘inner circle’ of decision making. As national ministries have acted as gatekeepers of the pension process, it has not brought new actors to the table (Vanhercke, 2009). Writing about the healthcare OMC, Dawson (2009) equally finds that the method relies on those already within the ‘inner circle’ of ‘Europeanised’ participants (there is little evidence of the multiplication or ‘broadening’ of accountable actors).

9 ‘EU-SILC’ stands for EU Statistics on Income and Living Conditions.
5.3.3 Impact on EU level policies and politics: enhancing commitment, changing actor constellations and instrument hybridity

A final type of impact relates to the impact of the Social OMC at the EU level, which includes an enhanced commitment to its subject matter among new sets of actors. According to Eckardt (2005) 'the various OMCs, including that on pensions, make an important contribution. They provide a forum for the Commission and the various subcommittees involved in developing a commonly accepted European social-policy paradigm'. Vanhercke (2009a) claims that the recognition that 'the pensions challenge is not a financial challenge with some social constraints, but a social challenge with financial constraints' (Vandenbroucke, 2001) allowed for a more balanced EU discourse. The social dimension acquired a legitimate place, but also gave legitimacy to 'economic' messages in the field of pensions. Similarly, Hervey and Vanhercke (2010) explain that the OMC increased the legitimacy of the ministers of finance to discuss healthcare issues considerably by giving them a place in the healthcare part of the Concerted Strategy.

The Social OMC has also had an impact on the institutional arrangements in the EU: several authors refer to the important (or even ‘dominant’) role of the European Commission, which skilfully uses the OMC to expand its influence in sensitive (social) policy areas, as is shown, among others, by de la Rosa (2007) and Greer and Vanhercke (2010). This may explain why the Committee on Legal Affairs of the European Parliament (2007: 4-5), warns against the ‘indirect legal effects’ of ‘soft law’ which would ‘allow the executive effectively to legislate by means of soft-law instruments, thereby potentially under-mining the Community legal order’. Note that Eckardt (2005) sees only a ‘mediating role’ for the European Commission in the pensions OMC. Vanhercke (2009a) furthermore shows that the EU political playing field in the area of pensions was changed through the OMC, as the joint approach to pensions brought a new set of actors to the debate, namely the Social Affairs Council formation, the SPC and platforms such as the European Federation of Pensioners and Elderly People (FERPA) and AGE.

5.3.4 The impact of the Social OMC: wrapping things up

There is broad agreement that the OMC has a considerable impact both on the Member States’ and the EU’s policies and politics. Substantive policy changes include enhancing commitment to the subject matter of the Social OMC (also for ‘sticky’ institutions such as pensions systems), agenda-setting effects (new issues such as ‘child poverty’ emerge) and mirror effects (self-reflection on national performance). Shifts in domestic governance include horizontal and vertical integration (through new or reinforced structures), evidence-based policy-making and increased stakeholder involvement, at least in some countries and policy areas. The impact on EU level policies and politics includes enhanced commitment (e.g. reducing early retirement or increasing efforts in the fight against homelessness) and changing actor constellations. At least in some countries, OMC concepts, indicators, targets and categories permeate domestic policy-making, while ‘soft law’ mechanisms develop into legal instruments.
Having said this, there is far less agreement about the direction and scope of OMC impact. While many analyses point to beneficial effects, others point to undesirable effects, which for some include pushing for neoliberal solutions and policy tools, worsening welfare state performance and providing legitimacy for economic actors to exert further influence on social protection and social inclusion. Finally, this section made it quite clear that impact varies a lot between Member States. This concurs with the more general conclusion by Vandenbroucke and Vlemincxk (2011) regarding the Lisbon Strategy: that ‘Open coordination did not prevent national and regional governments and social partners from buying in selective bits and pieces of the new paradigm, but not its gestalt’.

5.4 Mechanisms of change: explaining the discrepancy between the OMC's adequacy and impact

The rather mixed picture of the OMC’s theoretical capacity to have an effect (which we called adequacy) as described in Section 5.2 is largely in line with the more ‘sceptical’ literature which, on several occasions, has dismissed the OMC because of its institutional weakness as a paper tiger: the ‘soft’ process should not have really significant effects. At the same time, there is a clear contradiction with the more optimistic assessments of the OMC ‘in action’, which are largely corroborated by the finding of Section 5.3, namely that the Social OMC is, at least to some extent, delivering the goods.

This section is aimed at identifying certain factors that could help to bridge the apparent gap in our understanding of the OMC’s adequacy versus its impact. A first, quite evident element in the explanation is that many of the studies focussing on the OMC’s potential effect (adequacy) simply omit to look at the actual impact of the OMC on the outcome of policies or politics. More particularly, few of these ‘theoretically enriched’ studies (focussing on the instruments of the tool) have looked at the extent to which the OMC has supported or complemented existing discourses of particular paths of national reform, which requires a more in-depth and diachronic analysis.

A second, related explanation is more methodological and has been addressed in Section 5.2: it seems that few of the (even most recent) studies dealing with the adequacy of the Social OMC take into account the many changes in the OMC process e.g. completion of the portfolio of indicators (e.g. extension to pensions and healthcare), enhancement of mutual learning activities (e.g. thematic Peer Reviews), streamlining (including the introduction of overarching objectives), etc. This is an important flaw in the literature that will need to be addressed by future OMC research. It goes without saying that researchers can only include the ‘state of the art’ of the OMC toolbox in their analyses if these instruments are readily available, which is not sufficiently the case at this moment.

A third, and arguably the most important explanation, is the fact that the Social OMC is being used by domestic actors. Such ‘creative appropriation’ involves the strategic use of EU concepts, objectives, guidelines, targets, indicators, performance comparisons and recommendations by national and sub-national actors as a resource for their own purposes and independent policy
initiatives. It is increasingly accepted that this is the strongest mechanism of OMC influence on national social policies\(^\text{10}\). For domestic actors it is not so important how ‘hard’ or ‘soft’ these instruments of the OMC toolbox are: as long as they can be used in a credible way, they are real in their effects. This by no means implies that the OMC architecture has no bearing on the ‘impact’ of the Social OMC: as we have discussed before, the fact that the Social OMC remains a relatively closed shop and is a quasi-invisible process constitutes an important barrier for creative appropriation (see Sections 5.2.1 and 5.3.2).

A final explanation for the discrepancy between the adequacy and the impact of the Social OMC is that assessments of the former dimension do not sufficiently acknowledge ‘instrument hybridity’, or the (necessary) interactions between the OMC and other EU instruments. Thus, the European Social Fund (ESF) Regulation for the 2007-2013 programming period explicitly refers to the OMC, which may provide important financial incentives that support the (social inclusion component of the) Social OMC. For Hervey and Vanhercke (2010) ‘there is no reason why in the near future certain elements of the healthcare OMC would not be taken into account by the Commission, de jure or de facto, to determine whether expenditure is eligible for assistance under the Fund’ (Ibid.). For Verschraegen et al. (2011) and de la Rosa (2007) it is clear that the relationship between the ESF and the OMC works both ways: if the ESF strengthens the OMC, the latter may (or at least should) influence cohesion policy (see also chapter by Jouen in the present volume).

The link between the OMC and the Community method has also received considerable attention. Thus, de la Rosa (2007) explains how the Social OMC ensures regular follow-up of certain non-discrimination Directives. Hervey (2010) provocatively examines rulings by the Court of Justice of the EU (CJEU) ‘in the shadow of the informal settlement’. Even though the latter piece does not directly deal with the Social OMC (case studies are the European Employment Strategy and the Bologna Process on Higher Education) the findings are highly relevant, as they indicate not merely the possibility that the CJEU might take elements of the OMC into consideration (as already indicated by Greer and Vanhercke (2010) in the case of healthcare), but takes this one step further by illustrating that this kind of spillover is happening already. Again, this could help to explain why ‘soft’ governance has more impact ‘on the ground’ than could be expected from a purely functional reading.

### 5.5 Conclusions and next steps

In this chapter, we have tried to explain how the Social OMC, in the absence of a ‘shadow of hierarchy’ (Héritier and Lehmkühl, 2008), can still produce a significant impact on domestic and EU policies. An important key to this explanation is ‘creative appropriation’, which has replaced ‘policy learning’ and ‘naming and shaming’ as the most important mechanism explaining the OMC impact (even if it is clear that while actors use the OMC for their own purposes, this may involve changes in their cognitive and normative frames resulting from policy learning). It is

\(^{10}\) Note that Baeten et al. (2010) describe Member States’ creative adaptation in the shadow of the CJEU’s case law on patient mobility. In other words: even though this is rarely acknowledged, this mechanism also applies to ‘hard law’ contexts.
now widely acknowledged that the OMC can only have an impact if it is being ‘picked up’ by actors at the domestic level, who use it as leverage to (selectively) amplify national reform strategies. In other words: the ‘infrastructure’ of the processes (having ‘strong’ recommendations, NSR, Peer Reviews, indicators, reporting cycle) only matters insofar as it enables or constrains actor involvement and leverage (see Section 5.2.5). The CJEU’s actual (as opposed to theoretical) use of ‘soft law’ mechanisms in its judgements and the integration of the Social OMC into the ESF Regulations present additional arguments to nuance views that oppose ‘hard’ and ‘soft’ governance.

As a consequence, the ‘hard politics of soft law’ is not fiction: this chapter has shown that the OMC in different policy areas is felt and perceived as being much ‘harder’ than might have been expected. This is a first conclusion of this chapter, and it has important consequences for any future analysis of the Social OMC’s impact, which will have to take into account the degree to which a variety of actors at different levels have engaged in, and appeal to the OMC to pursue their objectives. At the same time, this ‘creative appropriation’ dimension calls for greater investment, including from the European Commission, in further strengthening the OMC infrastructure with a view to enhancing the involvement of stakeholders. At the domestic level, public authorities should organise national Peer Reviews, in which a wide variety of domestic actors discuss the Commission’s ‘suggestions’ in the Country Fiches as well as the reports written by independent experts in the framework of the Peer Reviews programme funded by the European Commission under the Community Programme for Employment and Social Solidarity (PROGRESS).

A second important conclusion is that the Social OMC has been institutionalised – at national and EU levels – in ways that may not have been expected: it has become a template for ‘soft’ governance, not only at EU level, but also for coordinating social (inclusion) policies in some federalised countries. The Social OMC has become a trusted resource – admittedly, among others – for a variety of domestic and EU actors; and it has become linked to other EU policy instruments such as legislation and EU funds. Yet the linking of the Social OMC to other policy instruments needs to be strengthened. Thus, Ferrera (2009: 231) posits that the setting of precise and measurable targets within the Social OMC, as recently agreed upon in the Europe 2020 Strategy, could be the first concrete step towards the establishment of binding regulatory standards (on the issue of targets, see also chapter by Walker in the present volume). Of course, we know that the pathway to such binding regulatory standards will be long and uncertain. The idea of making the EU Structural Funds (and especially the ESF) conditional on achieving the objectives of the Social OMC should be further explored in the context of the post-2013 EU Financial Perspectives. As the saying goes: ‘Put your money where your mouth is’.

It is to be hoped that when domestic and EU decision makers decide on the next steps to be taken as regards the Social OMC, those choices will be evidence-based (rather than purely political). In spite of the flaws and pitfalls surrounding the Social OMC (with its three strands), it seems that the ‘more Social EU’ called for by this book will need to build on a strengthened

---

11 Vanhercke and Campaert (2009) make a similar point regarding the creative use of ESF-funding for pursuing local activating policies ‘under the radar’.
Social OMC complemented (rather than replaced) by an efficient EPAP. It is essential to further institutionalise a ‘broad’ Social OMC, which is not exclusively geared to poverty and social exclusion, thereby contributing to ‘disambiguating Lisbon’ (Cantillon, 2010). The Social Protection Committee and the Social Affairs ministers should safeguard a political space in which they can have their say on any EU initiative or development with potential social consequences. This of course not only includes topics such as social inclusion, but also pensions, healthcare and long-term care, services of general interest, education and climate change.

This ‘broad’ reach should also apply to the need to strengthen ‘Social Impact Assessment’ at national and EU levels (see chapter by Kühnemund in the present volume). In a similar vein, the existing set of indicators should be further developed so as to underpin the common objectives, more particularly by focusing resources on indicators that measure the social adequacy of a variety of benefits, including pensions, unemployment, invalidity etc. (see also Cantillon, 2010). In parallel, participatory governance indicators (including at the regional and local levels) would greatly improve the monitoring and assessment of national practices with regard to social protection and social inclusion policies.

In spite of its obvious flaws, at least in some important respects, the Social OMC has delivered the goods after all. And a strengthened Social OMC has a key role to play in ‘Europe 2020’ if one of the objectives of the new Strategy is indeed to deliver a more Social EU.

**References**


Ania, A.-B. and Wagener, A. (2008), ‘The Open Method of Coordination (OMC) as an Evolutionary Game’, *Discussion Paper*.


Armstrong, K. (2005), ‘How Open is the United Kingdom to the OMC Process on Social Inclusion?’, in J. Zeitlin et al. (eds.), *The Open Method of Coordination in Action: The European Employment and Social Inclusion Strategies*, PIE-Peter Lang, Brussels, pp.287-310.


de la Rosa, S. (2007), La méthode ouverte de coordination dans le système juridique communautaire, Bruylant, Brussels.


European Centre for Social Welfare Policy and Research et al. (2008), ‘Quality in and equality of access to healthcare services’.

FEANTSA (2007), Untapped Potential: Using the Full Potential of the OMC to Address Poverty in Europe, Brussels.


Flear, M. (2009), 'The Open Method of Coordination on Health Care after the Lisbon Strategy II: Towards a Neoliberal Framing?’, in Kröger, S. (ed.), ‘What we have learnt: Advances, pitfalls and remaining questions of OMC research’, *European Integration online Papers (EIoP)*, Special Issue 1, Vol.13, Art. 12 (http://eiop.or.at/eiop/texte/2009-012a.htm).

Frazer, H. and Marlier, E. (2009), Assessment of the extent of synergies between growth and jobs policies and social inclusion policies across the EU as evidenced by the 2008-2010 National Reform Programmes: Key lessons, European Commission, Brussels.


Kröger, S. (2008), Soft Governance in Hard Politics: European Coordination of Anti-Poverty Policies in France and Germany, Wiesbaden: VS Verlag für Sozialwissenschaften.


The Tavistock Institute (2006), Evaluation of the EU Programme to Promote Member State Cooperation to Combat Social Exclusion and Poverty, Final Synthesis of the Main Report, Engender and ECWS.


Vanhercke, B. (2009b), ‘Against the odds. The Open Method of Coordination as a selective amplifier for reforming Belgian pension policies’, in Kröger, S. (ed.), 'What we have learnt: Advances, pitfalls and remaining questions of OMC research', European Integration online Papers (EIoP), Special Issue 1, Vol.13, Art.16 (http://eiop.or.at/eiop/texte/2009-016a.htm).


CHAPTER 6

The OMC and domestic social policy making in Belgium and France – Window dressing, one-way impact, or reciprocal influence?

Marie-Pierre Hamel and Bart Vanhercke


The ‘state of the art’ of academic writing about the Open Method of Coordination (OMC) provides contrasting findings about the effectiveness of this soft mode of European governance. Although many initial writings were quite supportive of the OMC, praise for it has recently turned into scepticism. These sceptical views seem to be in sharp contrast with other evaluations which provide convincing evidence of different kinds of ‘impact’ of these OMCs. This confusion about OMC effectiveness raises the question of how to define and measure the effectiveness of soft modes of governance. This is indeed a key questions, since the many (opposed) interpretations of the OMC’s impact at national level are largely due to the absence of an agreed analytical framework for such an assessment.

Drawing on a rigorous comparison of the OMC in action in Belgium and France, our central claim is that this mode of governance is having real consequences, at least for the social inclusion policies of certain Member States, provided that one is willing to look beyond legislative changes alone, through a process of reciprocal influence between EU and domestic settings.

1 The authors are grateful to Martin Heidenreich, Jonathan Zeitlin, Josée Goris, Mieke Beckers, Anton Hemerijck, Gerben Korthouwer, Sandra Kröger, Florence Larocque, Eric Marlier, David Natali, Marc van der Meer, Jelle Visser, and Nynke Wielkenkamp for their stimulating comments on earlier versions of this chapter. The research for this chapter benefited from funding by the Belgian Science Policy Office (Society and Future Research Programme) and the Shifts in Governance Programme of the Dutch Science Foundation (NWO). The usual disclaimer applies.

2 This chapter builds on a paper I presented at the EUSA Tenth Biennial International Conference, Montreal in May 2007 (Vanhercke, 2007); the critical feedback from peers encouraged me to develop a comparative analysis, between Belgium and France, as regards the impact of the social inclusion OMC. A more elaborate version of this chapter – with a more detailed literature review – was published as Hamel and Vanhercke (2008).

3 See, for example Zeitlin and Pochet (2005), European Commission (2006a).

4 See Citi and Rhodes (2007) for an attempt to provide such an analytical framework.
Section 6.1 describes the analytical instruments we will use to analyse the OMC’s impact. Section 6.2 provides empirical evidence on the practical operation of the Social OMC in Belgium and France. Section 6.3 summarizes our findings and concludes.

**6.1 Theoretical lenses for studying mechanisms and effects of ‘soft’ governance**

In this section we briefly explain what kind of effects we will be looking for. It has been argued that the use of the OMC ‘toolbox’, consisting of common objectives, National Action Plans (NAPs), indicators, targets, and Peer Reviews, has both procedural and substantive effects (Zeitlin, 2005: 450).

OMC can, first of all, cause procedural shifts in governance and policy making. Member States’ commitment to 1) write forward-looking National Action Plans on Social Inclusion (NAP/Ind) and 2) coordinate their social inclusion policies and involve all levels of government, could indeed lead to increased horizontal and cross-sectoral policy integration (e.g. between and within administrations). One could also expect a stronger vertical coordination between national and subnational administrations (inter-ministerial and multi-level policy coordination). Third, the pressure from the OMC cycle regularly to assess performance in light of the Common Objectives and indicators could lead to improvements in national steering capacity. Fourth, Member States’ commitment to involve all relevant bodies in the OMC/Inclusion could lead to increased or better-structured involvement of non-state actors in national policies (e.g. grassroots organizations and people experiencing poverty).

But we can also expect substantive effects on national policies (Barbier, 2005). The OMC involvement may lead to cognitive shifts, e.g. the incorporation of EU concepts and categories into domestic debates and discrediting of certain domestic approaches, thus modifying the political agenda. OMC can finally contribute to shifts in specific national policies, such as legislative proposals.

Different governance mechanisms can explain such procedural and substantive shifts. One is the creative appropriation of the OMC by domestic actors, also termed the ‘leverage effect’ (Erhel et al., 2005). One could indeed expect bounded rational actors to use the OMC to legitimize their own preferences, advance their agendas, criticize official positions, demand increased participation in governance etc. A second mechanism is socialization and discursive diffusion, i.e. incorporation of European categories and concepts into the domestic debate through involvement in the OMC. While using the OMC, the ideas, norms, and beliefs of the actors involved may be altered, and so they import and incorporate the orientations on which it is based. Mutual learning is another mechanism that can explain procedural changes and substantive shifts, through ‘a combination of enhanced awareness of different approaches and performance standards elsewhere on the one hand, and reflexive self-assessment, including improvements on institutional capacity for information gathering and monitoring on the other’
The OMC and domestic social policy making in Belgium and France

(Zeitlin, 2005: 479). Finally, *external or peer pressures* and associated practices, such as recommendations and ‘rankings’, can help to explain ‘national’ changes.

We might further hypothesise that the OMC’s impact is related to the degree to which domestic actors have or have not been able to influence the EU decision-making process in the first place (uploading) (Börzel, 2003: 3). Indeed, in order to avoid policy misfits between the EU and domestic levels, Member States try to upload their preferences in European fora. In this way they reduce compliance problems and the associated adaptational costs (Caporaso *et al.*, 2001: 7). By integrating this uploading dimension, we can verify whether successful uploading effectively reduces the domestic impact of EU initiatives such as the OMC.

### 6.2 Traces of Eve: the (in)effectiveness of the OMC in action

This section provides detailed empirical evidence concerning procedural and substantial effects which can plausibly be attributed to the OMC, and highlights the mechanisms through which they operate. We structure our results according to the five ‘instruments’ of the OMC toolbox (common objectives, NAPs, targets, indicators, and Peer Reviews), because analytically they shed light on the different sets of actors involved in, and thus the varying uses of, the OMC process. Our analysis is based primarily on more than 60 interviews with European, national, and subnational civil servants, politicians, and stakeholders (social partners and NGO representatives) working in the area of poverty and social exclusion. We corroborate their claims with as many written documents as possible.

#### 6.2.1 Common objectives

The new ‘Common Objectives for Social Protection and Social Inclusion’ were endorsed by the Heads of State and Government in March 2006 (European Council, 2006: 70). They provide general orientations for Member States’ social policies, which should, among others, have ‘a decisive impact on the eradication of poverty and social exclusion’ (European Commission, 2005: 9).

*Raising the poverty issue on the political agenda*

According to most Belgian actors involved in the OMC process, Heads of States’ commitment to eradicate poverty pushed the fight against it higher on the political agenda, and keeps it there. Thus the coordinator of the Brussels Region section of the NAP/Incl says that:

> If the OMC were to be abandoned at EU level, I am not sure why the regional governments would continue to invest as much in this policy area. Sometimes I feel the OMC is only bluff, but then again I believe it has mobilized our three or four governments to intensify the fight against poverty.

(Interview B1)
Her Flemish counterpart confirms that ‘through a detour OMC leads to more attention to the fight against poverty: because there is attention for the subject, because we have to ‘sell’ what we do, because we have to explain our actions’ (Interview B2). Similarly, in France, one actor explained: ‘The OMC prevents a race to the bottom in an enlarged EU. With the OMC, we see a phenomenon of emulation, through which the poverty issue stays on the agenda’ (Interview F12). Put differently: ‘With OMC, we cannot rest on our laurels. It pushes us to innovate and make further progress’ (Interview F14).

**Turning principles of activation into effective activation in France**

It seems important to underline the significant role France played in the initial decision to launch a social inclusion OMC at EU level. Under the French Presidency during the second half of 2000, the Nice European Council approved the objectives of combating social exclusion and confirmed the request to submit NAP/Incl (covering a two-year period) by June 2001, as well as the need to define indicators and monitoring mechanisms (European Council 2000: 18). Some actors refer to the personal determination of Martine Aubry, the Socialist Minister of Labour and Social Affairs at that time, to explain the large French influence in creating the OMC. According to a former President of the Social Protection Committee (SPC), Aubry saw the definition of a European inclusion strategy as a way to legitimize the French national strategy in this field, especially the 1998 Law to Combat Exclusion 5. As a result, ‘there were debates, but the inspiration was French over all’ (Interview EU1).

If France was so influential in uploading its priorities in the Common Objectives, did they still have any effect at the domestic level? It seems indeed that some issues which were rather far from the national political culture were ‘downloaded’ from the OMC/SPSI. The reason is not so hard to understand: even if French influence was large, the initial Common Objectives ultimately represented a European compromise, some of them clearly illustrating Member States’ different visions of the poverty issue. The definition of the first Common Objectives was particularly confictual. Ultimately, the ‘first’ Common Objective was to ‘to facilitate participation in employment and access by all to the resources, rights, goods and services’ (our emphasis). According to a former SPC Secretary, this was a ‘completely illogical EU compromise’ (Interview EU2), since it is obvious that these are really two distinct priorities.

Even though the priority given to ‘active inclusion’ was opposed by France at the time (Interview EU2), the Commission kept up the pressure on this issue from the first Joint Inclusion Report in 2001 onwards. How far, then, has the European focus on active inclusion influenced the French domestic setting? Formally speaking, active inclusion is not a new theme in France: consider, for example, the ‘insertion contracts’ attached to the Guaranteed Minimum Income (RMI) since 1988. However, those contracts include very broad possibilities for activation, including ‘activities to improve daily life’. Moreover, contracts are not always signed or applied: in 2006, 88% of the overall recipients of the RMI did not receive any support (intérêtement) aimed at ‘activation’ (Cazain et al., 2006: 1).

---

This somewhat changed with the Active Solidarity Income (RSA) created in 2007. This new and experimental benefit provides the possibility for returnees to work to keep some of the social benefits they receive for a while. The RSA was proposed by Martin Hirsch, the former President of Emmaüs France (one of the main NGOs in the field of social inclusion) and, since May 2007, High Commissioner for Active Solidarities Against Poverty in the Prime Minister’s Cabinet. Most of the actors interviewed refer to the RSA as an example of European influence: ‘With the RSA, we follow Europe’ (Interview EU3). Clearly, the concern for active inclusion does not come solely from the European level. Nevertheless, when proposing the RSA, Hirsch refers explicitly to the European level, arguably to strengthen his initiative. Furthermore, his ‘National Commitment to Poverty Eradication’ (17 October 2007), specifies that ‘The Commission has published a communication on active inclusion, a process in which the implementation of the RSA is written’ (Haut Commissaire 2007). Note that this declaration also refers to the future French presidency of the European Union in the second half of 2008, which was expected to ‘give an impulse to these efforts’. Surely, a long bridge has been crossed since France opposed, only a few years earlier, the OMC/SPSI’s focus on active inclusion. It seems safe to say that the debates at European level put the activation issue higher on the French inclusion agenda, slowly creating a substantive policy shift.

In more general terms, several French actors see the OMC objectives as a framing tool for national discourse. As one actor explains:

The OMC structures the national debates. It is a battle of ideas. Would we speak of activation policies or of flexicurity without the OMC? The influence is massive and hidden. Some actors breathe another air and that affects the national policy.

(Interview EU5)

A French civil servant in the European Commission confirms that: ‘Without almost ever saying it, France is getting closer to the European process. France is bathed in the OMC, but almost nobody speaks about it’ (Interview EU7).

**Child poverty: agenda setting and new windows of opportunity**

A more concrete example of a substantive policy shift through the OMC/SPSI is the arrival of ‘child poverty’ in the political arena in Belgium and France. Although the issue is not formally inscribed in the OMCs ‘Common Objectives’, it has acquired a similar status since the European Council asked the Member States ‘to take necessary measures to rapidly and significantly reduce child poverty’ (European Council, 2006: 72). As a consequence, the Social Protection Committee asked its Indicators Sub-Group to establish a Task Force on Child Poverty and Child Well-Being, which produced its first report at the beginning of 2008 (SPC 2008). Moreover, the Commission invited Member States to tackle child poverty as a priority issue in their 2006–8 National Reports on Strategies for Social Protection and Social Inclusion (hereafter National Strategic Reports or NSR). The ‘vast majority of Member States’ followed suit (European Commission, 2007: 8, 170).
But is this an effect of the OMC in the case of Belgium? The 2007 Joint Report highlights that the third policy priority in the Belgian NSR 2006–8 is 'to tackle child poverty by breaking the poverty cycle' (European Commission, 2007: 170). According to Morissens et al. (2007: 5), 'the choice of child poverty as one of the policy priorities in the Belgian NAP/Incl illustrates the growing influence of Europe and the Open Method of Coordination on the Belgian social inclusion agenda.’ Prior to the appearance of child poverty in the 2006–8 NSR, child poverty was not explicitly on the political agenda, to the point that children living in poverty were almost invisible in the Belgian social inclusion discourse (Ibid.). The European advisor to the Minister for Social Integration explains:

> Child poverty is now one of our three priorities in fighting poverty. If a message is repeated long enough in the right places ... it will end up on the agenda anyway. The fact that this issue is now in our NAP proves that the OMC is used to set national policy agendas.

(Interview B4)

Some Belgian domestic actors very quickly saw the advantages of the new focus. Thus, the federal Social Integration administration proposed to set targets for combating child poverty, requiring follow-up measures in different policy areas and at different levels of government. Clearly, this strengthens the demand for coordination by the federal level. Also, the Flemish Network ‘will use the European focus on child poverty to demand thorough measures. This is a sensitive issue: after all, children cannot be blamed for being poor, so this provides us with many opportunities’ (Interview B3). At the same time, it is acknowledged that there are a number of blind spots in knowledge about this issue (e.g. teenage pregnancies, children's experience of poverty, and the situation of migrant children), especially because the search for indicators only started after it was decided to select child poverty as a priority in the NAP/Incl (Morissens et al., 2007: 7, 23). In sum ‘child poverty' has been catapulted from the OMC into the Belgian political arena through external pressure, and some of the key actors revised their attitude towards it surprisingly quickly.

A similar, yet less explicit, substantive shift occurred in France. Indeed, the 2006–8 French NSR, unlike the Belgian one, does not explicitly refer to 'child poverty' (European Commission, 2007: 249). Even if the French NSR does not mention this issue it is seen by several national actors as an 'importation' distant from the national culture (Interview F12). Just as in Belgium, some actors confirm that now that they are confronted with this European theme, they end up 'using it’ at the national level. Certain actors judge that the emotional dimension related to the children can help to fight poverty in general, and they want to use this category to expand policies to other categories (the elderly, the young, the disabled etc.), so that they will eventually cover the majority of the excluded (Interview F2).

This perception of social inclusion actors is confirmed by the 2006 annual report of IGAS (Inspection Générale des Affaires Sociales), one of France's three inter-ministerial inspectorates-general. The IGAS report concludes that child poverty is now a preoccupation at the French domestic level because of European concerns. At the same time, the report deplores that no coherent and specific national policy was developed to effectively eradicate child poverty (IGAS,
The child poverty rate (15.5%) is higher than the average in France, thus requiring targeted actions (Haut Commissaire, 2007). In conclusion: this EU concept has penetrated the Belgian and French domestic arenas and may lead to shifts in specific policies in the medium term.

6.2.2 National Strategic Reports

Following the streamlining of the OMC/SPSI in 2006, Member States are now charged with translating the common objectives into NSRs for each of its three strands (Social Inclusion, Pensions, and Health and Long-Term Care). Since the Common Objectives on poverty and social exclusion require Member States to ensure ‘that social inclusion policies are well-coordinated and involve all … relevant actors, including people experiencing poverty’ (European Commission, 2005: 6), the Commission has put a lot of pressure on Member States to involve a wide variety of actors in the preparation of the inclusion section of the NSR.

Involvement of non-state actors: reinforcement of initially different positions between Belgium and France

At the start of the Social Inclusion OMC in 2000, Belgium was rather confident about the way it organized stakeholder involvement in its social inclusion policies. Many considered Belgium a ‘model’ in this respect, which could be a source of inspiration for other Member States (Interviews BE2, BE3, BE4). Thus, the Resource Centre for the Fight against Poverty, Precariousness, and Social Exclusion was established in 1999 in order to ensure a permanent dialogue between representatives of the associations of the poor, the social partners, the (local) public agencies, and the health insurance organizations. One would think that, under such circumstances, with a large apparent fit between EU and domestic policies, a ‘soft’ mode of governance could hardly have any significant procedural impact at the national level.

The opposite is the case. To start with, as one can read from the evaluation of the first Belgian NAP/Incl, it seems that the Belgian ‘model’ of stakeholder involvement looked much better on paper than in practice: ‘Grassroots organisations have not participated in its design and have been barely informed of its existence two weeks before its submission to the European Commission’ (Nicaise et al., 2003: 29). Hence the Commission judged, in its first Joint Report on Social Inclusion, that ‘The involvement of stakeholders … was limited due to time constraints’ (European Commission, 2001: 87). In response, Belgium set up an ‘Actions’ and an ‘Indicators’ Task Force for the preparation and follow-up of the second NAP/Incl. Both the national and subnational (regional) level are represented, as are stakeholders of local administrations, representatives of both sides of industry (through the National Labour Council), academics, and associations of the poor.

This somewhat improved their effective involvement, but not drastically: for the second NAP/Incl ‘the consultation with other stakeholders (including associations representing the poor) has been fairly extensive’, but ‘time was lacking for the other stakeholders to review and debate the preliminary draft of the NAP 2003–2005’ (Groenez and Nicaise, 2004: 2–3). The Commission highlighted the fact that the Belgian government admitted that mobilization had
only been partly successful and there was still much to do (European Commission, 2006a: 22). This second cold shower resulting from external (Commission) pressure, combined with the acknowledgment (through mutual learning) that perhaps Belgium was not the best pupil in the class after all, led to real procedural shifts; i.e. increased stakeholder involvement in the elaboration of the NAP/Incl at the beginning of 2005.

In sum, involvement of stakeholders in the preparation of the NAP/Incl matured step by step, and Belgian authorities learned that their ‘participatory model’ (which they uploaded with considerable success to the EU level) could (and still can) be further improved. The fact that they did actually adapt their ways of doing things is no coincidence. The coordinator of the Belgian NAP/Incl explains that:

The sector of organizations where the poor take the floor use the reference to participation in the NAP/Incl to underline the fourth Nice Objective about the mobilization of the actors over and over again. They may not read the NAP, but they will use it to obtain subsidies if they can. ‘Mobilization’ works as leverage, a powerful argument.

(Interview B5)

In other words, whereas the design and follow-up of the first Belgian NAP/Incl had to some extent been ‘disconnected from “mainstream” policy-making and evaluation fora’ (Nicaisse et al., 2003: 26), it now seems that the social inclusion OMC now has a strong ‘ownership’ (Morissens and Nicaisse, 2007: 4). This is so despite the fact that NAP/Incl continues to coexist with the biannual reports on the evolution of poverty in Belgium, which are produced, since 2001, by the aforementioned Resource Centre for the Fight against Poverty, Precariousness and Social Exclusion.

Finally, it seems important to underline that the procedural shifts described here are becoming institutionalized at different policy levels, and are affecting stakeholder involvement in domestic social inclusion policies beyond the preparation of the NAP/Incl. First, there are strong indications that the ‘Indicators’ and ‘Actions’ Task Forces are increasingly integrated into pre-existing national coordination mechanisms, such as the Inter-Ministerial Conference (IMC) for Social Integration, which was set up to achieve greater coherence in social inclusion policies. Second, procedural changes are taking place in Wallonia:

The Walloon Combat Poverty Forum drew inspiration from its Flemish counterparts, which have been structurally involved in the NAP/Incl for a long time, and is now being invited to participate in the meetings. It seems that the Combat Poverty Forum will soon be entitled to structural funding as well. In this way the OMC provide stakeholders with a place in policymaking they never obtained before.

(Interview B5)

---

6 The Inter-Ministerial Conference for Social Integration is entrusted with the design and monitoring of coordinated government policies at all levels of government (federal, community and regional). It is supposed to meet at least twice a year.
In France too, there is a long-standing tradition of contacts between NGOs and government in the field of social inclusion. NGOs have been involved in structured political action since the mid-1980s, notably through the action of a group called ALERTE that played an important role in the preparation and adoption of the 1998 Law to Combat Exclusion. The involvement of NGOs in the NAP/Incl exercise runs mainly through the National Council for the Fight Against Poverty and Social Exclusion (CNLE). The process is the following: the unit responsible for writing the NAP/Incl in the 'social' ministry, the General Directorate for Social Action (DGAS), sends a first draft to the CNLE, which gives its opinion. DGAS then sends a 'final' draft to the CNLE for discussion.

The question then is: did the OMC, and the NAP/Incl exercise more specifically, influence the links between the NGOs and the state? According to some actors, since consultation was already effective before the OMC was launched, the latter did not really influence the involvement of non-state actors (Interview F12). Moreover, NGOs are often less involved in the NAP/Incl consultations than in the national policy process. One of the major problems with the NAP/Incl is that it is not seen as a strategic exercise. The French NAP/Incl presents policies that are already in place or have already been decided at the national level. Besides the NAP/Incl, other more strategic national plans on inclusion are published regularly in France (1998, 2003, 2004, 2007). As one of member of the CNLE comments on the 2004 Social Cohesion Plan (Sénat, 2004): 'There was this important political step, while we were talking about the NAP, an administrative, imposed exercise where we put in boxes actions that are already done. It was frustrating' (Interview F13).

To improve things, some would like the French NAP/Incl to become a political exercise that could be presented to the Parliament (Interview F12). Many French, as well as Belgian, actors interviewed also suggest that the pre-existing national social exclusion plans and the NAP/Incl should be combined into a single plan, or at least their respective roles should be clarified.

**Cross-sectoral coordination effects**

The requirement for Member States to draft a NAP/Incl is particularly challenging in a country such as Belgium, where some of the key competencies, including the implementation of social assistance, are exercised by the subnational level (Regions and Communities). One consequence of writing OMC reports together is that existing differences in subnational policy making are brought into the spotlight.

Thus, cross-sectoral policy integration varies widely between the Regions. In Flanders, the annual Flemish Action Plan for Poverty Reduction (VAP), adopted by the regional government for the first time in 2001, coordinates the initiatives in some 10 different policy areas. The Walloon Region has created, within its Ministry and under the direct authority of the Minister-President, an Interdepartmental Directorate for Social Integration (DIIS), which coordinates the implementation of social inclusion policies. In Brussels, the Observatory for Health and Social

---

7 Within the DGAS, the ‘Bureau des politiques de prévention, d’insertion et de l’accès aux droits’ is responsible for preparing the NSR.
Affairs produces yearly reports on poverty and social exclusion and provides technical assistance to initiatives of the regional government, but there are only limited cross-sectoral coordination efforts.

There is some evidence that the preparation of the NAP/Incl has led to increased efforts to coordinate and streamline policy initiatives across sectors within each of the latter two regions. Brussels and Wallonia recently announced that they would start elaborating strategic poverty plans, which would probably not have happened without the EU. The coordinator of the Brussels Region part of the NAP/Incl confirms that:

The new law of July 2006 announces a Brussels ‘Action Plan against Poverty’, which will probably be produced in 2008 for the first time. That is where you see an influence of the NAP. We decided to kill two birds with one stone: we will elaborate a real Plan for our own purpose, and it will also be the Brussels contribution to the NAP. In that way, the work we did for the NAP since 2003 ultimately affected the Brussels Region: both the political and administrative level have been mobilized to do something much more structured, much more coherent, rather than continue to superpose measures. (Interview B1)

In France, the fight against poverty and social exclusion is, since the 1998 Law to Combat Exclusion, formally ‘a priority of all the public policies of the nation’, based on inter-ministerial cooperation and partnership. A specific institution was created to implement this collaboration, namely the Inter-Ministerial Committee to Combat Social Exclusion (CILE). However, the members of the CILE met for the first time in July 2004, and a second meeting took place only in May 2006 (in preparation for the NAP/Incl 2006–2008) (DGAS, 2006). Another central actor in the coordination of social inclusion policies is the DGAS. Following national and European requirements, it submits drafts of the NSR to involved actors (mainly CILE and CNLE).

According to some of the people in charge, the preparation of the NAP/Incl has enhanced the cooperation between administrations foreseen by the 1998 Law, but this is still very limited. Even the recent streamlining of the pension, exclusion, and healthcare OMCs (2006), which are now presented in the same NSR, has so far not led to real coordination between administrations. As one administrative actor told us that exchanges between those OMCs ‘would be interesting, but nobody is really in charge of coordinating the exercises and there is no real dialogue between the ministries in charge. Without a real political will, this coordination could hardly happen’ (Interview F4).

In sum, there is no convincing evidence that the horizontal collaboration aimed for by the 1998 exclusion law has been significantly improved by the NAP/Incl exercise, and it remains very limited in any case. Since the French NAP/Incl is seen by most involved actors as a mere reporting exercise, and not as a strategic document, it seems to be hard to create momentum around it.

Does this mean that the NAP/Incl will have no impact at all on horizontal policy integration in France? This may be too hasty a conclusion. Indeed, it seems that the cross-fertilization between
The OMC and domestic social policy making in Belgium and France

The NAP exercise and France’s new budgetary framework (Loi organique relative aux lois de finances, LOLF) may have a major impact on enhancing the horizontal cooperation aimed for by the OMC.

The LOLF is a new architecture of the French state budget and is often termed ‘revolutionary’. Within the LOLF, in order to address a number of cross-cutting issues (such as road safety, delinquency prevention, and fight against global warming), 11 so-called Cross-Cutting Policy Documents (Documents de politique transversale, DPT) were created. One of these DPT presents all the financial resources of all the ministries that take part in the fight against poverty and social exclusion strategy in one single document. This ‘Social Inclusion Cross-cutting Policy Document’ (Social Inclusion DPT) was created by the aforementioned CILE in 2004 and has been published yearly since 2006. The DGAS is in charge of its management. The Social Inclusion DPT of 2006 underlines that its creation is part of this cross-functional approach which, although initiated along with the law of 29 July 1998, was enhanced and extended with the introduction of the NAP/Incl in 2003. Furthermore, in order to achieve consistency, the scope of the Social Inclusion DPT is the same as that of the NAP/Incl. The same goes for the internal structure of the DPT, which is based on the three common objectives of the NAP/Incl (Ministère de l’emploi, de la cohésion sociale et du logement, 2005: 7–8).

For some within DGAS ‘affirming and enhancing the inter-ministerial character of the fight against exclusion policy and linking the DPT to the NAP/Incl are ways to further enhance the legitimacy of the fight against poverty and social exclusion’ (Interview F4). Moreover, as explained by one of the French OMC experts, with ongoing work on ‘indicators’, with the importance given to the ‘goals’, and with the organization of policies by programmes, there is an interpenetration of the management models between the French and European practices. The LOLF and the DPT are good examples of such cross-fertilization (Legros, 2006).

In sum, it seems that the OMC, linked to a new national financial instrument, is creating new leverage in France, which may create important procedural effects, i.e. increased cooperation between different administrative units (horizontal and cross-sectoral policy integration). In Belgium, increased cross-sectoral coordination can be seen in Wallonia and (especially) Brussels, mainly because the differences from pre-existing coordination practices in Flanders were made explicit by jointly writing the NAP/Incl.

Vertical coordination in decentralized Member States

The new Common Objectives require Member States to ensure ‘that social inclusion policies are well-coordinated’ (European Commission, 2005: 6). The initial Common Objectives (agreed in 2000) stipulated that Member States need to ‘mobilize the public authorities at national, regional and local level, according to their respective areas of competence’ (European Council, 2000: 9). In practice, the need to jointly prepare NAP/Incl can be the main vector for this coordination (Zeitlin, 2005: 459).

The latest episode of decentralization of social policies in France was approved in 2003 and implemented in 2005. At that moment, most of the responsibilities in the social field were
transferred to the departments. After this last episode of decentralization, the national level had to construct a new role for itself, and created instances and tools such as the Departmental Commissions for Social Cohesion (set up in 2006) with a view to coordinating a wide range of actors at the local level (Prefect, state representatives, NGOs, family funds, etc.). The Territorial Charters for Social Cohesion are another example: created in 2004, under the authority of the prefets, they aim to support a joint regional social cohesion strategy.

Despite these efforts, the Departmental Commissions are not effective, since many of the actors they were supposed to involve do not participate in them, whereas the Territorial Charters do not seem to be operational for the moment, due to a lack of enthusiasm on the part of the prefects and local actors (Interview F4). These difficulties in organizing vertical coordination of social inclusion policies in France are not hard to understand: since the (recent) decentralization, the departments simply want to control their own policies, and distrust any attempt by central government to impose its will on them.

But how does all this link up with the NAP/Incl? As one interviewee stated ‘French actors were trying to understand and implement decentralization of social inclusion policies at the time of the second NAP/Incl in 2003, so the NAP was perhaps seen as an inconvenience at the time’ (Interview EU2). Interestingly, however, it seems that national civil servants saw the NAP exercise not merely as a distraction, but also as an opportunity to get a grip on the aforementioned Departmental Commissions and Territorial Charters by involving them in the preparation of the NAP/Incl. For example, with regard to the Territorial Charters for Social Cohesion, the idea was to pick an objective of the NAP/Incl that fitted with the local preoccupations, and to ask the local actors to propose actions to illustrate this objective. Those local examples, as well as proposals for future actions, would then be joined together into ‘regional NAPs’. The Departmental Commissions for Social Cohesion are being defined by the national administration, as bodies which should ‘provide Prefects with a tool for coordinating and ensuring a departmental coherence of the policies on social inclusion defined by the state and by the European bodies (NAPs)’ (DGAS, 2006: 7).

In other words, the DGAS was inspired by the OMC to define and implement its newly acquired role vis-à-vis the regional and departmental level. One actor puts it like this:

We have integrated the OMC well and it suits us well. For us, the OMC has exclusive, or almost exclusive, influence on the governance process. It inspires us. It works with the new role that we have been trying to define for ourselves since the decentralisation process ... Nevertheless, political will would really help us to apply new forms of governance inspired by the OMC at the national level.

(Interview F4)

A working group of the CNLE, issuing a report on 'Piloting and Articulation of the Fight Against Exclusion Policies Defined at the European, National and Local level', confirms the OMC as a source of inspiration in terms of governance when it proposes, among others, that a national OMC should be developed to create policy convergence (CNLE, 2006: 28). This said, the fact that the national administration tried to seize the OMC (NAP/Incl) to reinforce its own position
domestically does not mean that it was successful; so far, 'The departments are often opposed to the national interventions, invoking the “subsidiarity principle”' (Interview F4). On the other hand, it is not in the culture of the national level to collaborate with the 'lower' levels in the decision-making process. France has a long unitary state history, with a strong top-down management tradition. As one actor puts it, 'In France, the NAPs remain national exercises. For the local level, it is a “Parisian exercise”' (Interview F8).

In Belgium, by contrast, the evolution from a unitary into a federal State has been the result of a gradual process initiated in 1970. The radical 1993 reform put in place, besides the federal level, both the Communities\(^8\) and the Regions\(^9\), which became responsible for crucial social inclusion policies such as housing and employment policies, thereby further hollowing out the centre (Hooghe, 2004).

**How, in such a complex institutional setting, is the input in the preparation of the NAP/Incl organized?** In its evaluation of the social inclusion and pensions OMCs, the European Commission noted that:

> Several countries (Belgium, Finland, France, Germany, Ireland) stress that they took advantage of pre-existing coordination and consultation arrangements to prepare their NAPs, in some cases developing them further. For instance, Belgium uses federated structures but has added actions and indicator task forces to prepare and follow up the NAP.

(European Commission, 2006a: 21–2)

Note that those ‘Actions’ and ‘Indicators’ Task Forces are prepared and presided over by federal civil servants, from the federal Social Integration and Social Security administrations, respectively. Furthermore, as regards evaluation, a specific online monitoring instrument for the NAP/Incl has been created by the federal Social Integration administration. As a federal civil servant explains:

> The federal administration has proposed the three priorities for the last NAP, which were inspired by the EU level. We have more or less steered the decision making in this direction, prepared the meetings in this sense. There have been discussions about why other priorities (for example debt) were not taken into consideration, but in the end everyone accepted our proposal.

(Interview B5)

Finally, the federal administration is also in charge of the biannual conference during which the NAP/Incl is discussed with a wide variety of actors, and which increasingly takes the form of an ‘internal Belgian Peer Review’. This new role for the federal administration has not gone unnoticed by most of the actors:

---

\(^8\) Flemish, French, and German.

\(^9\) Flanders, Wallonia, and Brussels.
The Federal Social Integration Administration keeps track of the implementation records, coordinates the NAP. The federal level has thereby regained a better overview over the poverty policies of the Regions and the Communities. You could speak of a 'light steering effect' or a 'more active coordination' than in the past. The Regions have changing moods about this situation. Sometimes they see it as a burden, sometimes they want to be part of it as well.

(Interview B4)

With regard to the targets which were prepared for the third NAP/Incl, the federal administration interpreted its role very broadly:

At the political level, Belgium has always been in favour of those targets, but we did not manage to develop them for our own NAP. So the administration had to take responsibility for it, and move faster than political decision making. Until recently we just waited, but now we were forced to write our own proposal, based on the work of the Indicators Taskforce. We set up an internal benchmarking, so that each region would perform well on at least one of the targets. The day before the final inter-cabinet meeting we sent our proposal to the cabinet. It was agreed without discussion, and integrated into the NAP – we are not even sure they know what they agreed to.

(Interview B5)

In sum, in both countries, the European level is used to try to increase the coordinating role of the national government, through the NAP/Incl, in a context of decentralization. Europe inspires the national level that is trying to find a new governance model, and provides justifications for its ‘new’ potential role vis-à-vis the local or regional levels. In Belgium the effects are already tangible: the OMC/SPSI stimulates Regions, Communities and central government to exchange experiences. The Communities and Regions also seem to have delegated some authority to the federal level for coordination and follow-up of the OMC. Thus, even in the absence of a single, overarching cooperation system with regard to EU social policies, it seems that the OMC keeps the federal level at the centre, even in a policy area that has been regionalized to a very large degree. This finding confirms the general conclusions of Beyers and Bursens (2006: 1073), that because of European integration the Belgian central government remains an influential actor even with respect to issues outside its competences. And it confirms their finding that extensive regional capabilities coincide with a high (rather than low) level of cooperative behaviour within Belgium (Ibid.: 1074).
Improving steering capacity in Belgium

A procedural effect of participation in the NAP exercise results from the fact that social inclusion policies are continuously being monitored, both by the EU and at the national level. A monitoring instrument for the NAP/Incl was set up by the federal Social Integration administration. Even though far from perfect, this monitoring seems to create at least some external pressure on those involved in policy making:

The European process is our anchor point, sometimes we can say ‘we have to do this’, for example with regard to the requirement to set targets. The rhythm is important as well. We have to follow: writing a plan, evaluation, monitoring, writing a new plan. And being questioned about why some things were not realized. The continuity of this exercise cannot be underestimated, the OMC certainly keeps us focused, and it shortens the policy cycle, even though politics is never a straight line.

(Interview B4)

A senior civil servant of the federal Social Integration administration claims that:

So far, the existing instruments and institutions like the Resource Centre issue recommendations, but rarely verify what happens to them in policy terms. Let alone that the government itself would reflect upon what it realized as compared to the promises it made. This new policy phase, of monitoring and evaluation, has now been created in Belgian social policy making through the OMC and the NAP, also because it is a continuous process. We can now say: of all the measures that have been announced in the NAP 2001/2003, 80% have been put into place, and 20% have not.

(Interview B5)

In other words, certain actors have successfully revised the institutional setting so as to advance a ‘spirit of evaluation’ in Belgian social inclusion policy making (Morissens and Nicaise, 2007: 17). Even though technical and other obstacles still impede a thorough evaluation of the implementation of many measures, at least at the cognitive level the OMC has helped to create a U-turn in this respect.

6.2.3 Indicators: building statistical capacity through EU-SILC

According to Frank Vandenbroucke, one of the political architects of the Social Inclusion OMC, indicators constitute no less than ‘the actual litmus test for the political readiness to engage in open coordination. Anyone who paid lip service to this method, should put their words into action when it comes to the development of indicators’ (Vandenbroucke, 2001: 3). In December 2001, the Laeken European Council adopted a battery of 18 commonly agreed and defined indicators for social exclusion, which was revised with the streamlining process in 2006 (European Commission, 2006b). Despite their different starting positions, involvement in the OMC had similar, and important, effects in Belgium and France.
At the end of the 1990s, Belgium’s official statistical capacity with regard to poverty and social exclusion faced real challenges. The National Statistical Institute (NIS) possessed hardly any know-how in this area, and was completely dependent on two universities (Liège and Antwerp) to provide statistical information which the latter collected through the annual Panel Survey on Belgian Households (PSBH). These universities made these Belgian national panel data available to Eurostat, which then adapted them for integration into the European Community Household Panel Study (ECHP). The relationship between the Belgian National Statistical Institute and Eurostat was rather tense: for almost five years the NIS contested the validity of the Belgian ECHP data. This led to considerable confusion and sharp national debates: depending on the source used, Belgium performed between ‘very well’ and ‘on average’ as compared to other countries. Even more important, there was no agreement about the long-term evolution of the poverty situation: according to Eurostat calculations, poverty decreased over time, while the Belgian panel data indicated the contrary. In sum, Belgium faced a double challenge: weak official statistical capacity and contested poverty and social exclusion indicators.

During the second half of 2001, the situation changed in important ways, since the Action Programme on Social Inclusion boosted discussions on the SILC dataset, which has replaced the ECHP survey. At that moment, the technical problems facing social statistical capacity in Belgium arrived at the political level. Indeed, reaching an agreement on commonly defined indicators for social inclusion was one of the top priorities of the 2001 Belgian EU Presidency, and thus it was inconceivable that the country would be unable to participate in the new statistical tool designed to provide the data on which they would be based. Vandenbroucke, then Belgian Minister for Social Affairs, therefore instructed his cabinet to resolve this situation as soon as possible, so as to ensure that Belgium would a) not be the only Member State with missing values for social inclusion indicators in the 2001 Spring Report, b) be able to participate from the very beginning, in the gentlemen’s agreement between six Member States, as well as Norway, that would pre-launch EU-SILC as from 2003 (Marlier et al., 2007), and c) be able to use (uncontested) Laeken indicators in the 2003 National Action Plan, since it had been pushing other Member States to do just that.

As a result of further negotiations between Eurostat and the Belgian authorities, a compromise was reached in November 2002, following which the Belgian ECHP data were released. The national statistical institute thereafter decided to boost its own statistical capacity so that it could organize the collection of social data itself.

In sum, commitment to the OMC/SPSI had a major impact on statistical capacity building in Belgium. And this is not the end of the indicators story. Take, for example, the increase of the minimum income for elderly people, ‘GRAPA’ in French, since December 2006. The former Belgian Minister for Pensions, Bruno Tobback, explains that: ‘Sometimes the OMC can be

---

10 The Belgian Presidency commissioned an in-depth methodological research project for this specific purpose (Atkinson et al., 2002).

11 Belgium, Denmark, Greece, Ireland, Luxembourg, and Austria.

12 As a result of the recalculations made by Eurostat, the Belgian at-risk-of-poverty rate decreased by no less than 2%.
usefully applied in the national debate. For example, we legitimized the increase of the GRAPA by pointing out that the benefit levels were below the European risk of poverty line’ (Interview B6). According to the deputy head of cabinet of the Belgian Ministry for Social Integration, the European risk-of-poverty norm acquired a broader mobilizing character:

It has become widely accepted. It is a substantive argument in budgetary negotiations ... In order to determine whether people are entitled to free legal assistance, the European risk-of-poverty norm is also the relevant criterion now. References to European norms, and EU-SILC calculations, have become frequent in policy discussions and documents.

(Interview B4)

Arguably, at the time of the agreement on the Laeken indicators, France started from a very different position. National statistical capacity in the social field was already well developed. As one (non-French) indicators experts told us:

‘France is one of the European countries which has the most valuable statistical system’

(Interview EU4).

Even so, it would be wrong to assume that French involvement in the development of European indicators has been without effect. According to the former Director of the Division of Research, Studies, Assessment and Statistics (DREES), the definition of the (revised) Laeken indicators has further enhanced France’s national steering capacity. The weight of European requirements gives us a means of pressure to develop statistical data. It also explains that some social indicators are more and more taken into account at the national level’ (Interview F6). More concretely, the European level is used at the national level to try to push the harmonization of domestic indicators. In France, there is a lack of coherence between the indicators used in different settings and institutions. Different indicators of poverty and social exclusion are used or proposed by the NAP/Incl, the DPT, the Social Cohesion Plan, and by local authorities. The National Monitoring Centre for Poverty and Social Exclusion (ONPES), an organization set up in 1998 by the exclusion law, proposed in its 2005–2006 Annual Report to start using, at the national level, 11 ‘harmonized’ indicators based on the Laeken set (ONPES, 2006: 51–5). Since then, CILE has asked CNLE to decide, together with ONPES and other concerned institutions, on a list of common indicators (CILE, 2006: 15). So far, this has not been done.

Consider, finally, the influence of OMC on the French debate about the evolution of an important indicator, i.e. the monetary poverty indicator threshold. In France, the official poverty rate is 50% of the median income, while it is 60% at the European level (Eurostat). For a number of years now, France has officially refused to align its poverty rate with the European one, but this is changing. The use of the Laeken indicators in the domestic context, as proposed by ONPES, implies the use of the 60% rather than the 50% threshold. While CNLE still has to give its opinion on this issue, CILE has already decided to change the presentation of the poverty rate in the future NAP/Incl: it will align the poverty threshold with the EU norm (CILE, 2006: 15). For the moment, we note that the National Institute for Statistic and Economic Studies (INSEE) presents both thresholds in its publications.
In sum, the statistical effort inspired by the social inclusion OMC enhanced both Belgium's and France’s statistical capacity, even if they started from very different initial positions.

### 6.2.4 Targets: creative appropriation in Belgium, trickling down in France

Targets are the ‘quantification’ of the Common Objectives. In the first round of NAP/Incl, submitted in 2001, only a minority of the then 15 Member States included outcome targets. This changed after the strong political impetus for an enhanced role for targets in the next round of NAP/Incl from the March 2002 Barcelona European Council (European Council, 2002). Yet, there were exceptions. Indeed, it came as some surprise to most European partners that Belgium did not integrate any quantified targets in its 2003 NAP/Incl (European Commission, 2004: 40). After all, Belgium was one of the most outspoken supporters, and arguably among the architects, of the Barcelona European Council Conclusions on this issue. And yet, the reason is actually quite simple: despite the lip service paid to the importance of precise targets, no political agreement could be reached on the targets, which has everything to with the operation of the principle of subsidiarity within the Belgian context.

Indeed, the design of most policy areas is complicated in Belgium by the fact that, even in areas with subnational competencies, framework rule making often remains federal (Hooghe, 2004). For an agreement on almost any quantified target in the area of social policy, unanimous agreement is needed between five different governments which are on equal footing, since the federal government has no superiority over the subnational levels.

Thus, for some it came as a considerable surprise that in the most recent NAP/Incl (2006–2008), Belgium did in fact propose a wide set of quantitative targets, for each of the policy priorities. This is in fact the first time that Belgium has formally committed itself to explicit targets in this area. Even more crucially, these targets also cover some of the most ‘difficult’ policy areas in view of the internal sharing of competencies described above. Thus, Belgian targets address housing and education, both of which are mainly subnational (Regional) competencies, but with important federal involvement. It is important to note that the NAP/Incl sets overall ‘Belgian’ targets, and not subnational ones. The importance of ‘Belgian’ targets being applied to subnational competencies cannot be overestimated: it is widely acknowledged that pursuing these national targets is only possible through increased coordination of regional policies, which is not self-evident, given the institutional context.

According to the President of the Flemish Network, which plays an increasing role in the preparation of the NAP/Incl13, this is exactly where OMC provides added value: ‘the Network has insisted on finding agreement on targets in policy areas with shared competencies, since it is in those policy areas that deadlocks arise because of lack of coordination’ (Interview B3). Some of the key actors involved in the Social Inclusion OMC are already seeing some impact of the precise targets that were agreed. Thus, the national coordinator of the Belgian NAP/Incl claims that:

---

13 Namely through the ‘Task Force Actions’ in which different stakeholders and experts are represented and which prepares the NAP/Incl, together with the ‘Task Force Indicators’. 


With regard to social housing the National Action Plan clearly highlights that the numbers need to increase. After the European Commission’s recommendations to Belgium in the Joint Report, social housing became an issue of discussion in Flanders. The Minister for Housing was questioned by the media, the sector, the Flemish Parliament: what will you do to increase social housing as you announced in the Plan? (Interview B5)

But Belgium was not the only Member State that was reluctant to set targets. In fact, national quantitative targets were never officially adopted in the French NAP/Incl. The 2003–5 NAP presented some (minimal) targets, but they were abandoned in the 2006–2008 NAP (PNAI, 2003: 117). A working group of the CNLE actually rejected, in 2005, the idea of national quantitative objectives in the field of poverty and social exclusion, referring mainly to practical difficulties (data for monetary poverty indicators are, for example, known only two and a half years later) (IGAS, 2006: 312). To explain the absence of national targets in France, some of the actors interviewed also argue that it is hard to ‘influence’ a poverty rate or a child poverty rate. The interpretation of those indicators is also seen as problematic. A deterioration in the poverty rate can be a consequence of the inefficiency of public policies, or linked to the need for more resources (Interview F6). ‘It is better to analyse and to disaggregate the indicators to understand the causes instead of fixing those targets. What is the point of having targets if we don’t know how to affect them?’ (Interview F6).

Another explanation for this opposition to the creation of quantitative targets is linked to the decentralization process. The difficult and unclear relationships between the national and local level certainly explain why it is hard to create those targets. According the annual report of the IGAS, national targets that would be fed by local indicators would be a way to attenuate the tensions between both levels. However, that would suppose a ‘real’ consultation process, which is far from the French tradition. Moreover, with common targets, common local indicators should also be developed. But until now, those indicators have not been defined, and so there are no information systems that provide comparable data at the local level (IGAS, 2006: 322-4).

Nevertheless, the governance by ‘targets’ promoted by the European level is beginning to be introduced in France. The NAP/Incl 2006–2008 explained that, in 2006, the CILE decided to fix some targets and indicators to evaluate progress in the fight against poverty and social exclusion. The CILE justifies this by referring to the Lisbon Strategy (CILE, 2006: 14). Work on those targets was supposed to begin at the end of 2006 (European Commission, 2006b: 17), but this has not yet produced concrete results. However, in his National Commitment to Poverty Eradication, Hirsch proposes a quantified objective: diminishing poverty by one-third in five years. ‘This is a good example of a completely new culture in France that largely comes from the European level’ (Interview F8).

In sum, target setting is a new feature of social inclusion policy making in Belgium and France, which has been introduced, albeit at a slower pace in the latter country, through the OMC. In Belgium setting targets in well-chosen policy areas is becoming an additional strategic argument to obtain better coordination of those policies between vertical levels of government.
6.2.5 Peer Reviews: limited learning from others, but internal spill-overs and a 'mirror-effect'

Peer reviews are supposed to be central to the OMC learning process. They are mutual learning processes based on the systematic evaluation of good practices and assessment of selected policies or institutional arrangements presented in the NAP/Incl of the Member States.

By participating in Peer Reviews, actors should eventually learn from other countries’ ‘good practices’. This mechanism can inspire procedural and even substantive national shifts. However, it appears that the Peer Reviews are mainly considered, at least in France, as an exercise for civil servants and experts. Some of the French actors interviewed think that Peer Reviews could be useful, but that a good diffusion of their ‘results’ is lacking (Interview F12).

The academics and the specialists who work in Brussels know about the Peer Reviews, but the administrative and elected actors are not often familiar with it. And even if they know about the exercise, they don’t know where to get the results. (Interview F15)

And yet the Peer Review exercise had an unintended consequence. The French field of fight against poverty is often described as extremely intricate, involving many actors with a complex division of competences, and sectoral, specialized and fragmented policies (Palier, 2005: 307). To facilitate cross-national comparison as part of a Peer Review exercise, the DGAS prepared a document presenting the national fight-against-exclusion policy field (DGAS, 2006). Some actors told us that it was the occasion, for the first time, to identify all the actors in the national arena, their roles, and their policy responsibilities. In other words, the need to present the national system to others, which is necessary for any comparison, leads to what we call a ‘mirror effect’: exposing the national field to others gives a clearer vision of one’s own practices.

Even though the perceived impact of the Peer Reviews is very low, a more systematic comparison with other countries is cited by most of the actors as one of the most important contributions of the European exercise: ‘With Europe, it is more in the national culture to look for what the neighbours are doing’ (Interview EU15). There is an increased awareness of policies, practices, and performances in other countries, by non-state as well as by governmental actors. Thus one French NGO activist organized a cross-channel study trip through the European Federation of National Organizations Working with the Homeless (FEANTSA) to investigate the domestic applicability of an ‘opposable right to housing’ introduced by the Homeless Scotland Act of 2003 (Interview F13). Such comparisons, through socialization and learning, may contribute to cognitive and eventually policy shifts. Yet, as one actor puts it, ‘comparison is used more in a political way by actors that want to legitimate national actions (leverage). Comparison is less used to really learn about the way to change the national policies’ (Interview EU5).

Belgian actors generally confirm the views of their French counterparts. At the same time, Peer Review as interpreted in Belgium provides a striking example of institutional change: the European way of doing seems to have spilled over in Belgium to create an internal learning process between different levels of decision making.
Thus, the national coordinators of the Belgian NAP/Incl see an increase in interregional exchanges, and refer to ‘a kind of OMC within Belgium’, which is complemented by increased informal contacts between regional and federal civil servants (Interview B5). Furthermore, ‘There are a number of examples of conscious learning from each other, between the regions’ (Interview B2). The Director of the President of the Flemish Network of Associations where the Poor Take the Floor confirms that ‘discussing each other’s policies, between regions, is a new feature in Belgian social policy making’ (Interview B3). The Deputy Head of Cabinet of the Ministry for Social Integration provides insight about the actual mechanisms of the ‘internal learning process’:

The Flemish see what the Walloons write in their Plan, and wonder why they could not do something similar. In principle this could also happen without the OMC, but the number of places where there is a wider view on the whole country and where exchange of ideas are possible, are becoming scarce. It is important that we hold on to them, certainly now that the process is clearly deepening: first all energy went to writing the process details, now it is clearer who the actors are, they require certain legitimacy. As a consequence, there is more room for substantial discussions now, we can be a bit sharper towards each other, now that we know each other and know what to expect. We do not have to evaluate each other, but still we can tell each other what we find good, and what we like less. We can do so, because people feel safer now, we have learned to trust each other.

(Interview B4)

In conclusion, while mutual learning from other Member States is often quoted as an important potential added value of OMC, learning about one’s own practices (the mirror effect) is an established practice within the OMC in both countries, and participation in the NAP exercise creates a cognitive shift towards internal Peer Review, at least in Belgium.

### 6.3 Summary and conclusions

The debate on the OMC is characterized by a lack of agreement about the analytical instruments to assess properly its effectiveness. Our detailed analysis of the effects of the Social Inclusion OMC\(^{14}\) in Belgium and France confirms this: if the yardstick is ‘regulatory change’ (e.g. changes in legislation), then our research confirms the findings of the more ‘critical’ branch of OMC literature (Citi and Rhodes, 2007): its impact is extremely limited. But if we look beyond regulatory changes to measure the effectiveness of OMC, then labelling this process ‘cheap talk’ seems extremely misleading.

We have identified two sets of effects which can be attributed to the Social Inclusion OMC. First, and probably least surprising, it has caused procedural changes in social inclusion policies in Belgium and France. We distinguish four categories. First, ‘rationalization of policies’: involvement in the social inclusion OMC boosted (Belgium) or strengthened (France) statistical capacity in both countries. This OMC also played a crucial role in launching a culture of

\(^{14}\) Or, to be more precise: the social inclusion strand of the streamlined OMC/SPSI.
monitoring and evaluation of social inclusion policies in Belgium; it helped to increase the coherence of national poverty indicators and reinforced domestic actors and policies in France. Second, ‘vertical coordination’: participation in the OMC is strengthening cooperation between (autonomous) Regions in Belgium, and has increased the coordination role of the federal level (e.g. through the setting of national targets for regional competencies). This increased vertical coordination has created a spill-over effect, namely prudent yet significant intra-regional policy learning (between Wallonia, Flanders, and Brussels). Third, ‘actor involvement’: participation in this OMC has led to further strengthening and institutionalization of NGO involvement in Belgian social inclusion policies (especially in Wallonia). We did not find a similar effect in France. Fourth, ‘horizontal coordination’: we observed increased cross-sectoral coordination in two of the Belgian Regions (Wallonia and Brussels), and a large potential (which has not yet materialized) for cross-sectoral coordination in France through the Social Inclusion Cross-cutting Policy Documents (DPTs). The latter produce cross-fertilization between the new architecture of the French state budget (LOLF) and the inclusion section of the NSR.

Our empirical analysis provides equally strong evidence for substantive shifts in social inclusion policies, in both Belgium and France. We distinguish ‘political’ and ‘cognitive’ shifts. First, participation in the OMC raised the profile of the poverty issue on the political agenda in Belgium and France, and it has also increased the focus on activation in French social inclusion policies. It provided bargaining arguments in budgetary negotiations in both countries, but most clearly in Belgium (e.g. legitimation for a significant increase in minimum income for the elderly). ‘Cognitive shifts’ are more difficult to trace. Yet we found compelling evidence that the social inclusion OMC pushed child poverty as a new issue onto the policy agendas in Belgium and France, despite rather strong initial resistance in both countries. Furthermore, participation in this OMC convinced domestic social inclusion policy makers of the utility of adopting ‘targets’, explicitly in Belgium, and largely covertly in France. The social inclusion OMC also serves as inspiration for the French national administration to redefine its new (coordinating) role in the context of decentralisation.

By far the most powerful mechanism through which the OMC works is ‘leverage’: actors creatively appropriate the different instruments of the OMC toolbox to legitimize their own preferences. This is true for the common objectives (e.g. use of the child poverty issue, in Belgium and France, to legitimize actions aimed at other target groups); the NAP/Incl (e.g. to demand increased NGO participation in Belgium), targets (as a means of increasing the coordination capacity of the federal government in Belgium); indicators (e.g. to show that national performance is not so good after all, in both countries studied); and Peer Reviews (as a means of pointing out deficiencies in policies in comparison to other Member States). Even though Peer Review is being taken up by actors in both Belgium and France, it is clearly the instrument in the OMC toolbox that is being least exploited in this respect.

A second mechanism through which OMC affects French and Belgian policies is ‘learning’: the empirical section gave examples of mirror effects, for example French actors ‘discovering’ the complete mosaic of domestic actors, their roles and responsibilities, through Peer Review. Similarly, Belgian policy makers learned that specific aspects of the child poverty problematique had been overlooked. Most unexpectedly, learning (e.g. with regard to cross-policy coordination
or NGO involvement) is taking place now between Regions in Belgium, as a consequence of the regular European reporting obligations, which contributed to unprecedented trust building between actors.

A third mechanism is ‘external pressure’, which is in general not felt as ‘soft’ at all. Actors perceive strong EU pressure to take child poverty on board as a priority issue, to start monitoring social exclusion policies, to involve a wide variety of actors, to set ambitious and quantified national targets etc.

Do these findings allow us to draw conclusions about the ‘conditions’ for OMC effectiveness? First, our analysis underlines the importance of viewing OMC effectiveness as reciprocal influence (as opposed to one-way impact). Consider, for example the ‘impact’ of the social inclusion OMC on Belgian statistical capacity building, which is in large part the result of the successful uploading, by Belgium, of the Laeken indicators during the country's 2001 EU Presidency. The same goes for the OMC’s ‘impact’ on France's new focus on active inclusion, which can be understood by looking at the key role the country played in 2000 in defining the Common Objectives. In other words, it seems that the ‘impact’ of the OMC depends, at least to some degree, on the involvement of national stakeholders in EU-level decision making in the first place.

This brings us to a second conclusion: our analysis demonstrates that the OMC's domestic influence is largely independent of the actual success of Member States’ initial uploading efforts. Consider, for example, the strengthening of NGO involvement in Belgium as a consequence of OMC, despite the fact that there was already a large fit between EU-level requirements and Belgian practices. This casts further doubts on the usefulness of the fit/misfit paradigm to explain domestic adaptational pressures as a result of EU ‘soft law’ initiatives. There are some obvious explanations: 1) actors may simply misjudge the extent to which they create a misfit (and thus adaptational pressure) by uploading their preferences to the EU level (e.g. Belgium discovering it was not such a good pupil in the class with regard to actor involvement); 2) during the time between uploading and downloading of EU policies a new situation (e.g. decentralization in France) may have arisen; 3) uploading is never perfect (e.g. even though France had a dominant role in writing the common objectives, it still had to accept a compromise which included ‘active inclusion’); 4) however small the misfit, domestic actors can and do use it as a lever to force domestic changes (e.g. child poverty: first catapulted to, but then creatively seized by the domestic arenas).

A third conclusion is that the domestic effects of OMC are by no means predetermined by the institutional setting. On the one hand, different institutional settings lead to similar effects: consider, for example the significant effects the OMC had on statistical capacity building in Belgium and France, in spite of these countries’ totally different starting positions. On the other hand, several examples have been highlighted where similar institutional settings resulted in significantly different effects. Thus, in the context of devolution of social inclusion policies in France and Belgium, national and subnational policy makers have reacted very differently to the social inclusion OMC (an increased national coordination role in Belgium, and rejection, for now, of this ‘Parisian’ role in France). Another example: strong NGO involvement in Belgium and...
France in the pre-OMC era, resulting in increased involvement through the OMC in Belgium and little change to the status quo in France.

Fourth: even though none of the Belgian or French actors we interviewed said the OMC was shaking domestic social policy making, Belgian actors perceive it as an increasingly important, and useful, tool in domestic policy making. French actors do so too, but to a lesser extent. Reference to the OMC is very common in domestic social inclusion policies, both in Belgium (Flemish Action Plan, national social inclusion targets, planning documents of local Public Centres for Social Welfare etc.) and, to a somewhat lesser extent, in France (National Commitment to Poverty Eradication, LOLF, DPT). In such circumstances, it seems very likely that feedback mechanisms between the domestic and EU level will further ensure the continuation of this OMC, not only as a ‘paper tiger’ but as an operational tool (in spite of its prematurely announced death by some academics). But there seems to be one important condition for this. If French civil servants, NGO representatives, and politicians are generally less supportive of the OMC this seems to be strongly related to the position of this process in the social inclusion policy arena. Even though in both countries the NAP/Incl is to a large extent a summary of decisions that have already been taken, the way these documents are elaborated differs significantly. The most important difference is that in Belgium these reports are coordinated at the political level (‘cabinet’), while it is a largely administrative effort in France. Similarly, meetings of the Social Protection Committee are being prepared at administrative level in France, but typically involve political representatives in Belgium. Further strengthening of political involvement in the OMC seems a crucial precondition for its effectiveness, and its continuation.

With this caveat, our empirical analysis of the operation of the social inclusion OMC has shown that it is certainly more than window dressing. Through mechanisms such as leverage, policy learning, and external pressure, the OMC triggers significant procedural and substantive effects, at least in some Member States. These effects are the result of processes of reciprocal influence between the EU and the domestic setting, which are rather different, and more significant in impact, than could be expected from a ‘hard law’ perspective. The OMC has clearly grown more teeth than some had expected. Or had perhaps wished.

References


The OMC and domestic social policy making in Belgium and France


CHAPTER 7

Against the odds. The OMC as a selective amplifier for reforming Belgian pension policies

Published as Vanhercke, B. (2009), ‘Against the odds. The Open Method of Coordination as a Selective Amplifier for Reforming Belgian Pension Policies’, in Kröger, S. (ed.), ‘What we have learnt: Advances, pitfalls and remaining questions of OMC research’, European Integration online Papers (EIoP), Special Issue 1, Vol.13, Art.16.

Abstract:
Tackling pensions' problems means engaging with what Pierson (2001) has called 'immovable objects'. Additionally, the EU competence for drafting specific legislation in this area remains unfulfilled potential, while EU legislation in other policy areas creates indirect pressures on national pension policies. Under such circumstances it seems that the room for an effective European intervention in the domain is limited, especially for 'soft' modes of governance such as the Open Method of Coordination on Social Protection and Social Inclusion (SPSI). The pension's strand of the SPSI OMC is often referred to in academic writings as a bureaucratic nightmare which only involves experts and technocrats, even if some cognitive effects have been acknowledged. I take issue against the view of the OMC as mere window dressing. This chapter argues that OMC is 'effective' in that it provides opportunities to create policy windows of opportunity which EU and national policymakers use in their efforts to discuss, manage and reform pension systems. Building on John Kingdon's (1995) theoretical framework and applying it to both the EU level and the (most likely) case of Belgium, I conclude that the pension OMC influences, against the odds, three core streams of the policy formation process. First, OMC influences the acceptance of compelling problems so that decision makers pay serious attention to them; secondly, OMC brings about changes in the political stream; and thirdly OMC makes certain ideas 'take hold and grow', so that they matter (more) in the policy soup. The core mechanisms through which OMC operates are puzzling, through deliberate learning and de facto socialization, and powering, through usage of the OMC architecture and peer pressure as a result of comparisons with others.

1 I would like to thank Anton Hemerijck, David Natali, Marc van der Meer, Minna Van Gerven, Jelle Visser, Nynke Wiekenkamp, Jonathan Zeitlin and two anonymous reviewers for their valuable suggestions and criticism on earlier drafts. Special thanks to Sandra Kröger for her constructively critical and thought-provoking comments through the different stages of the writing process; to Gert Verschraegen for introducing me to John Kingdon’s work, and to Rika Verpoorten for research assistance just before Seth was revealed to the world. The usual disclaimer applies. The research for this chapter benefited from funding by the DG Strategy & Research of the Belgian Federal Public Service Social Security and the Shifts in Governance Programme of the Dutch Science Foundation (NWO). Later insights about the the influence of the Pensions OMC – notably as regards the pension replacement rates – have been elaborated in Chapter 10.
7.1 ‘Soft law’ versus sticky entities

It may seem odd to devote a whole chapter to the Europeanization of pension policies through ‘soft law’. After all, the mature arrangements of European pension systems create huge electoral incentives as well as lock-in effects which make certain courses of action hard to reverse once they have been initiated (Natali, 2007a).

So how could the European Union (EU) have any influence at all on such sticky entities, knowing that both Member States and EU institutions are heavily restricted not only in terms of their willingness, but also their ability to draw up European legislation in this area? To be more precise: Since the entry into force of Article 137 of the Treaty establishing the European Community (EC), the high hurdle of unanimity which was introduced for EU social security law (including, e.g., with regard to minimum rules in statutory pension schemes) has never been surpassed, and so the competence for drafting legislation on this legal basis remains ‘unfulfilled potential’ (Reyniers et al., 2011).

And yet, the absence of ‘pure’ social security (pension) legislation did not prevent the EU from becoming an active player in the area of pensions through a variety of instruments.

Firstly, EU legislation in several policy areas affects pension policies. This occurs, amongst others, through the coordination of social security schemes and gender equality directives, with which national statutory social security rules must comply. The dynamics of market integration have also created indirect pressures on national welfare states: de jure, through the imposition by the Court of Justice of the EU (CJEU) of market compatibility requirements (applicable to private insurance services, including complementary pensions); and de facto due to the forces of economic competition in an integrated market (Leibfried and Pierson, 2000). In other words, the pensions’ field provides another illustration of Leibfried and Pierson’s key insight that the process of European integration has eroded both the sovereignty (legal authority) and autonomy (de facto regulatory capacity) of Member States in the realm of social policy (Ibid.: 268).

Secondly, the indirect pressures on national welfare states have spurred ‘soft’ modes of EU governance which have specifically addressed pension policies. This chapter examines whether one such instrument, namely the Open Method of Coordination (OMC), has influenced European debates and played a significant role in the domestic pensions’ policymaking process.

But let us begin (section 7.2) with the historical development of Europe’s best-kept secret, the Social Protection and Social Inclusion OMC (SPSI OMC), which incorporates a pensions’ ‘strand’. Section 7.3 discusses the contrasting views in the literature on the pension OMC’s effectiveness. Section 7.4 conceptualizes the ‘black box’ of OMC influence on the EU and domestic policymaking process, thereby providing the necessary theoretical perspective, while explaining the case study and research methodology. Section 7.5 examines the pension OMC ‘in action’ at the EU level, assessing its effectiveness in Belgium. The final section presents conclusions.
7.2 The ‘soft’ governance of pensions in Europe: where it all began

Even though the label ‘open coordination’ came to light almost a decade ago, the actual practice of coordinating pension policies at EU level was by no means introduced by the OMC. Conceptually the OMC finds its roots in the Broad Economic Policy Guidelines (BEPG) introduced by the Treaty of Maastricht (1992), which involved non-binding recommendations from the Council on Member States to monitor the consistency of national economic policies with those of the European Monetary Union. In the context of the BEPG, in 1999 the Member States were invited to ‘review pension and health care spending in order to be able to cope with the financial burden on welfare spending of the ageing population’ (Council of the European Union, 1999).

The ‘market’ discourse on pensions in Europe was further strengthened by the High Level Group on Complementary Pensions, which started work at the beginning of the 1990s (European Commission, 1991), thereby spurring the Council of Ministers of Labour and Social Affairs to reach a political agreement, in November 1999, on a ‘Concerted Strategy on Social Protection’ (Interview CEC3), as well as to organize work around 4 key concerns of the Member States, the 2nd of which was ‘to make pensions safe and pensions systems sustainable’ (Council of the European Union, 2000).

In the meanwhile, the ‘economic’ players continued to assess pensions from the ‘financial sustainability’ perspective: In November 2001 the Economic and Financial Affairs (ECOFIN) Council discussed a report prepared by the Economic Policy Committee (EPC) on the ‘Budgetary Challenges posed by Ageing Populations’ (EPC, 2001), in which it addressed the expected increase in public pensions spending by 2050, and confirmed itself as a regular player to be reckoned with on the pensions’ scene.

In response, the ‘social affairs’ players speeded up their work: Sooner than requested, a ‘Joint Report’ of the Social Protection Committee (SPC) and the EPC on ‘Objectives and Working Methods in the Area of Pensions’ was adopted (SPC and EPC, 2001), and politically rubberstamped by the Social Affairs and ECOFIN formations of the Council of the European Union (December 2001). The Joint Report on Objectives and Working Methods established a set of 11 broad common objectives that Member States should pursue in their pension policies, relating to the adequacy, the financial sustainability and the modernization of pension systems.

After the Barcelona Spring European Council (March 2002), Member States started to prepare their first National Strategic Reports, which were followed by the first Joint Commission/Council Report on Pensions (European Commission and Council of the European Union, 2003). The European Council in March 2003 welcomed the Joint Report and confirmed that the OMC was there to stay and not a one-shot exercise (European Council, 2003: §49). In 2006 the pensions OMC became one strand of the overarching (‘streamlined’ in the EU jargon) SPSI OMC, which also covered social inclusion, as well as health care and care for the elderly (Council of the European Union, 2006).

---

2 The other objectives are ‘to make work pay and provide secure income’, ‘to promote social inclusion’ and ‘to ensure high quality and sustainable health care’ (Council of the European Union, 2000).
The issue of whether this impacts on policy outcomes, is addressed in the next section.

7.3 Accounts of the pension OMC in action

Existing reviews of the 'state of affairs' in academic writing on the OMC provide contrasting findings about the value-added of this 'soft' mode of European governance (Heidenreich and Zeitlin, 2009; see also Kröger, 2009). But does this confusion about its effectiveness also apply to the pension strand of the SPSI OMC? The answer, in short, is yes it does.

The dominant view of the pension's strand of the SPSI OMC in academic literature is that of a bureaucratic nightmare merely involving experts and technocrats, ineffective as a learning instrument. According to Lodge (2007: 358) the basic operational infrastructure for the pensions OMC 'has been found wanting: standards had no directing capacity, information-gathering offered only very little truly comparative information to encourage 'benchmarking' or 'learning with others' and voluntary adjustment pressures seemed hardly present'. Eckardt (2005: 262) finds that the 'OMC on pensions contributes only to one aspect of policy learning (i.e. on information gathering and dissemination), while its influence on actual pension reforms by actively pushing policy transfer seems to be very small'. Others raise serious questions about the democratic quality of this OMC strand which 'fares even worse' than the European Employment Strategy (EES) when assessed according to the criteria of transparency, public debate, learning and participation (de la Porte and Nanz, 2004: 278). Natali and de la Porte (2004: 15) equally question the effectiveness of the pensions OMC, among others because the process is not at all visible in the national arena and Peer Review sessions only allow for a superficial exchange of ideas (Ibid.: 14).

Radulova (2007: 13) assesses the structural features of this OMC and classifies it as a 'lighter' OMC (as compared to 'heavier' variants such as the EES) in terms of the Member State compliance requirements. It should be stressed in this context that there are still a number of methodological problems with the pension OMC indicators, which only cover some of the dimensions dealt with in the OMC context. This is in striking contrast to the statistical tools available for the social inclusion OMC and the assessment of the financial sustainability of pension systems in the context of the BEPG (SPC, 2006). When studying the process of pension reform in Greece in the context of the 'soft' policy constraint emanating from the EU, Featherstone equally finds that the OMC process lacks the strength to provide a stimulus to domestic reform (Featherstone, 2005: 746), especially since it is faced with near 'immovable objects' (Ibid.: 747). More generally, Featherstone finds that the impact of EU pressures has not been central to Greek pension reforms. Finally, a UK SPC member testifies that 'this strand of the OMC has been a bureaucratic exercise aimed at reporting, of no particular value to the UK' (Interview SPC5).

3 The new 'Portfolio of streamlined Social Inclusion, Pensions and Health indicators' contains a significant amount of commonly agreed national pension indicators, which do not allow for direct cross-country comparison (SPC, 2006).
As with general OMC assessments, other accounts – or different facets of the same account – provide a rather different perspective on the pension OMC's ‘effectiveness’. Thus, Featherstone (2005: 746) argues that ‘the OMC coverage of pensions affects Greece's interest in reform (credibility, reputation), while serving to impact on domestic ideas (policy learning, mimicry, benchmarking)’. Different interviewees point to the role of the OMC in the recognition of policy problems in France (Interview SPC1, Interview CEC1) and Germany. The latter played a key role during its last EU Presidency in attempting to strengthen the learning dimension of the SPSEI OMC (Interview CEC1), which would have stimulated auto-evaluation in pensions (Letzner and Schmitt 2007). According to Fuchs ‘drafting the National Strategy Report was not at all ‘business as usual” in Germany as it led to enhanced cooperation between the social and finance ministries (Fuchs, 2003: 6), while introducing the new experience of handling ‘governance by objectives’ in German social policymaking (Ibid.: 8).

According to Eckardt 'the various OMCs, including that on pensions, make an important contribution. They provide a forum for the Commission and the various subcommittees involved to develop a commonly accepted European social-policy paradigm' (Eckardt, 2005: 263). Perhaps this is why the pension strand of the SPSEI OMC is actively supported by organizations such as AGE, the European Older People’s Platform which continues to inform its members about OMC procedures and ways to increase their involvement in the different stages of the OMC process (AGE, 2008).

### 7.4 Theoretical perspectives and research methodology

The opposed interpretations of the pension OMC’s impact at national level described in the previous section can to a large degree be attributed to the absence of an agreed analytical framework for such an assessment. This section therefore raises the key question: How should we understand the OMC’s influence on EU and domestic policymaking processes?

In a nutshell, this chapter will argue that OMC is effective if, in the words of John Kingdon (1995), it provides opportunities to create a policy ‘window of opportunity’ – an opportunity for policymakers to push forward their pet solution or problem. In operational terms, I will assess whether the SPSEI OMC influences three important streams of the policy formation process, at EU level and in Belgium: the recognition of policy problems, the political playing field and the generation of policy alternatives.

The first stream, problem recognition, raises the question as to why, at any given time, certain problems capture the attention of policymakers while others do not. Put differently: How do problems come to be recognized, and how do conditions come to be defined as problems. Following Kingdon, I will investigate whether the pension OMC plays a role in bringing problems to the attention of policymakers through:

- the use of indicators (to assess the magnitude and changing dimension of a problem);
- the repackaging of problems into new categories (since people perceive problems quite differently when put into one category rather than another);
• *comparisons* with other countries (taking domestic experience to create an international perspective);
• *focusing events* (e.g. a ‘crisis’, or labelling a situation as such) and;
• *feedback* on the operation of existing programmes (systematic monitoring and evaluation, studies on particular topics, informal feedback).

The policy agenda is also determined by the *political stream* of the policymaking process. Even if I do not contend that the pension OMC has any effect on components of this stream such as the public mood, pressure group campaigns, election results or changes in government (Ibid.: 145), one could postulate that the OMC influences other aspects of this stream:

- changes in *interest group support* (e.g. trade unions);
- *empowerment* of new actors in seizing a place at the negotiation table (e.g. non-governmental organizations);
- *setting precedents* in terms of political practice (*ways of doing things*) which creates spillovers into adjacent policy arenas.

Still according to Kingdon the generation of *policy alternatives* by political entrepreneurs (the third stream of the policy process) resembles a process of biological natural selection: ‘Many ideas are possible in principle, and float around in a ‘policy primeval soup’ in which specialists try out their ideas in a variety of ways’ (Ibid.: 19). More important than understanding where these ideas come from (they come from a plethora of different sources, and so tracing the ultimate origin of an idea ‘turns out to be futile’, Ibid.: 73), the more relevant question is: *Why* do certain ideas survive, while others do not? I will postulate that the OMC influences whether or not certain ideas or policy alternatives take hold and grow through:

- the *gradual accumulation* of knowledge and ideas;
- the *recombination* of already familiar elements by credible actors;
- *softening up activities* (policy speeches, floating trial balloons, seminars etc.) culminating in a ‘tipping’ phenomenon: An idea gradually catches on through persuasion and diffusion.

These mechanisms make it clear why Kingdon considers that policy entrepreneurs, who broker people and ideas, are more important than inventors: ‘Because recombination is more important than invention, there may be ‘no new thing under the sun’ at the same time that there may be dramatic change and innovation’ (Ibid.: 201). Concretely: ‘new’ policy alternatives may in fact be ‘familiar’ ideas that had never made it to the decision-agenda, but which for some reason become seriously considered by decision makers.

It is important for our study that the streams of problems, politics and policies in Kingdon’s model ‘are largely independent of one another, and each develops according to its own dynamics and rules. But at some critical junctures the three streams are joined, and the greatest policy changes grow out of that coupling […]’ (Ibid.: 19). I will postulate that in some cases the OMC contributes to creating the conditions for such a *coupling* of the problems, politics and policy streams by political entrepreneurs which:
- play a key role in the decision-making process and
- are familiar with OMC instruments and practices.

Even if Kingdon’s model is helpful in showing us where to look, it does not really explain how the OMC’s influence actually works. It is necessary therefore to complement the model with different governance mechanisms. The most important mechanism is strategic ‘usage’ of the OMC by domestic actors (Jacquot and Woll, 2003). Usage refers to the transformation of EU resources into political practice with the intention of pursuing a specific goal: influencing a particular policy decision, increasing one’s capacity for action, one’s access to the political process or the number of tools available (Jacquot and Woll, 2003:6). One could indeed expect boundedly rational actors to use the OMC to legitimize their own preferences, advance their agendas, criticize official positions, demand increased participation in governance, underpin bargaining arguments during budgetary negotiations etc. (see Weishaupt this issue).

A second mechanism is socialization and discursive diffusion, i.e. the incorporation of European categories and concepts into the domestic debate through OMC involvement. As using the OMC may alter the ideas, norms and beliefs of the actors involved through learning, they sometimes – for example when persuaded by the arguments and evidence – incorporate such concepts into their domestic sphere. When referring to the notion of learning, I mean changes in the cognitive and normative orientations of policy actors as a result of past experience and new information. In the area of pensions, for example, normative considerations concern the question of fairness and solidarity when changing early exit schemes.

Mutual learning is a similar mechanism that can explain procedural changes and substantive shifts, through ‘a combination of enhanced awareness of different approaches and performance standards elsewhere on the one hand, and reflexive self-assessment, including improvements in institutional capacity for information gathering and monitoring on the other’ (Zeitlin, 2005: 479). An important difference between mutual learning and discursive diffusion is that the former is a deliberate act on the part of the person learning, while the latter simply ‘happens’ by participating in the process (for a more in-depth discussion of learning accounts, see Hartlapp this issue).

Finally, external or peer pressures and associated practices, such as recommendations and ‘rankings’, can help to explain how the OMC could theoretically impact on the policy process.

Figure 7.1 summarizes the theoretical perspectives I use to examine the operation of the pensions OMC. The OMC’s toolbox (reports, indicators, targets, Peer Reviews etc.) is adopted by EU and domestic actors with a view to selecting particular problems and choosing favoured solutions (powering): This occurs through different kinds of usage and peer pressure. But ‘[P]olitics finds its sources not only in power but also in uncertainty – men collectively wondering what to do. […] Governments not only ‘power’ (...); they also puzzle’ (Heclo, 1974: 305); actors thereby identify problems through socialization and learning (puzzling). In doing so,
they affect three streams of the policy formation process: the recognition of policy problems, the political playing field and the generation of policy alternatives. In some instances, actors will be able to join these streams and create a policy window of opportunity, so that they can push forward their agenda or proposal.

**Figure 7.1 Conceptualizing OMC in action: mechanisms and effects**

One last element needs to be added to the conceptual framework: Actors’ experiences with the OMC will feed back into the EU-level process. Indeed, if actors experience policy misfits between the EU and domestic levels, they will try to push their preferences up to the European level (for a discussion of the factors explaining Member States’ ability to intervene in SPC discussions, see Horvath this issue). This way they reduce – at least in theory – compliance problems, and the associated adaptation costs (Caporaso et al., 2001: 7). And yet I will postulate that the OMC’s domestic influence does not depend on the actual success of Member States’ uploading efforts, but is in fact related to the degree to which domestic actors have been actively engaged in the EU decision-making process and therefore have subjective ownership of (or: are committed to) the process. This casts further doubt on the usefulness of the fit/misfit paradigm (Börzel, 2003: 3) to explain domestic adaptation pressures as a result of EU ‘soft law’ initiatives.

The conceptual framework developed above will be applied to one particular country which I consider to be a most likely case in terms of OMC impact, i.e. Belgium. The main reason for this is that in terms of its temporal dynamic ‘the self-transformation of the Belgian social insurance system, due to the particular institutional make up of the Belgian polity, proceeded gradually, cumulatively and effectively by stealth’ (Hemerijck and Marx, 2010: 10). I will postulate that ‘soft’ instruments such as the OMC fit well with such a gradual reform process, and with the Belgian informal decision-making culture. Additionally, there is a positive general attitude towards the EU in this small Member State, which played a key role in ‘shaping’ the basic architecture of the pensions OMC at the EU level in 2001 (arguably creating a certain ‘commitment’ to the process). These features, together with the fact that in the years following the launch of the pensions OMC several important debates were launched and decisions were taken in the pensions arena, and (especially) pre-retirement, make Belgium a particularly interesting case study.
The empirical evidence of the case study is drawn from (national and European) official documentation, secondary literature as well as in-depth interviews with more than 30 decision makers in Belgium and at EU level. These elite interviews took place in a flexible 'semi-structured' setting. Almost all interviewees accepted that the interview would be recorded and transcribed, under condition of confidentiality, hence the anonymous reference to the respondents' institutional affiliation (see Annex 1).

7.5 **Assessing the effectiveness of the OMC in action**

7.5.1 **The pensions strand: operation at EU level**

This section discusses whether the SPSI OMC impacted on the European initiatives in the field of pensions. I trace OMC influence on the three policy streams described in section 7.4: the recognition of policy problems, the political playing field in the field of pensions, and the generation of policy alternatives. In order to understand how the OMC matters, I highlight the actual mechanisms which bring about these changes: usage, peer pressure, socialization and learning (see Figure 7.1 above).

As suggested in the literature review above, there is widespread agreement among actors that the pensions OMC had at least one ‘effect’ at EU level, namely that it enabled the recognition of the 'social sustainability' of pension systems as a legitimate policy problem (Interview TU/SOC; Interview SPC3; Interview CNT3; Interview MINCAB3). As one of the founding fathers of this OMC put it: The recognition that 'the pensions challenge is not a financial challenge with some social constraints, but a social challenge with financial constraints' (Vandenbroucke, 2001) allowed for a more balanced EU discourse in which the social dimension acquired a legitimate place. This can be seen, for example, in the EU Common Objectives on pensions as well as the SPSI OMC indicators (including calculations of pension replacement rates and risk-of-poverty rates among pensioners).

Note that a knowledgeable EPC-member underlines that ‘The Economic Policy Committee saw the OMC as a means to transfer the recognition of the sustainability issue to those responsible for reforms. That was the main interest for our Committee to engage in this process’ (Interview PLAN1). A Belgian SPC member confirms: the ‘OMC gave a legitimate basis to these ‘economic’ messages, now that they are backed up by the ‘social’ wing of the process (Interview SPC4). The fact that regular reports are drawn up jointly by the SPC and the EPC (see section 7.2) was key to this: The feedback that was provided on the (poor) performance of Member States’ pensions systems was considered to be far more legitimate (since the SPC and DG Social Affairs of the European Commission were involved) than previous reports that emanated from the EPC alone. Or from the Organization for Economic Cooperation and Development (OECD) for that matter: Neither institutions were really trusted (and as a consequence rarely used) by social actors (Interview PLAN2, interview EMPL/FEB).

This recognition of ‘social sustainability' as a policy problem did not just 'happen' through the OMC: It was engineered by a number of policy entrepreneurs. Thus, at the beginning of the EU process, the European debate on pensions was presented (in terms of discourse) by the
European Commission as an ‘ageing of population’ problem, which reduced the political sensitivity of addressing this issue at the EU level. This can be seen as an illustration of repackaging (by political entrepreneurs) of problems into new categories.

Also note that from 1999 until 2002 the activities of the European Round Table of Industrialists chaired by Carlo De Benedetti\(^5\) acted as focusing events in that, through conferences, reports and recommendations for action which received considerable public attention – they portrayed European pension systems as a ‘time bomb’ that needed to be ‘defused’ in view of the increasing burden on taxpayers and the competitiveness of European industry. As a reaction, policy entrepreneurs involved in the pensions OMC organized several informal Council meetings\(^6\) and high-level international conferences (for example Leuven\(^7\) and Berlin\(^8\)) with keynote speeches by policy entrepreneurs which produced trial balloons that were underpinned by scientific reports (e.g. Esping-Andersen \(\textit{et al.}, 2002\); for other examples, see Kröger, 2009). All of this was done in an effort to pave the way for the newly-acquired issue of ‘social sustainability’ in the area of pensions.

The EU political playing field in the field of pensions was arguably changed through the OMC as well. The joint approach to pensions brought a new set of actors to the debate, namely the Social Affairs Council formation and the SPC. As illustrated in section 7.2, the active stance of the ECOFIN Council provided a real ‘push’ for social affairs ministers to claim their role, speedily\(^9\). In political terms it was important that the European Council demanded – at the request of the Social Affairs Council – that ‘the results of the Open Method of Coordination be integrated into the Broad Economic Policy Guidelines’ (European Council, 2001), which some saw as the confirmation, at the highest political level, of the ‘say’ of social ministers in the EU pensions debate. According to the former president of the EPC’s Working Group on Ageing (AWG), the BEPG were indeed altered by the involvement of economic actors in the OMC (Interview PLAN1). Others claim that this event marked the ultimate subordination of the social OMCs to the EU economic and financial coordination processes. This is perhaps why the European Federation of Pensioners and Elderly People (FERPA), which is closely associated with the European Trade Union Confederation (ETUC) does not see this OMC as a strategic tool at all, but rather an ‘attempt to increase flexibility while scrapping or reducing social benefits’ (FERPA, 2005). Note that ETUC is prudently taking on a more positive attitude towards the OMC, which in its view could contribute to bolstering social cohesion (ETUC, 2006).

\(^6\) de la Porte and Adão e Silva (2007: 155) found that in the period (1997-2007) ‘social protection’ (mainly pensions) appears as the third issue debated in informal Employment and Social Affairs Council meetings: five times as ‘main issue’ and twice as ‘secondary issue’.
\(^9\) This increasingly active stance of the EPC with regard to the pensions issue was the key reason why this OMC was launched under the Belgian Presidency in 2001, even if this was not the intention at the beginning of the Presidency.
In the slipstream of the social affairs ministers, other actors seized the opportunity to claim a place at the EU table, the most important one being the European Commission. Several interviewees indeed point to the important role of this institution in the process, which skilfully uses the OMC to expand its influence. An SPC member even refers to the ‘dominance of the Commission, which pushes through its own agenda’ (Interview SPC4).

Another newcomer is AGE (which is co-financed by the European Commission) which draws legitimacy from (or to put it bluntly: it owes its existence to) the OMC to take an active part in the EU debate. Note, however, that no AGE representatives (nor those of any other social partner or civil society organization) participate (even as observers) in SPC or EPC meetings (Natali, 2007b: 19).

Finally, it would seem that the political support for ‘soft’ governance in the field of pensions has spilled over into adjacent policy instruments: Directive 2003/41 on the activities and supervision of institutions for occupational retirement provision, for example, uses OMC-types of mechanisms (exchanges of experience, benchmarking) to implement this EU legislation (Amitsis, 2004).

Let us now examine the generation of specific policy alternatives. The overall framework promoted by the OMC is the ‘three-pronged strategy’: sustain sound budgetary positions, reform pension systems, and raise employment rates. As regards pension reforms, the pensions OMC has further strengthened certain policy alternatives:

- the issue of financial sustainability
- a new division of pension pillars (increasing occupational and private insurance),
- a hybrid model of pension, including a focus on minimum guarantees (Ervik, 2006).

These ideas are being passed through multiple ‘softening up’ activities such as the production of studies and seminars. For example, the pensions section of the 2007 Joint Report highlights the recent work carried out on indicators (replacement rates) as well as on the results of ‘in-depth analyses’ carried out on two topics: the design of minimum income provisions for older people and the link between flexibility in the retirement age and longer working lives (SPC and European Commission, 2007). As was the case in the policy recognition stream, interviewees underscore the crucial importance of the fact that policy alternatives are now being formulated jointly by social affairs and economic players. This joint decision-making gives new legitimacy to familiar ideas that have not yet made it to the decision agenda (including with regard to raising minimum pensions and the partial privatization of pensions), and increases their chances of being seriously considered as conceivable policy.

7.5.2 Domestic use of the pensions OMC: report from Belgium

The most significant impact of the SPSI OMC in Belgium can be found in the recognition of policy problems stream. In almost all interviews I conducted the basic fact was raised that the OMC facilitates the comparison of performance with other countries, which has become regular practice. A key figure in the Belgian National Labour Council explains:
In the Group of 10 [consisting of leading trade unions and employers’ representatives, BV] European statistics and studies are always kept an eye on. After all they make it possible to see how Belgium is doing with regard to other countries. Without saying it, without even realizing it, we ‘do’ Europe’ (Interview CNT2).

Note that these comparisons are not always ‘out in the open’, as one academic involved in drafting the 2003 reform of the 2nd pillar explains: ‘Even if the inspiration from abroad is evident, it happened entirely under the radar. In one meeting the minister explicitly asked us not to refer to what we had learned from these foreign comparisons’ (Interview AC1).

But is there a link between these EU comparisons and the OMC? At first sight, Belgium did not need the OMC to raise the issue of the financial sustainability of its pension system: The BEPG and the OECD had already done a fine job in this regard. And yet, key actors confirm that feedback on the operation of existing pension policies through systematic monitoring, evaluation and studies on particular topics raised awareness of budgetary constraints among a new elite of actors, i.e. those involved in pension policies (and not merely the economic actors, who were already convinced). To give one illustration: OMC indicators, in combination with pressure from the European Employment Strategy, have made the magnitude of the early-retirement problem crystal clear to Belgian social policy makers and contributed to an important mind-shift among trade unions. As two members of the Employment Committee (EMCO) explain: ‘The European reference framework led actors to accept early retirement as ‘the Belgian problem’ and no longer as ‘the Belgian model’ (Interview EMCO4, Interview EMCO3).

One illustration of the penetration of pension OMC indicators in the domestic setting is the fact that the low (and decreasing) replacement rate of Belgian pensions has become an issue that is being studied, for the first time, by the influential Study Committee on Ageing (Interview PLAN2). Although the finding that replacement rates did not follow the evolution of prices was not new, OMC indicators and debates made it possible to repackage it under a new category (social sustainability), with a comparative perspective. A key negotiator confirms how important such usage of OMC sub-instruments can be to raise an issue to the decision agenda: ‘If the trade unions can highlight that the ‘older’ pensions are 10 per cent behind with regard to other pensions, and that the latter are relatively low in comparison to other countries, then they have a very strong point. Without the OMC that would have been much more difficult’ (Interview CNT3).

Again, it is clear that pressure emanating from the OMC does not automatically ‘fall’ in the domestic arena: Thus a former Head of Cabinet10 reports that in 2003 the minister for pensions gave specific instructions:

---

10 In Belgium a minister is entitled to a ‘ministerial cabinet’ consisting of a staff of personal advisers whom the minister appoints personally when she takes office and who are not part of the administrative hierarchy.
‘not to entirely evacuate some of the wordings proposed by the Commission about abandoning pre-retirement, since they would be useful in the near future. After all the minister felt that not enough people were ringing the alarm bell as far as the future of our social security system is concerned’ (Interview MINCAB5).

The fact that the Commission suggested that part of Belgium’s pension strategy was in crisis can be seen as a focusing event which was very much welcomed, and partly engineered, by some of the domestic decision makers.

Surprisingly enough, the SPSI OMC also seems to have ended up in the political stream of pension’s policymaking in Belgium. At a very general level, the EU focus on the need to reform is very strong, which in itself becomes an argument in political negotiations: Comparisons with other countries through joint econometric hypotheses reinforce the legitimacy of reform, as they often show that the Belgian pensions system is ‘immobile’ (e.g. in comparison with Sweden or The Netherlands). As a member of the Planning Bureau puts it: ‘Member States can no longer hide behind incomparable numbers, they are very quickly faced with their responsibilities [...] these systems have become rather transparent’ (Interview PLAN1). The EU’s role in legitimizing reform amongst interest groups cannot be overestimated. According to this key trade unionist: ‘When there is a European debate about a certain issue, this allows for the creation of a context in which one can convince others that that there is no other option than to talk about it and to find an agreement’ (Interview TU/SOC). As a result of this EU pressure on pension reform, ‘everyone, including the trade unions, now realizes that we need a second reform, and after that a third reform’ (Interview PLAN1).

But what happens concretely to the OMC in the political stream? An example may illustrate this point: The increase of the minimum income for elderly people (‘GRAPA’ in French11), in December 2006. A former Belgian Minister for Pensions explains that:

'Sometimes the OMC can be usefully applied in the national debate. For example, we legitimized the increase of the GRAPA by pointing out that the benefit levels were below the European risk-of-poverty line. Probably no one would dare to turn back that decision, since it would give the message that older people are pushed below the poverty line once again' (Interview MINCAB1).

The European risk-of-poverty norm, which was developed in the context of the Social Inclusion strand of the SPSI OMC, acquired a broader mobilizing character (Hamel and Vanhercke, 2009), as can be seen in the fact that in the summer of 2007 a legislative proposal was laid down in the Belgian Senate with a view to raising the minimum pension for independent workers to the GRAPA level, the main argument being that it would be intolerable for retired independent workers to be left to live below the European poverty line. The director of the study service of the Christian Trade Unions adds: ‘At our congress in 2002 we demanded that all the minima in social security be raised to 60 per cent of the median income’ (Interview TU/CHR). In other words: The political practice of using the EU poverty norm as a reference has spilled over from

---

11 GRAPA, Garantie de revenus aux personnes âgées.
the SPSI OMC into a number of adjacent policy areas. A different kind of spillover from the OMC ‘ways of doing things’ can be seen in the National Labour Council: ‘By being formally consulted about the OMC in 2001, we became aware that all of this is not so soft after all, that it could have serious consequences. Before we were consulted about the OMC, Europe did not exist in this institution’ (Interview CNT1). So, surprising as it may seem, ‘soft law’ raised awareness about the EU as an important policy arena in this central domestic institution.

Interviewees also point to another effect of this OMC in the political stream, namely its incremental contribution to changes in interest group support (namely from trade unions) for pre-retirement measures (see above), something that remains a politically salient issue in Belgium. The careful reader will have noticed that I have not talked about the empowerment of new actors in this section: It would seem that the pensions OMC only provides leverage to those policymakers and stakeholders who are already in the ‘inner circle’ of decision-making. As national ministries have acted as gatekeepers of the process (see López-Santana, this issue) it has not yet brought new actors to the table (see Dawson, 2009). A top civil servant explained that when she proposed to ‘open up’ the writing of the National Strategic Report, the cabinet answered ‘we are not going to interview all pensioners, are we?’ (Interview MIN/SS). And when asked which stakeholders could be interested at the national level, a senior Commission official answered ‘well in pensions the clear actors are the social partners and possibly all sorts of pressure groups’ (Interview CEC2). In other words: ‘Opening up’ this strand of the OMC does not seem to be high on the priority list of domestic or EU-level actors.

As far as the generation of policy alternatives by policy entrepreneurs is concerned, there seems to be wide agreement among key Belgian players that the pensions OMC promotes a focus on a minimum pension, a 3-pillar pension model (in Belgium as in other Member States this means: increasing the 2nd and especially the 3rd – private – pension pillar), and the actuarial neutrality of pension systems (Interview MIN/SS; Interview SPC4; Interview PLAN2). Note that these are market-correcting as well as market-enhancing reforms. According to one Belgian SPC member ‘it is the Commission that distils these key messages from the melting pot of very diverse policy initiatives and orientations of the Member States; namely those messages which resonate with the Commission’s concerns’ (Interview SPC4). According to the same Belgian SPC member ‘it has become increasingly difficult to change one word in the discourse of the European Commission’ (Ibid.).

Crucially, actors explain that the generation of policy preferences through participation in the OMC does not happen overnight, but gradually. One key actor explains:

Those who think that the agenda of the inter-professional agreements has been adapted to the European agenda are definitely wrong. But one can imagine Europe’s influence as a trickle-down effect: Europe diffuses slowly and calmly, which allows certain issues to be brought to the table, some of which suit us, others do not’ (Interview TU/SOC).
Or, as one (OMC-critical) representative of the Belgian employers’ puts it: ‘The OMC has produced a number of fancy studies about pension systems in the Member States, and that’s it. [...] But then again if a message is repeated often enough, it frames our minds anyway’ (Interview EMPL/FEB). Thus, the EU seems to form ‘softening up’ activities, a gradual accumulation of ideas which in some cases culminate in a cognitive tipping phenomenon.

This can been seen in the Generation Pact, as one of its key negotiators from the trade union side explained: ‘Since the European objectives already determined the priorities, actors within the National Labour Council probably felt less compelled to ‘occupy the territory” (Interview CNT2). Another negotiator confirms: ‘It is EU pressure that led to the Generation Pact. So you could say that ‘soft law’ has legal consequences, since one is obliged to take measures’ (Interview TU/LIB). It seems that trade union attitudes towards ‘soft law’ are rather mixed: Some use the term ‘terror of benchmarks’, while confirming that ‘they are also a very important authoritative argument, and we have learned to use them when it suits us’ (Interview TU/CHR). Concretely, then, how did OMC interfere with the generation of policy alternatives in the Generation Pact?

The Pact increased the age criterion for early retirement benefits: Involved actors from the trade unions’ and employers’ sides confirm that European discourse, studies, arguments and statistics played a key role in this. Crucially, the compromise that was struck also included the introduction of an ‘age bonus’ (for those who remain active after the age of 62): This is a largely symbolic measure, but one that prudently introduces an entirely new element in the Belgian pensions system, i.e. that of actuarial neutrality. Other measures in the pact point in the same direction, for example the calculation of differentiated ceilings for ‘assimilated days’, again a rather symbolic measure but one which, according to a high-ranking civil servant in the Planning Bureau, ‘opens the door for a reduction of solidarity in the Belgian pension system’ (Interview SPC4). The Generation Pact seems to be a case where the OMC enabled political entrepreneurs to join the problem recognition, political and policy alternative stream, pushing an idea whose time has come to be on the decision-making table.

7.6 Conclusions

While setting the scene of this paper, I wondered if, in the absence of EU legislation specifically aimed at pensions, a soft and relatively novel process such as the OMC had any effect at all on EU and national pension politics and policies. At first sight, this seems rather unlikely: Not only is Belgium an archetypal example of the ‘frozen continental welfare state landscape’ (Esping-Andersen, 1996); section 7.2 also illustrates that academic literature has weighed up the pensions’ strand of the Social Protection and Social inclusion OMC, and came to rather mixed conclusions. While some cognitive effects have been acknowledged, as well as this OMC’s role in counterbalancing the EU pensions discourse developed by the Finance Ministers, the basic infrastructure of the process is usually judged as too weak to have any significant effect at the domestic level.
This paper rejects the mainstream view of the pensions OMC as mere window dressing. This in no way implies that I claim that domestic pension policies are determined by EU influences. And yet, a large part of the Belgian decision-making elite considers the OMC’s impact in the area of pensions to be undeniable. In this Member State – which I consider to be a most likely case – the soft form of policy coordination provides opportunities to create policy ‘windows of opportunity’, which policy makers use, together with other tools available, in their efforts to discuss, manage and reform pension systems. This happens, first because the OMC influences the acceptance of compelling problems so that decision makers pay serious attention to them; secondly because the OMC brings about changes in the political stream; and thirdly because the OMC makes certain ideas ‘take hold and grow’, so that they matter (more) in the policy soup.

There is also strong confirmation of the core mechanisms through which the OMC operates: The empirical section 7.5 provided examples of puzzling, through deliberate learning and de facto socialization, and of powering, through usage of the OMC architecture and peer pressure as a result of comparisons with others.

The empirical assessment also made it clear that the OMC’s influence (including its learning dimension), is not necessarily seen as positive by the actors involved: Doubts are raised about the fact that few efforts are undertaken to ‘open up’ the pensions OMC, about the direction of the reforms promoted through OMC (e.g. focus on competitiveness rather than solidarity), about the dominant role played by the Commission and the economic actors, and finally about the effectiveness of the method. In spite of these doubts and criticism, none of the key actors rejected OMC outright: Even the more sceptical policymakers prefer to engage in a problematic OMC rather than leaving the floor entirely to the economic players. The fact that actors commit themselves to this OMC, and believe it has a certain impact on policies, does not necessarily imply that they are fond of it. This also illustrates that the preference for ‘hard’ or ‘soft’ law in this issue area is not a binary one: some accepted the OMC ‘since nothing else is available’, others described the OMC as a step-up to legislation.

Obviously, further research is needed. For example, one can postulate that these mechanisms play out rather differently between Member States and that a soft instrument such as the OMC fits well with the Belgian informal decision-making culture, in which there is a positive general attitude towards the EU; several of our interviewees point to a (long-lasting) ‘Presidency effect’: The fact that Belgian actors (notably social democratic ministers) played a key role in ‘shaping’ the basic architecture of this OMC at the EU level in 2001, may well provide a credible explanation as to why these actors are motivated in ‘taking’ it to the domestic level. And yet the evidence – how thin it may be – of the operation of the pensions OMC in Greece, Germany and France (section 7.3) calls for further research as regards the usage and effects of this OMC in other Member States.

One could also postulate that the effectiveness of the social OMC varies between its strands, some having grown more ‘teeth’ (e.g. as a consequence of differences in institutional architecture) and thus being more effective than others. It seems that the impact of the OMC is also related to the degree to which domestic actors have been involved in the EU decision-making process (or not) in the first place. Arguably the effectiveness of any OMC can only be
assessed by taking the ‘uploading’ dimension into account (Hamel and Vanhercke, 2009), since it co-determines the degree of ‘ownership’ of (and thus commitment to) this soft process.

To sum up, the OMC is certainly not an irresistible force shaking the immovable edifice of Belgian pensions policies, but there is empirical evidence that this EU process is being used (explicitly or, more likely, by stealth) by key actors as an increasingly important leverage. The OMC sometimes opens policy windows of opportunity in the domestic policy-making arena. Critically, this does not primarily happen as a result of command-and-control mechanisms, Peer Review (peer pressure) or naming and shaming. More often, usage by actors at the national level and socialization lead to the kind of impact I have tried to illustrate. As such, the pensions OMC can be seen as a selective amplifier of domestic pensions policies.
## Annex 7.1 List of interviews

<table>
<thead>
<tr>
<th>Interviewer</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>AC1</td>
<td>Professor, Law Faculty, University of Leuven</td>
</tr>
<tr>
<td>CEC1</td>
<td>Head of Unit, European Commission, Brussels</td>
</tr>
<tr>
<td>CEC2</td>
<td>Deputy Head of Unit, European Commission, Brussels</td>
</tr>
<tr>
<td>CEC3</td>
<td>Former Director, European Commission, Brussels</td>
</tr>
<tr>
<td>CNT1</td>
<td>Chairman, National Labour Council (NLC), Brussels</td>
</tr>
<tr>
<td>CNT2</td>
<td>Secretary-General, NLC, Brussels</td>
</tr>
<tr>
<td>CNT3</td>
<td>Chairman and legal advisor, NLC, Brussels</td>
</tr>
<tr>
<td>EMCO1</td>
<td>EMCO Chair, Brussels</td>
</tr>
<tr>
<td>EMCO2</td>
<td>Director General, Federal Public Service (FPS) for Employment, Brussels</td>
</tr>
<tr>
<td>EMCO3</td>
<td>Former Chairman, Board of the FPS for Employment, Brussels</td>
</tr>
<tr>
<td>EMCO4</td>
<td>General Advisor, FPS for Employment, Brussels</td>
</tr>
<tr>
<td>EMPL/FEB</td>
<td>Senior Advisor, Federation of Belgian Enterprises, Brussels</td>
</tr>
<tr>
<td>MINCAB1</td>
<td>Former Minister for Pensions and his Head of Cabinet, Leuven</td>
</tr>
<tr>
<td>MINCAB2</td>
<td>European advisor, Minister for Pensions, Brussels</td>
</tr>
<tr>
<td>MINCAB3</td>
<td>Deputy Head of Cabinet, Minister for Social Affairs, Brussels</td>
</tr>
<tr>
<td>MINCAB4</td>
<td>Deputy Head of Cabinet, Minister for Social Integration, Brussels</td>
</tr>
<tr>
<td>MINCAB5</td>
<td>Former Head of Cabinet, Minister for Social Affairs and Pensions, Brussels</td>
</tr>
<tr>
<td>MIN/SS</td>
<td>Coordinator of International Affairs, FPS for Social Security, Brussels</td>
</tr>
<tr>
<td>PLAN1</td>
<td>Senior Civil Servant, Federal Planning Bureau, Brussels</td>
</tr>
<tr>
<td>PLAN2</td>
<td>Advisor, Federal Planning Bureau, Brussels</td>
</tr>
<tr>
<td>SPC1</td>
<td>Former SPC Chair, Brussels</td>
</tr>
<tr>
<td>SPC2</td>
<td>Former SPC Secretary, European Commission, Brussels</td>
</tr>
<tr>
<td>SPC3</td>
<td>Former SPC Secretary, European Commission, Brussels</td>
</tr>
<tr>
<td>SPC4</td>
<td>Belgian SPC Member, Brussels</td>
</tr>
<tr>
<td>SPC5</td>
<td>UK SPC Member, Brussels</td>
</tr>
<tr>
<td>TU/CHR</td>
<td>Director and legal advisor, Studies Department, Confederation of Christian Trade Unions, Brussels</td>
</tr>
<tr>
<td>TU/LIB</td>
<td>Director and Head, Studies Department, Liberal trade Union Organisation, Brussels</td>
</tr>
<tr>
<td>TU/SOC</td>
<td>Director and advisor, Studies Department, Belgian General Federation of Labour, Brussels</td>
</tr>
</tbody>
</table>
The OMC as a selective amplifier for reforming Belgian pension policies

References

AGE (2008), *What is the European Union doing in the field of social protection and social inclusion?, A Toolkit to improve civil dialogue in The Open Method of Coordination on Social Protection and Social Inclusion*, The European Older People’s Platform.


FERPA (2005), *FERPA's response to the questionnaire on applying the Open Method of Coordination (OMC) to pensions*, Unpublished letter for the attention of DG Employment, European Commission, Brussels, 25 April 2005.


CHAPTER 8

The OMC and beyond: ‘soft-to-hard-to-soft’ governance of health care in the EU

Bart Vanhercke and Lena Wegener


8.1 Introduction2

Since its launch during the Lisbon European Council of 2000 as a ‘new’ policy instrument that would allow to make progress in sensitive policy areas such as social protection and social inclusion, the Open Method of Coordination, has received a great (some would argue: excessive) deal of attention, both from scholars and policy makers. The OMC has indeed been widely debated in the research community3. Note that once the initial praise for the OMC (both by politicians and scientists) started to wane, the process was subjected to intense scrutiny and found wanting in mainstream academic literature4. In particular the ‘social inclusion’ and ‘pensions’ OMC5 have been studied rather well, both in terms of emergence and impact. However, we are still flying blind with regard to the most recent strand of the Social OMC, which is concerned with health and long-term care and received only limited scholarly attention. This stands in contrast to the impact of European legislation in the field of health, which has been

---

1 This chapter benefited from my contributions to two chapters which I co-authored with Tammy Hervey (Hervey and Vanhercke, 2010) and Scott Greer (Greer and Vanhercke, 2010). This earlier work was enriched with an assessment of the impact of the Health Care OMC at the domestic level (section 8.3), while I further developed the evidence of the ‘soft-to-hard-to-soft’ governance thesis (including through the example of the EU’s Health Technology Assessment) in section 8.4.2. I also added a section explaining the limited impact of the OMC in this policy field (8.5).

2 The authors are grateful to the participants of the expert seminar on ‘Social Protection and Social Inclusion in the EU: Interactions between Law and Policy’, February 10th-11th, 2011 (Antwerp University) for their comments. Special thanks go to Jo De Cock, David Natali and the editors of this volume for their lucid suggestions for revision. We are particularly grateful to Rita Baeten for the exchange of ideas about ‘soft-to-hard-to-soft’ governance, which contributed to reconciling my ‘new governance’ with a ‘legalisation’ perspective. The usual disclaimer applies.

Address of correspondence: vanhercke@ose.be

3 For recent overviews, see Kröger (2009), Marlier and Natali (2010 and Heidenreich and Zeitlin (2008).

4 For a more detailed discussion, see Hamel and Vanhercke (2008).

5 To be more precise: ‘social inclusion’, ‘pensions’ and ‘health and long-term care’ constitute the three strands of the ‘streamlined’ Social Protection and Social Inclusion OMC.
This chapter has a twin ambition. First of all, it aims at understanding the significance of ‘soft’ EU cooperation in health policy through this particular strand of the Social OMC. Secondly, it wants to understand whether and how interaction is developing between EU law and policy in the area of health care. The argument is made that in this area of social protection we are moving from mere ‘interaction’ to a ‘hybridization’ of governance tools. Indeed, in between EU policy (new governance) and EU legislation, hybrid instruments are emerging that combine elements from ‘hard’ and ‘soft’ law. In this view, we begin by briefly describing the emergence of the OMC in health care, the main features of its toolbox (objectives, reporting obligations, indicators, Peer Reviews), and the policy learning that is intended (section 8.2). Based on recent empirical research in Belgium, section 8.3 then raises the question whether this OMC strand has had any ‘impact’ (effects ‘on the ground’) at all on policies and policy making-processes at the domestic level. The debate about the relevance of ‘soft’ governance in health care is then broadened to the impact of the OMC at EU level as well as to new governance processes other than the OMC (section 8.4). Within this section, particular attention is paid to the OMC’s interaction with other EU instruments such as the legal framework underpinning the European Social Fund (ESF). Section 8.5 then tries to provide an explanation for the limited tangible effects of this OMC, by referring to intense actor rivalry and the lack of stakeholder involvement in the EU health care arena. The final section draws tentative conclusions as regards the ‘soft-to-hard-to-soft’ governance of health care in the EU.

8.2 The Open Method of Coordination in health care: emergence and key features

8.2.1 Emergence: the Commission’s purposive optimism versus foot-dragging Member States

The story of the emergence of the health care OMC has been told elsewhere, but the essence is the following: the European Commission has been pushing the Member States, from the beginning of the 1990s, to start some kind of EU cooperation on health care, while many Member States were dragging their feet, afraid as they were that this would imply losing grip over this important policy area. As a result, attempts to start an OMC in health care failed in 2002 and again in 2004. Amazing as it may seem – given the increasing awareness that Europe was entering national health care systems by the back door of the internal market – until 2004, national governments continued to be strongly averse to formalizing the debate about health
care at the EU level (submitting their consent to launch a ‘soft’ form of cooperation to a number of rather strict conditions). In the end, the idea of having an OMC in this field became attractive to Member States when they realized that the alternative was health policy made by the European Court of Justice, Directorate General (DG) MARKT of the European Commission and possibly the Economic and Financial Affairs (ECOFIN) Council formation.

Hesitations loomed large even after the formal start of the process (and they are still present today). At every step of the institutionalization of this process the importance of ‘respecting the subsidiarity principle’ and ‘taking into account national differences’ was recalled: both of them key principles without which EU cooperation in health was a no-go. In other words: the establishment of a new governance mechanism in this area has been intensely ‘political’: it has been shaped both by deliberative norms and through hard-boiled power games between national and EU actors (and within DGs of the European Commission). Even after the health care OMC was finally launched in 2004, it was only equipped with an incomplete institutional architecture: the health care OMC started off with provisional common objectives, no common set of indicators, ‘preliminary reports’ (instead of full-blown ‘Action Plans’) etc. It was not until 2006, when the European Commission creatively managed to include the issue of ‘health care and long term care’ in the new ‘streamlined’ Social OMC that this strand became really operational.

8.2.2 The defining features of an incomplete method

What does this process look like, then? During the past decade, the Social OMC has in practice been managed by the Social Protection Committee (SPC), a group of high-level officials that was established in 2000, as well as by its Sub-Group on Indicators (ISG) (created in February 2001). The SPC is an advisory body to the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council of the European Union and is composed of two delegates from each Member State and the Commission. The latter provides the secretariat, and thereby has a key role. Together these actors put in place an OMC toolbox containing: the common objectives (which constitute the political mandate and thus the framework), a reporting system (through national strategic reports and joint reports), (preliminary) indicators and Peer Reviews. We will discuss how these tools were made operational between the launch of the Social OMC and its ‘reinvigoration’ in 2011; the implications of the latter go beyond the scope of this chapter.

Common objectives: ambiguous words

Being aware that they all – at least to some extent – face similar problems with respect to health and long-term care policies, the Member States first of all committed themselves to a number of common objectives (i.e. political priorities). In fact, they subscribed to two sets of priorities (see the full list of objectives in Box 8.1 below):

---

10 Council of the European Union (2004: 9): OMC in health care should not impose an excessive administrative burden; health ministries should be directly involved in the OMC process; overlaps with the follow-up of the high level reflection on patient mobility should be avoided; coherence of views should be ensured within the single EU Council formation of ministers of health and social policy; the joint working with the Economic Policy Committee should continue.
three ‘overarching objectives’, which apply to the three strands of the streamlined Social OMC. For example, with the third overarching objective, Member States commit themselves to promote ‘good governance, transparency and the involvement of stakeholders in the design, implementation and monitoring’ of their social inclusion, pensions, and health care and long-term care policies;

three objectives that refer specifically to the area of health and long-term care and which combine high quality and financial sustainability of health systems with access for all.

The common objectives have often been criticized for their openness and ambiguity. Thus, Büchs notes that the Social OMC’s objectives and guidelines contain different and sometimes conflicting elements, some of which are more likely to be interpreted in ways that promote the strengthening of the welfare state whilst others are more likely to support retrenchment (Büchs, 2009). Greer and Vanhercke point out that the ‘ambiguous words’ of these common objectives in the health care strand are in fact useful when there is no fundamental agreement on health care policies in the EU: as they are broad enough to be accepted by all Member States, they allow to expand the EU policy agenda, more particularly by providing legitimacy and new discourses. There would have been even more efforts to block the common objectives (in health) if it had been absolutely clear what they were supposed to do (Greer and Vanhercke, 2010). And yet the ‘normative’ orientation of these health care objectives is quite evident for Flear: they not only extend market rationality and facilitate governing at a distance by inducements to self-management, they also promote moves away from equity and solidarity (Flear, 2009). Writing about the same OMC strand, Hervey strongly rejects the claim that the health care OMC would be promoting neoliberal policies (Hervey, 2008), while others finds strong confirmation of pertinence of overarching objectives of the health care strand of the OMC (European Commission, 2008a).
Box 8.1 Common objectives in the Social OMC (re-affirmed by the Council of the European Union in May 2011)

A. Overarching objectives covering the three strands of the Open Method of Coordination for social protection and social inclusion (including health)

Promote:
(a) social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies;
(b) effective and mutual interaction between the Europe 2020 objectives of smart, sustainable and inclusive growth, taking full account of the relevant social provisions of the Lisbon Treaty; and
(c) good governance, transparency and the involvement of stakeholders in the design, implementation and monitoring of policy.

B. Common objectives with regard to health care and long-term care

Member States should provide accessible, high-quality and sustainable health care and long-term care by ensuring:
(a) access for all to adequate health and long-term care; that the need for care does not lead to poverty and financial dependency; and that inequities in access to care and in health outcomes are addressed;
(b) quality in health and long-term care, and the adaptation of care, including developing preventive care, to the changing needs and preferences of society and individuals, notably by developing quality standards reflecting best international practice and by strengthening the responsibility of health professionals and of patients and care recipients; and
(c) that adequate and high-quality health and long-term care remains affordable and financially sustainable by promoting a rational use of resources, notably through appropriate incentives for users and providers, good governance and coordination between care systems and public and private institutions. Long-term sustainability and quality require the promotion of healthy and active life styles and good human resources for the care sector.


Reports to Brussels and (not so) soft recommendations

Every two to three years, Member States explain the progress made towards these common objectives. They do this in so-called national strategic reports11 (NSRs) which contain a section on health and long-term care. Once the Commission (DG Social Affairs) has received all the national strategic reports (which present in many countries a ‘container of measures taken’ or a ‘report to Brussels’, rather than being a forward-looking or strategic document), it analyses and assesses Member States’ progress towards the common objectives with the help of national and European indicators. The assessment is then published in a joint report on social protection and social inclusion, which is adopted by the Commission and the Council and submitted, every year, to the (Spring) European Council.

11 Formally speaking ‘National report on strategies for social protection and social inclusion’.
It is worth noting that an agreement on this joint report can normally only be reached after hard negotiations, and ultimately political compromises, between Member States and the Commission. Particularly controversial points are, for instance, the relationship between the state and the market as health care provider, and the adequate level of resources ‘necessary’ for health care funding. This again illustrates how Member States resist EU involvement in ‘their’ health care systems, while also demonstrating that governance is taken seriously (as opposed to being regarded as irrelevant) by Member States. In their analysis of health care policies in the context of the Lisbon Agenda, de Ruijter and Hervey similarly find that ‘governments of the Member States do not necessarily view the OMC-social in health care policy as a “soft” mechanism, posing little challenge to national competence (…) On the contrary, the wording of OMC-social documentation is often politically contested, as if it were a “hard” legally binding text’ (de Ruijter and Hervey, 2012).

Interestingly, the European Commission provides, as part of the joint report, a soft kind of ‘recommendations’ to the Member States through so-called ‘country fiches’. These documents address the most important ‘challenges’ in (social inclusion, pensions and) health care for every country, as the following examples illustrate:

- Commenting on the 2009 German national strategic report (health section), the Commission concluded with regard to quality in long-term care that ‘[E]ven though quality has been steadily increased during the last years, quality controls show clearly that there is still a lot of scope for improvement’ (European Commission, 2009a: 12) (authors’ translation).
- Regarding the quality of health care in Austria, the European Commission suggested that the system should take into account the point of view of the patient (and not the institution), that it should allow for more flexible transfer between different types of provision (inpatient/ambulant/long-term care, etc.) and that ‘patients’ rights had to be strengthened through clear standards’ (European Commission, 2009b: 9) (authors’ translation).
- Drawing on the French NSR, the Commission found that access to health care is increasingly problematic, both from a financial and geographical point of view. The Commission also noted the absence of coercive regulation in France with regard to the control on evidence-based medicine as well as the need to prioritize ambulatory care (including with a view to avoiding unjustified use of hospitals) (European Commission, 2009c: 7-9).
- Finally, the United Kingdom was asked to ‘look at ways of improving integration of health and long-term care services and addressing discretion in the assessment of needs and eligibility rules’ (in the UK, local authorities determine eligibility and access to care), as ‘co-payments and additional user charges that are not covered for persons above the means-tested threshold can act as barriers to accessibility’ (European Commission, 2009d: 9).

Even though these messages may come across as rather ‘light’ for the outside observer, they are highly contested and inevitably give rise to extensive bilateral negotiations between the Commission and the Member States, which will firmly attempt to ‘control the damage’. At least some of these messages were not appreciated by German, Austrian, French or UK civil servants and politicians. In our interviews it became clear that they were not felt as ‘soft’ messages (at all) and in some case led to strong interrogations about continuing the Social OMC overall.
Indicators: a growing but preliminary portfolio

As far as indicators are concerned, work within the health care strand has lagged behind for a long time as compared to the areas of pensions and (especially) social inclusion, for which there is an agreement on a full battery of commonly agreed EU indicators (i.e., harmonized at EU level) (Atkinson and Marlier, 2010). For health, a ‘preliminary portfolio’ of commonly agreed national health care indicators (with commonly agreed definitions and assumptions) was adopted in June 2006 (European Commission, 2006: 7-13 and 40-50). At a second stage, the SPC adopted a new list of indicators for the monitoring of the health care and long-term care objectives of the Social OMC, as well as two new health related indicators to be included in the overarching portfolio in 2008. The list as it stands now is made up of 18 primary indicators, 12 secondary indicators and 4 context indicators regrouped according to the common objective they refer to (European Commission, 2009e). Even if the new list is comprehensive, it is still ‘preliminary’ and ‘incomplete’: the full list of indicators and their meaning have not been agreed upon; review is scheduled as new data become available. Work is being continued regarding long-term care (this dimension is not fully reflected in the existing list) under the new Europe 2020 Strategy, and the ISG is considering developing other indicators covering dimensions such as care utilization, out-of-pocket payments and asthma care.

In general, difficulties in data collection and handling, as well as political risks, have all slowed down the work on indicators and therefore the health care OMC as a whole. The fear of Member States to lose control over this important policy field (see section 8.2.1) is constantly present throughout the process and becomes particularly obvious when it comes to the development of indicators. Germany, for instance, was one of the countries that largely opposed the interference of the European level in health care policies and as a result refused the introduction of any further indicators in this area (see also Box 8.2 for a UK example).

Critical OMC scholars such as Flear argue that even indicators for access and quality of care ultimately seek to optimize performance, by providing the means to assess whether objectives are met, and thereby ensure that equity and solidarity are subordinated in a neoliberal frame (see Flear, 2009).
Box 8.2  Indicators in the health care OMC: a sensitive issue

Consider, by way of illustration, the fact that the European Scrutiny Committee of the House of Commons in the United Kingdom in 2004 refused to scrutinize the Commission’s Communication through which it proposed to extend the OMC to health care (European Commission, 1999). The Committee in fact wondered ‘why such exchanges of views as are required could not be achieved by other, less intrusive, means (the Minister refers, for example, to the existing or proposed Commission and Council groups on health services and medical care)’ (UK Parliament, 2004: §9.9). In his response to the Committee, the Minister said that he detected no wish by Member States to use the OMC as a means to devise ‘new legislation or new targets or new EU indicators’ and that ‘we are not having (new) targets foisted upon us by anyone’\textsuperscript{13}. Apparently, this convinced the Committee: in March 2005, the Committee explained that it had assuaged its concerns when the Minister ‘told us repeatedly that the application of the method would not lead to the imposition on the United Kingdom of new targets and indicators’\textsuperscript{14}. And yet it warned the government: the Committee looks ‘forward to receiving the progress reports the Minister has offered to provide. We shall scrutinize them, in particular, to see if they include any targets or indicators for Member States’\textsuperscript{15}.

In other words, the OMC might look ‘soft’ but, in some cases, it feels quite hard to those who are touched by it.

In view of Member States’ resistance highlighted above, it may not come as a surprise that so far no targets (quantified objectives) have been set in the context of the health care OMC. This stands in contrast to the Social Inclusion OMC, which now has a ‘headline target’ in the newly adopted Europe 2020 Strategy\textsuperscript{16}.

But it is worth noting that the European Commission is building up pressure on Member States that provide long-term care in a devolved context to set national targets – as is shown by the following claim in the 2008 joint report: ‘[n]ational guidelines and targets can ensure uniform provision across the wide spectrum of service providers and the different levels of government involved in the management and financing of long-term care services’ (European Commission, 2008b: 90). There is no a priori reason why such targets could not be extended later on to drug prescriptions for general practitioners for instance, or other health related issues. The operation of other ‘soft law’ mechanisms (economic policies, employment, social inclusion) has made it very clear that once target setting has become an accepted instrument of a given OMC, the pressure to establish national or even EU-wide targets is hard to ignore for any Member State.

\textsuperscript{13} See Ibid., ‘11\textsuperscript{th} Report of Session 2004–05’, para. 9.12.
\textsuperscript{14} Ibid., para. 9.14.
\textsuperscript{15} Ibid., para. 9.15.
\textsuperscript{16} The poverty target is one of 5 ‘headline targets’ within the EU’s new strategy for smart, sustainable and inclusive growth. Its aim is to promote social inclusion, in particular through the reduction of poverty, by aiming to lift at least 20 million people out of the risk of poverty and exclusion. The target will consist in reducing the number of people in the EU (120 million) who are at risk of poverty and/or materially deprived and/or living in jobless households by one sixth (European Commission, 2010).
Policy learning through Peer Reviews

A final instrument of the health care OMC’s toolbox is the Peer Review programme, which is at the heart of the OMC’s learning objective. Each year between eight and ten Peer Reviews about issues relevant for social protection and social inclusion are organized in the Member States (host countries) and funded by the PROGRESS programme (European Parliament and Council of the European Union, 2010). Many Member States, stakeholders and experts are indeed interested in sharing experiences during either of the two modalities of PROGRESS Peer Reviews: ‘good practice’ Peer Reviews, during which a Member State suggests a policy that has produced (exceptionally) good results; or ‘policy problem’ Peer Reviews, where an ineffective policy is studied and remedies are suggested. As a senior civil servant in the Commission explained: after ‘all this hesitation, the Member States now "discovered" the OMC. If we were to follow all the issues they proposed (as topics for mutual learning), it would completely flood the Social Protection agenda for years to come’\(^ \text{17} \).

As can be seen in Table 8.1 below, Member States participated in a total of 50 Peer Reviews (2005–2010) – organized through the PROGRESS programme\(^ \text{18} \) – on topics related to social inclusion, pensions as well as health and long-term care. Eleven out of those 50 Peer Reviews dealt with the issue of health and long-term care, which is quite significant in view of the fact that Peer Reviews cover no less than 10 key issues in total\(^ \text{19} \). As can be obtained from Table 8.1 below – with the exception of Denmark and Slovakia – all 27 Member States have at some point participated in a Peer Review on health care. It is also striking that no differences can be observed when comparing the participation of ‘old’ and ‘new’ Member States, since both are equally present in each of the columns. This balanced picture differs when it comes to the organization of Peer Reviews: up to now, eight mostly ‘old’ Member States have hosted Peer Reviews, while Hungary is the only new Member State in the list of organizing countries. One could draw the tentative conclusion that even though the new Member States are equally interested in learning from other countries, they still seem to be afraid of (or at least uncertain about) organizing Peer Reviews and actively sharing their own models as examples for mutual learning.

The topics that have been discussed range from ‘social integration for people with mental health problems’ and ‘freedom of choice and dignity for the elderly’ to ‘cost containment in the pharmaceutical sector’, ‘ensuring a functioning health care system in regions with declining and ageing populations’ to ‘coping with behavioural disorders in the patient’s home’ in the case of Alzheimer’s. A recent Peer Review in this area, held in October 2010 in Germany, assessed ‘achieving quality long-term care in residential facilities’. Interestingly, the latter Peer Review was organized a year after the Commission’s rather straightforward comments on this issue in the 2009 Joint Report on Social Protection and Social Inclusion. Moreover, Germany hosted three

\(^ {17} \) Interview with Former SPC Secretary, European Commission (Brussels, Belgium, September 2007).


\(^ {19} \) In addition, the first Peer Review covering health care in particular was not held before 2006.
Peer Reviews in the area of health and participated twice in Peer Reviews organized by other Member States, thereby outing itself as one of the keenest participants amongst the Member States (only France and Poland have participated even more intensively). This fact is quite remarkable for a Member State which has been among the most resilient to get the OMC in this area on tracks in the first place.

**Table 8.1 Participation in Peer Reviews on health and long-term care topics (2005–2010)**

<table>
<thead>
<tr>
<th>Attended Peer Reviews (as host or participant)</th>
<th>7–8</th>
<th>5–6</th>
<th>3–4</th>
<th>1–2</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>France</td>
<td>2</td>
<td>10</td>
<td>7</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Poland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxembourg</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Czech Republic</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the Netherlands</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>United Kingdom</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovenia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estonia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Malta</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Austria</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Portugal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greece</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belgium</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lithuania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hungary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latvia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Norway)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Denmark</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slovakia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>2</td>
<td>10</td>
<td>7</td>
<td>9</td>
<td>2</td>
</tr>
</tbody>
</table>

*Source:* Peer review in social protection and social inclusion website²⁰.

The critical reader may argue that ‘participating in Peer Reviews’ does not necessarily equal ‘policy learning’. In fact, Greer and Vanhercke pointed out that learning in the health care OMC runs the risk of being of a limited kind as often the wrong people will do the learning (i.e. representatives of the international units participate, and not the line officials) (Greer and Vanhercke, 2010. The problem here is that new governance matters in particular when it successfully escapes international units and strengthens transversal specialist networks that share worldviews or policy goals (political scientists have many names for these: epistemic communities and policy advocacy coalitions are the two most common) (Haas, 1992; Jenkins-Smith and Sabatier, 1994). Our own research confirms the concern that the Peer Reviews in the area of health care are mainly an exercise for a select group of civil servants and experts (Vanhercke, 2011a).

This brief overview of the overall architecture of the health care OMC suggests that it has most of the formal features of a ‘textbook OMC’: common objectives, national strategic reports, joint reports, indicators and Peer Reviews. The next section will look at whether this toolbox has so far delivered concrete results.

---

8.3 Looking for a needle in a haystack: the impact of the health care OMC at the domestic level

Our assessment of the effectiveness and impact of the Social OMC uses Belgium as its main case study, while referring to evidence from other Member States when this is available. The assessment is first of all based on two waves of interviews with European, national, and sub-national civil servants, politicians and stakeholders (social partners and NGO representatives) working in the areas of poverty and social exclusion, pensions and health care. A first wave of 32 interviews was conducted during the second half of 2007, mainly providing information about the preparation of the 2006–2008 national strategic report, and the impact of the OMC until that moment. A second round of 20 interviews was conducted in December 2010, providing insights in the 2008–2010 reporting exercise. The 2010 round of interviews was complemented by an on-line survey which contained some 40 closed questions and was completed – between November and December 2010 – by 59 experts working in the three policy fields. Twenty respondents indicated to have their primary expertise in health care. We corroborated all the claims made by our respondents by confronting them, first, with the views of other interviewees and, second, with as many primary and secondary sources as possible.

To OMC critics, it will not come as a great surprise that by and large, Belgian health care experts who answered our 2010 on-line survey do not seem to think that the NSR process stimulated a genuine policy debate among the participants in the OMC process, or among a wider public (45% of them ‘strongly disagree’ with this suggestion, while 20% agree). Similarly, only a small minority of health care respondents thinks that ideas associated with the Social OMC are discussed in the key social policy discussion forums in Belgium. Unsurprisingly, then, merely 10% of health care experts in our on-line survey would agree with the statement that the ideas associated with the Social OMC are being reflected in the policy decisions in Belgium. A recent assessment coordinated by the Public Policy and Management Institute (PPMI) came to very similar findings. Drawing on in-depth country studies in 11 Member States, the impact of this strand of the Social OMC was indeed found to be weak across these countries when compared to the significant impact of the social inclusion and pensions strands.

Does this mean that actors do not see a genuine added value in pursuing this strand of the OMC? The results of our research indicate that this would be jumping to conclusions. In the following we present four different mechanisms through which the health care OMC could exert some impact, and conclude with some (admittedly modest) examples of potential substantive impact.

---

21 Belgium, Denmark, France, Germany, Italy, Lithuania, Poland, Portugal, Romania, Spain, and the UK.
22 ‘Evaluation of the effectiveness and impact of the Social OMC since 2006’ (Deliverable 7) (2011) and ‘Suggestions for improvement and strengthening of the effectiveness and impact of the Social OMC’ (Deliverable 8) (2011), both reports produced by experts led by the Public Policy and Management Institute, on behalf of the European Commission.
8.3.1 Prudent mirror effects

A first element we call 'prudent mirror effects'. First of all, several of our health care interviewees explained that for them the real added value of the NSR process is that it creates a platform for discussion between levels of government, as well as a domestic network which can be activated for other purposes (e.g. exchange of information). Thus, in Belgium, the NSR's health care chapter results from consultation between several administrations: the Federal Public Service for Social Security (which is in charge of the overall coordination), the International Department of the 'Federal Public Service for Health, Food Chain Safety and Environment', the administrations of the three Communities and (more sporadically) the National Institute for Health and Disability Insurance (INAMI/ RIZIV). The document that is being produced through this consultation process (i.e. the health care section of the NSR) is considered to be the only document in Belgium that provides an encompassing overview (in Dutch and French) of the health care policies of all levels of government. This makes it a rather unique document in the Belgian institutional setting. Regrettably, in view of the human resources invested in this document, it would seem that only its authors are aware of its existence.

Note that a similar (self-)reflection or mirroring experience has been identified in Germany: in 2007, a report was published on behalf of the federal Ministry of Health, in which data were collected on all health and long-term care indicators (see Schneider et al., 2007).

According to the Minister for Health this report was the first attempt to systematically compare and contrast the German health care system with the other EU Member States (using indicators selected/developed at EU level), not only at the national level, but also with regard to all sixteen of Germany's Länder (Ibid.). The OMC was identified as the main reason to conduct this study. Perhaps even more interestingly, the report includes a clear ranking of Member States (highlighting the three best performing countries within the tables). This rather open and explicit assessment of policy performance is a quite surprising step, especially coming from a Member State that put up some heroic fights against such 'rankings' at EU level.

8.3.2 Spreading of Peer Reviews as a domestic governance tool

Above we explained that physical participation in PROGRESS Peer Reviews is restricted to a rather small group of OMC insiders. This does not, however, mean that these events do not reach a wider audience. Most respondents in the pensions (79%) and social inclusion (66%) strands claim (in our on-line survey) to have read, at some point, a document, statement or study produced by Peer Reviews. With regard to the health care OMC, this is the case for 50% of the experts. As important is that those (civil servants, social partners, academics) who have participated in a Peer Review are almost invariably satisfied (and mostly quite enthusiastic) about the information provided and the issues discussed, and would very much like to be...
involved more frequently (that is, if the Peer Review is directly relevant for their work, which normally means that it is as practical and detailed as possible)\textsuperscript{24}.

Perhaps this high satisfaction rate is one of the reasons why in Belgium the practice of organizing Peer Reviews has been spreading from the EU to the federal (e.g. on child poverty, active ageing, communication in pension systems), regional (e.g. on integrated services for target groups, access to housing and inclusive education) (Flemish Parliament, 2011: 11) and local level (including, again, on child poverty). Several interviewees suggest that the group of people who participate in the European Peer Reviews should be enlarged (e.g. including the local level). Finally, note that ‘learning’ is not restricted to Peer Reviews: several of our interviewees referred to their participation in EU Presidency events on social issues (80% of health care experts in the on-line survey have participated in such events). Taken together these people constitute an increasingly large ‘OMC Community’.

8.3.3 National steering capacity

A third element that is raised quite regularly by actors in our case study has to do with the Social OMC’s (alleged) contribution to national steering capacity (e.g. use of data and indicators). The enhanced capability for more systematic \textit{comparison with other countries} is cited by most of the actors as one of the most important contributions of the Social OMC.

Our interviews (in Belgium and other Member States) confirm that the OMC has increased (institutionalized) awareness of policies, practices, and performances in other countries, by non-state actors as well as by governmental actors. As one key observer explained: ‘With Europe, it is more in the national culture to look for what the neighbours are doing’\textsuperscript{25}. In fact, the replies to our on-line survey with regard to this question are quite striking: in all three strands a majority of respondents believe that the NSR process indeed improved national steering capacities. Given the difficulties in the development of health care indicators described in section 2.2.3, it may come as a surprise then that 65% of Belgian health care experts confirm the impact on national steering capacities in our on-line survey.

Note that the consultation between several health care administrations described in section 3.1 would provide an excellent opportunity to further improve the national steering capacity in this area: according to our interviewees this inter-institutional coordination improved between the two rounds of NSRs (2006–2008 and 2008–2010 respectively), and it is even considered to be quite unique in the sense that there is no other platform in Belgium where all (federal and Community) administrations consult with one another. This is why the Federal Public Service (FPS) Social Security intended to institutionalize this newly created structure with a view to

\textsuperscript{24} Interview with Health Attaché, Permanent Representation of Belgium to the EU (Brussels, Belgium, 10 December 2010); Interview with Director of the Social Department, Public Centre for Social Welfare of Leuven (Leuven, Belgium, 30 November 2010); Interview with Senior Advisor, Federation of Belgian Enterprises (Brussels, Belgium, 30 November 2010).

\textsuperscript{25} Interview with Head of Unit, Social Protection and Social Services, DG V, European Commission (Brussels, Belgium, 24 July 2007).
organizing the follow-up of the health care section of the NSR, but this plan was postponed due to the overloaded agenda of the 2010 Belgian Presidency of the EU.\footnote{26}

### 8.3.4 The needle in the haystack: health inequalities

While all previously mentioned examples of ‘mechanisms’ through which the health care OMC could work (mirror effects, spreading of Peer Reviews and the contribution of this strand of the Social OMC to national steering capacities) are governance related, there is no solid evidence confirming any substantive policy change – i.e. influence of the OMC on policy framing, agendas and legislative outcomes – as a result of this.

Nevertheless, the developments regarding the issue of health inequalities should be further considered, as they may point to a more substantive impact of the OMC. Thus, some of our interviewees claimed that the Commission’s insistence on the topic of ‘health inequalities’ – through the joint reports, indicator development, an SPC Opinion as well as through PROGRESS funding in support of innovative action in this field, etc. – led to increased awareness about this topic, which was also reflected in the 2010 EPSCO Council Conclusions. The Council indeed adopted the SPC Opinion about ‘Solidarity in Health: Reducing health inequalities in the EU’ that pays considerable attention to the links between social inclusion and health equality, thereby referring extensively to the Social OMC (SPC, 2010). For de Ruijter and Hervey (2012) ‘the equality agenda, articulated in terms of social cohesion (rather than individual rights/non-discrimination), seems to be the most likely way forward’ if the health care strand is to become a success in the future.

Apart from the topic of health inequalities, German interviewees claimed that the EU’s focus on quality management in long-term care somewhat changed perceptions about this topic (see discussion about Peer Reviews and country fiches in section two). Note that in the aforementioned Social OMC assessment, Lithuanian interviewees explained that the concept of integrated long-term care was first institutionalized in their country in response to the OMC process.\footnote{27}

Similarly, the OMC would have contributed to the initiation of discussions about the topic of long-term care in Poland.\footnote{28} But so far these claims have not been clearly confirmed by ‘triangulation’ (a combination of different sources) and so they cannot be taken for granted.

### 8.4 Tracing EU significance: a patchwork of ‘soft’ governance and instrument hybridity

While the previous sections of this chapter looked at the domestic impact of the health care OMC, this section discusses whether the health care OMC has any significance at the EU level. The key
questions are: is there any empirical evidence to substantiate such ‘EU impact’ claims; and, as important, is there evidence of any kind of interaction between policy and law at the EU level?

8.4.1 OMC as a template for EU ‘soft law’ mechanisms

A first indication that an assessment of the significance of the OMC should not discard the EU level, is the fact that the Barroso Commission, not known for being a special advocate of new governance in the social field, ‘has continued to propose new OMC processes when faced with the perceived need for joint action in politically sensitive institutionally diverse policy fields’ (Sabel and Zeitlin, 2007). And in spite of all the scepticism (especially from academics), many (if not all) of ‘other’ Commission-led new governance processes on health care – which include the European Health Policy Forum, the High Level Committee on Health and the High Level Process of Reflection on Patient Mobility – sooner or later refer to the OMC as a ‘goal to attain’ (EHPF, 2003: 7; European Commission, 2001: 26 and 2003: 5; Kyprianou, 2005: 6). Thus, it seems that the OMC has become a ‘template’ for EU ‘soft law’ mechanisms in health.

This finding is confirmed by the fact that, even within the limited field of health care, new proposals for launching OMC processes arise on a regular basis: the European Commission has been thinking out loud about starting new applications of OMC-type processes to areas such as organ donation and transplantation (European Commission, 2007: 10) as well as nanosciences and nanotechnologies (European Commission, 2005: 4). Others would like to see the method to be applied to obesity and cancer screening, or to e-health (European Commission, 2004: 16).

8.4.2 Interaction with other (harder) EU instruments: ‘soft-to-hard-to-soft’ governance

A crucial finding is that the substantive messages coming from the Social OMC have been used to – selectively – influence ‘harder’ forms of EU ‘soft’ governance, including the new Integrated Guidelines for implementing the Europe 2020 Strategy. The Council adopted (in October 2010) six broad guidelines relating to the economic policies of the Member States and the EU, and four guidelines concerning the employment (and in fact also social) policies of the Member States. Integrated Guideline 10 (see Annex 1) deals with ‘promoting social inclusion and combating poverty’ and underlines the role of pensions, health care, and public services in maintaining social cohesion. Note that the common social objectives for health care enter into Guideline 10 primarily insofar as they contribute to ‘social exclusion’ goals. Indeed, the latter refers to the need for modernization of social protection systems (including access to health care) so that


30 Interview with Deputy Head, Health Strategy Unit, DG SANCO, European Commission (Brussels, Belgium, 8 October 2007).

31 Their aim is to provide guidance to Member States on defining their ‘National Reform Programmes’ and implementing reforms, in line with the Stability and Growth Pact.
they can provide adequate income support and services ‘while remaining financially sustainable and encouraging participation in society and in the labour market’. In sum, at least on paper, the Europe 2020 Strategy welcomes some key social dimensions, including (access to) health care, back to its heart (through the Integrated Guideline 10), after these issues had been removed from the Lisbon Strategy during its 2005 revision.

And yet, this new situation entails some serious risks, most importantly that the ‘social dimension’ (including health care) becomes subsumed into the growth objectives of the new strategy (see the reference to ‘financially sustainable’ and ‘labour market’ in the aforementioned Guideline 10), especially in light of the recent strengthening of the Stability and Growth Pact. This is why one author claims that in ‘a decade from now linguists may use the phrase ‘Social dimension of Europe 2020’ as an example of an oxymoron’ (Vanhercke, 2011b). And yet, many of our interviewees refer to the fact that without the Social OMC, the economic discourse regarding (the financial sustainability) of health care systems would regain its earlier monopoly. To put it differently, the Social OMC is also about occupying the health care territory vis-à-vis the economic players (especially the ECOFIN Council and its Economic Policy Committee) – in other words, to support the ‘social’ agenda of DG Social Affairs and its network over the alternative ‘economic’ frameworks and networks.

The OMC has also started to interact with the EU’s financial instruments, and the European Social Fund (ESF) more particularly. For de la Rosa it is clear that the relationship between the two instruments works both ways: if the ESF strengthens the OMC, the latter may in turn influence cohesion policy (de la Rosa, 2007). Hervey and Vanhercke highlight the interlinking between the OMC and the ESF (Hervey and Vanhercke, 2010). For these authors, the fact that the ESF Regulation for the 2007–13 programming period explicitly refers to the Open Method of Coordination on Social Protection and Social Inclusion represents a case in point of ‘instrument hybridity’. Indeed, for these authors ‘there is no reason why in the near future certain elements of the health care OMC would not be taken into account by the Commission, de jure or de facto, to determine whether expenditure is eligible for assistance under the Fund’ (Hervey and Vanhercke, 2010). The recent appeal from the Council of the European Union (European Council, 2011) to make more effective use of EU financial programmes with a view to health system innovation and reducing health inequalities seems to confirm this claim.

The link between the OMC and the Community method has also received considerable academic attention. De la Rosa explains how the Social OMC ensures a regular follow-up of certain non-discrimination directives (de la Rosa, 2007). An example in the area of health that can highlight the interlinking of the OMC and the Community method is the Directive on the application of patient’s rights in cross-border health care which contains an entire chapter on ‘Cooperation in Healthcare’ (European Parliament and Council of the European Union, 2011).

Within chapter four of this Directive, five types of cooperation can be identified which are clearly inspired by the OMC. Examples include:

- Mutual assistance and cooperation: Member States shall engage in ‘cooperation on standards and guidelines on quality and safety and the exchange of information (…)’ (Article 10);
- European reference networks, which could ‘encourage the development of quality and safety benchmarks and help to develop and spread best practice within and outside the network’ (Article 12);
- Concerning rare diseases: ‘The Commission shall support Member States in cooperating in the development of diagnosis and treatment capacity (…)’ (Article 13);
- With regard to eHealth, ‘The Union shall support and facilitate cooperation and the exchange of information among Member States working within a voluntary network (…),’ while one of the objectives of the eHealth network shall be to ‘draw up guidelines’ (Article 14).

According to Sauter (2012) these elements are not key in the harmonization setting of the Directive but ‘nevertheless important to the continued collaboration between the Member States in this field, and by creating cross-border policy communities they may contribute towards providing support for further integration of health care markets – possibly by spill-over, and including further harmonization’. One possible example of such spill-over effects could be that Member States engage in deliberation about key notions such as ‘good quality care’ (which may have different interpretations and expectations across, and within, the Member States). Such deliberations could take place in the context of any directive that includes ‘soft pockets’ such as the ones found in the Directive on the application of patient’s rights in cross-border health care (Szyszczak, 2011). According to Hervey (2012), the latter Directive’s chapter IV on ‘Cooperation in Healthcare’ has the potential to lead to changes in national practices, not through the ‘classic Community method’ of granting legal rights to individuals within the EU, ‘but by promoting convergence of approaches through mandatory transparent sharing of practices and consequent recognition of practices that are successful, and their development into benchmarks of best practice’.

In this context it seems worthwhile to have a closer look at the EU’s Health Technology Assessment (HTA), created as a European-wide coordination framework with a view to a better coordination of national HTA actions. The HTA seems to be a case in point to illustrate the formalization (and thereby further institutionalization) of OMC-based cooperation, which is moving closer to a rule of law framework of good governance practice. Indeed, in spite of the fact that HTA collaboration takes place outside the OMC framework (in fact there is not even a single cross-reference made between both instruments), the instruments used within this collaboration are strikingly similar to the OMC toolbox (even if the HTA has a clearly narrower focus in terms of substance). The (simplified) step-by-step development of HTA33 (see Box 8.3) – which started off as a political process and was ultimately inserted in the EU Patients’ Rights Directive – not only illustrates how ‘soft’ governance is consequently translated into ‘hard’ EU law. It also illustrates how ‘hard’ law ultimately reverts to ‘soft’ governance for its actual implementation. This ‘soft-to-hard-to-soft’ development clearly shows that the ‘interaction’

---

33 For a further discussion, see Baeten and Palm (2013).
between law and policy in the European health care arena is developing into a ‘hybridization’ of instruments.

**Box 8.3 Health technology assessment as an example of EU’s ‘soft-to-hard-to-soft’ governance**

The term Health Technology Assessment describes a ‘multidisciplinary process that summarizes information about the medical, social, economic, and ethical issues related to the use of health technology’. Its aim is to inform and thereby contribute to the formulation of safe, effective and patient focused health policies. Potential subjects of these assessments are for instance diagnostic and treatment methods, medical equipment, pharmaceuticals, rehabilitation and prevention methods or organizational and supportive systems within which health care is provided.

In 2004, as a result of the work of the High Level Group on Health Services and Medical Care, HTA was identified as a ‘a political priority’ by the Council and the Commission, who recognized ‘an urgent need for establishing a sustainable European network on HTA’. Thus, the European network for Health Technology Assessment (EUnetHTA) Project was set up under Danish leadership to create an effective and sustainable network for HTA across Europe that could contribute to HTAs in Member States by providing necessary information.

In the follow-up, the EUnetHTA Project became the EUnetHTA Collaboration in November 2008 – thereby deepening the degree of its formalization. Since 2010, activities are organized in the framework of the EUnetHTA Joint Action 2010–2012. The EUnetHTA now brings together government-appointed organizations from EU Member States, the European Economic Area (EEA) and the European Free Trade Association (EFTA) countries as well as regional agencies and non-profit organizations that are involved in the field of HTA with the overall aim to, ‘facilitate efficient use of resources available for HTA, to create a sustainable system of HTA knowledge sharing, and to promote good practise in HTA methods and processes’. To achieve these aims, the EUnetHTA uses many instruments that can also regularly be found in other new governance mechanisms as for instance the creation of a database on HTA, the guarantee of common standards and the involvement of all relevant stakeholders.

Most recently, Article 15 of the Directive on the application of patients’ rights in cross-border health care identifies HTA as an area where ‘The Union shall support and facilitate cooperation and the exchange of scientific information among Member States within a voluntary network connecting national authorities or bodies responsible for health technology assessment designated by the Member States’. Note the striking similarity between the language used to describe the aims, activities and tools of HTA coordination and OMC jargon.

**8.4.3 ‘Soft’ governance and the Court of Justice of the EU**

A final illustration of the OMC’s significance at the EU level is more cautious. Hervey (provocatively) examines adjudicating by the Court of Justice of the EU ‘in the shadow of the

---

36 For more information about EUnethta, see the website of the EUnetHTA Joint Action <www.eunethta.net/> accessed 4 November 2011.
informal settlement’ (Hervey, 2010), thereby inverting the idea of ‘bargaining in the shadow of the law’38. In her analysis, Hervey shows how new governance can cast a shadow over adjudication processes and influences the CJEU’s way to frame and solve problems as well as its reasoning by taking account of and learn from the ideas and concepts that are developed and spread within the informal settings. Even though the concrete case studies do not directly deal with the Social OMC (they relate to the European Employment Strategy (EES) and the Bologna Process on Higher Education) the findings are highly relevant for our study. Indeed, they do not only indicate the mere possibility that the CJEU would take elements of new governance into consideration, but take this one step further by illustrating that this kind of spill-over is happening already.

Furthermore, Hervey argues that the soft norms that develop within the new governance frameworks form part of the interpretation of the Treaties, which the Court in turn has to apply in its ruling. In the field of health services, positions that are developed within the framework of informal settings that deal with possible reasons to justify a restriction of the right of free movement of services have to be taken into account by the CJEU when it interprets Article 56 Treaty on the Functioning of the European Union (TFEU) (Hervey, 2010). In any case, it seems that the Court is no more blind to governance measures than it is to legislation or proposed legislation: it will increasingly be inspired by the outcomes of the governance process in its judgements. More particularly when it comes to the question of proportionality, as well as when the Court has to interpret difficult notions such as ‘undue delays’, ‘solidarity’ or a definition of ‘public interest’ in the context of cross-border health care services. Unsurprisingly then, legal scholars like Dawson conclude that ‘the political nature of processes such as the OMC – which allow governments to multilaterally defend and review important social policy objectives – may offer the European Courts a useful source of information and legitimacy in determining where the boundaries between the internal market and national welfare states really lie’ (Dawson, 2011)39.

This said, the potential influence of the Social OMC through the erga omnes effect of CJEU rulings should not be overstated: even if it is true that all Member States would be indirectly influenced by (preliminary or non-compliance) rulings taking into account elements of the OMC, scholars like Obermaier who assess the impact of the (then still) ECJ rulings on domestic social policy, conclude that the impact of these rulings is far less potent than previously thought (Obermaier, 2009).

38 The concept of a ‘shadow of hierarchy’ (see Mayntz and Scharpf, 1995) is used to describe governance settings where the threat of a direct state intervention (understood as the introduction of binding rules) leads to the adoption of voluntary agreements. The main idea is that informal settings are most likely to be effective when a strong hierarchy is looming in the background. Such a ‘shadow of hierarchy’ provides a crucial incentive for both governments and non-state actors to take non-hierarchical rulemaking and/or service provision seriously. Since self-regulation allows for greater flexibility, the involved actors can influence the policy outcomes. For a more detailed account on the impact of the ‘shadow of hierarchy’ in governance settings without government, see for example Börzel and Risse (2010)
39 And see Baeten et al. (2010) for a discussion of how Member States creatively adapt their domestic legislation in the shadow of patient mobility case law.
In sum, when compared to the somehow disappointing results regarding the (lack of) impact of the health care OMC at the domestic level, this section provided some arguments as to why the health care OMC should not be discarded too easily: at the EU level, this process has some significance, first, as a template for EU ‘soft law’ mechanisms in health, and second as the centre of various interactions between policy and law. Note that both at the domestic and EU level the impact of the health care OMC is largely of a procedural nature, while so far (almost) no firm evidence of substantial impact (influence on policy contents) could be provided. The next section addresses the question why this is so.

8.5 Explaining limited substantive impact: lack of ownership and actor rivalry?

Section three made it crystal clear that OMC in health care is by no means shaking domestic social policy-making and there is no convincing evidence that actors in health care policy consider the OMC as an important, or even useful, tool in domestic policy-making, as opposed to the Social Inclusion or Pensions strands of the Social OMC. Therefore this section tries to find some explanations for the limited impact of the OMC in this policy field.

8.5.1 Ownership of a closed shop

Earlier research on the effectiveness of the OMC has clearly highlighted ‘leverage’ as an important mechanism for any OMC to have an impact (or in other words to produce effects on the ground). Indeed, only when an OMC instrument is being ‘creatively used’ by actors to pursue their goals, one can expect it to have an effect. This section therefore examines stakeholder participation within the health care strand of the Social OMC focusing, again on Belgium as our main case study. It is clear from the stylized description in section three that the Belgian NSR-process in health care is by and large a ‘closed shop’ which only involves administrations of the different levels of government. Political actors come in only at a very late stage, when the NSR is formally adopted at an ‘Inter-Ministerial Conference’ (IMC). Some of the most important actors in health care policy-making, such as the mutual funds and health professionals, are not involved. Writing about the health care OMC, Dawson equally finds that the method generally relies on those already within the ‘inner circle’ of ‘Europeanized’ participants; pointing again to the finding that there is little evidence of the multiplication or ‘broadening’ of accountable actors (Dawson, 2009). This low level of stakeholder involvement in the health care strand clearly contrasts with the writing of the Social Inclusion section of the

---

40 See for example Hamel and Vanhercke, 2008 for a discussion of the different usages of the Social Inclusion OMC. B. Vanhercke explains how, against the odds, the Pensions OMC became a selective amplifier for reforming Belgian pension policies (see Vanhercke, 2009).

41 For a detailed account on the importance of leverage as a mechanism to explain the OMC’s impact as well as for an argument to distinguish between the ‘impact’ versus the ‘adequacy’ of the OMC, see Vanhercke (2010).
NSR (sometimes referred to as NAP/Incl), which has been opened up, step by step, to a wide range of actors in many Member States\textsuperscript{42}.

Note that one can find two (tiny) ‘holes’ in this ‘closed shop’ image of the health care OMC in Belgium. First, several drafts of the NSRs (including the health care chapter) are being proposed – by the representatives of the FPS Social Security – to the social partners in the context of the National Labour Council. But even though this procedure was confirmed by the representatives of both sides of industry during our interviews, both employer and employee representatives explained that these sessions involved nothing more than ‘information’, and could certainly not be seen as ‘participation’\textsuperscript{43}. Secondly, the main author of the health care chapter of the NSR explained that he presented a draft of this chapter to the ‘Actions’ Task Force\textsuperscript{44} in charge of the preparation of the National Action Plan on Social Inclusion\textsuperscript{45}, thereby ‘opening up’ the process, a (little) bit. Clearly, these nuances do not change the overall picture of the health care OMC as a well-kept secret. This gloomy picture is further confirmed by more specific questions in the aforementioned on-line survey: while Belgian policy-makers and stakeholders are in general rather familiar with the OMC features, our health care respondents seem to agree that most social policy-makers have not read the national strategic reports or the joint reports. The same is true for the aforementioned country profiles (which are part of the joint reports) and the supporting documents (\textit{Commission} staff working paper) produced by the European Commission, which are even less known. This raises obvious questions with regard to the ‘ownership’ of the health care strand of the Social OMC. The aforementioned Social OMC assessment confirms that the visibility and ownership of the health care strand is problematic in several (not to say all) Member States, including in France, the UK, Germany and Denmark.

It can thus be safely concluded that the potential of the health care OMC to produce widespread learning effects, or to lead to creative use of the OMC tools at the domestic level, is very weak. Furthermore, it became clear that actors within the field of the health care OMC were only partly informed about the process as such.

\textbf{8.5.2 Actor rivalry}

A second explanation for the limited impact of the OMC in health care is the very nature of health and health policies. Health is a horizontal issue that plays a role in many different aspects of daily life (nutrition and food safety, transport, working conditions, housing etc.). The European Commission has recognized that health is determined to a large extent by factors outside the


\textsuperscript{43} Interview with Senior Advisor, Federation of Belgian Enterprises (Brussels, Belgium, 30 November 2010); Interview with Advisor, Studies Department, Belgian General Federation of Labour (Brussels, Belgium, 9 December 2010).

\textsuperscript{44} This Task Force is presided by the federal ‘Social Integration’ administration. The Regional administrations are equal members of the Task Forces, together with a variety of stakeholders (service providers, NGOs, experts).

\textsuperscript{45} Interview with former Advisor in the Federal Public Service for Social Security (Brussels, Belgium, 2 December 2010).
health area (for example agriculture, education, and environment) and that effective health policy must thus involve all relevant policy areas. This can be seen in the EU’s Health in All Policies (HiAP)\(^{46}\) approach which is also identified as one of the four key principles in the EU Health Strategy 2008–2013\(^{47}\). This complexity makes health policy hard to influence \textit{in any case} (including through EU ‘soft law’). But there is more: the multifaceted nature of health policy makes this a governance territory where different actors from different policy fields try to influence decision-making through a variety of channels. The resulting actor rivalry exists simultaneously at different levels of governance.

At the \textit{broader EU level} different actors want to have a say when it comes to health care decisions. As Hervey and Vanhercke show, no less than five different sets of actors try to expand their influence on the EU health care debate: the ‘social affairs’, ‘internal market’, ‘public health’, ‘economic’ and ‘enterprise’ players. Together, they create a very crowded law and policy-making space to which actors bring their conflicting agendas and different understandings of health policies\(^{48}\). According to Greer and Vanhercke the variety of actors, concepts and agendas reduces the ‘effectiveness’ of this OMC strand, since it entails huge competition for time and political attention with other health policy issues and processes. An additional element is the European Commission’s internal divisions (including cleavages between DG Employment, Social Affairs and Inclusion on the one hand and DG Health and Consumers on the other), which allows the Council and national governments to reassert control\(^{49}\).

In other words: there is a clear lack of leadership in the European health care debate. De Ruijter and Hervey point out that even though health care policies remain on the EU agenda, it is due to this institutional fragmentation that health care is ‘side-lined from the OMC’ (de Ruijter and T.K. Hervey, 2012).

Actor rivalry does not only take place between actors from different policy fields (e.g. the EPSCO and ECOFIN Council formations), but can equally be found \textit{among the EU’s health care initiatives}. Apart from the OMC, there are several other fora (such as the recently revamped Working Party

\(^{46}\) The \textit{Health in all Policy} (HiAP) approach has been given a lot of attention while it figured as a major topic on the agenda of the Finish Presidency of the EU in 2005. The core of HiAP is to examine determinants of health that can be altered to improve health but are mainly controlled by the policies of sectors other than health. The core ideas and values of the HiAP approach of the EU is similar to \textit{The Health for All policy framework of the WHO} (see, for example: ‘The Health for All policy framework for the WHO European Region: 2005 update’ <www.euro.who.int/en/what-we-publish/abstracts/health-for-all-policy-framework-for-the-who-european-region-the-2005-update> accessed 4 November 2011).


\(^{48}\) Take for instance the ECOFIN Council Conclusion on health systems in the EU that was adopted in December 2010 and that is clearly driven by an economic approach towards health care: in its conclusion, the ECOFIN Council stresses the necessity to further enhance effectiveness within the health care systems of the Member States in view of the need to ensure long-term sustainability in public finances (Council of the European Union, 2010a).

\(^{49}\) Note that an inter-service group on public health was set up with the purpose to improve coordination on health within the different Commission departments. More than 20 departments are represented within this group that also has several thematic sub-groups, dealing with dynamic health systems, global health, health and environment and HIV/AIDS. For more information, see the website of DG SANCO: http://ec.europa.eu/health/health_policies/coordination/index_en.htm accessed 4 November 2011.
on Public Health at Senior Level\textsuperscript{50} and the European Health Care Policy Forum\textsuperscript{51}), which pursue their own interests and agendas. As a result, the health care OMC is merely ‘one of many’ instruments that are available (compare this to the area of Social Inclusion, where the OMC is clearly the leading governance tool at the EU level (Greer and Vanhercke, 2010).

Thirdly, actor rivalry also exists between the EU and other, international organizations that deal with health care, notably the World Health Organisation (WHO) and the OECD. While the WHO seeks to achieve ‘the attainment by all people of the highest possible level of health’ within the UN framework\textsuperscript{52}, the Organization for Economic Cooperation and Development (OECD) mainly provides comparative analyses on health care systems in industrialized countries. The latter has thereby acquired specific experience in the field of statistics and policy recommendations. Note that several of our interviewees in the health care strand referred to OECD data (instead of data obtained in the OMC framework), since these data have a longstanding tradition and are often more developed and detailed.

Apart from this longstanding OECD expertise (that somehow competes with the EU statistics in the field of health), the 2008 WHO’s declaration of the ‘Tallinn Charter: Health Systems for Health and Wealth’ provides another example for actor rivalry at international level. The Charter identifies common values and common health challenges in the European region in the context of demographic and epidemiological change, increasing socio-economic disparities and limited resources\textsuperscript{53}. States thus declare their commitment to act on seven different priorities (including to invest in health systems and related sectors, promote transparency, and make health systems more responsive to people’s needs). Note that ‘foster cross-country learning and cooperation on the design and implementation of health system reforms at national and sub-national level’ and ‘engage stakeholders in policy development and implementation’ are equally part of the commitment to act\textsuperscript{54}. The WHO will therefore provide cross-county coordination ‘including the measurement of performance and the exchange of experiences’ on these commitments\textsuperscript{55}. Furthermore, the Charter foresees the identification of objectives, which in turn should be specified in a measurable way to allow for explicit monitoring of progress\textsuperscript{56}. The Programme of the Tallinn Charter thus seems to almost reinvent the core features of the OMC, including

\textsuperscript{50} In June 2011 the Council of the European Union decided to ‘initiate a reflection process under the auspices of the Working Party on Public Health at Senior Level aiming to identify effective ways of investing in health, so as to pursue modern, responsive and sustainable health systems’. This sounds quite familiar to the mandate of the OMC in this policy field. The first report from the Working Party is expected by the end of 2012 (European Council, 2011).

\textsuperscript{51} The European Union Health Care Policy Forum is a stakeholder organization that hosts a diverse range of pan-European health NGOs as well as industry associations. Its stated aim is ‘to contribute to and advise on the development, implementation and evaluation of EU health-related policies and actions and to empower European citizens in health for life’. See European Commission (2009g: 3).

\textsuperscript{52} Constitution of the World Health Organization, Article 1.

\textsuperscript{53} See World Health Organization, The Tallinn Charter: Health Systems for Health and Wealth, Recitals 2 and 3 of the Preamble.

\textsuperscript{54} Ibid., p. 2 (Commitment to act (6)).

\textsuperscript{55} Ibid., p. 2 (Commitment to act (7)).

\textsuperscript{56} Ibid., p. 3 (Strengthening health systems: From values to action (12)).
common objectives, monitoring, learning and stakeholder involvement. The Tallinn Charter thereby represents another striking example of the density of actors and initiatives that seek to influence policies in this field.

### 8.6 Wrapping things up: ‘soft-to-hard-to-soft’ governance in the EU

Health is and will continue to be an area within which the competence of the EU institutions is highly constrained. This has been reconfirmed by the Treaty of Lisbon. At the same time, however, health is no longer a ‘non-topic’ for the EU, and neither the EU institutions, nor the governments of the Member States, can now retreat from that position. Indeed, (a) the longstanding political incapacity to adopt ‘positive’ legislation in health (with the key exception of the recent Patients’ Rights Directive); (b) an increasing impact of EU law on national health care systems; and (c) a divided policy space (with different sets of actors claiming a say in health care issues), have spurred consecutive rounds of EU policy initiatives (pressed for by domestic policy-makers), to deal with the unintended consequences. One of those initiatives has been the Open Method of Coordination.

In section three we saw that the health care OMC is by no means shaking domestic social policy-making. Even if many Belgian actors working in the areas of social inclusion and pensions do perceive the OMC as an increasingly important, and useful, tool in domestic policy-making (features of both, the social inclusion and pensions strand, are being picked up by a variety of actors and used to pursue their policy goals), there is no convincing evidence that this would be the case in the area of health care. Here the OMC remains a largely hidden process, only known to a very small circle of – mostly federal – civil servants. These findings were corroborated for a variety of other Member States. And yet we provided a few examples of needles in the haystack: we described prudent mirror effects (Belgium and Germany), discussed the added value of Peer Reviews, the contribution of the Social OMC to national steering capacity (e.g. use of data and indicators) and the plausibility of OMC influence on substantive issues such as quality in health care.

This relatively gloomy picture can, to a large extent, be explained by two (related) factors: weak ownership by stakeholders, and the fact that the health care policy arena is characterized by extensive actor rivalry. We described such rivalry, first, between different actors emanating from different policy fields (related to health policy); second, between actors and instruments within the health care arena; and third, at the international level, between the EU and other international organizations with a longstanding tradition in health care policy coordination. Nevertheless, one should not forget that this institutional fragmentation can at the same time also represent an opportunity. As de Ruijter and Hervey point out correctly, the diverging concepts and responsible actors in the field of health care also make different institutional routes available in case one becomes politically blocked (de Ruijter and Hervey, 2012).

---

57 See Article 168.7 TFEU: ‘Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them.’
In spite of its general uncomfortable institutional position (competing as it is with a variety of EU initiatives in this particular policy area) and the small substantive impact that it has exerted so far on national health policy, section four of this chapter shows that the OMC is increasingly seen as a template for EU health care governance. At the same time, there are indications that law and soft modes of health governance are increasingly interacting, as it is the case between the OMC and different financial instruments, especially the ESF. The influence of ‘soft’ governance on the adjudicating of the CJEU and the finding that the CJEU is sometimes inspired by the outcomes of ‘soft’ governance processes, are further examples of the interaction between law and policy in health. The ‘soft pockets’ in the new Patients’ Rights Directive as well as the ‘soft-to-hard-to-soft’ development of the HTA framework, point to the increasing hybridity of EU instruments in the field of health care. In turn this finding suggests a more nuanced discussion about ‘hard’ and ‘soft’ law in the EU, and more generally speaking also about ‘Social Europe’. In view of its multiple functions (supporting domestic reform, strengthening networks, shaping political consensus, influencing hard(er) modes of governance), it seems that the health care OMC is there to stay. More important than whether it will ‘survive’ is the question as to who will engage.

In other words, the crux of the matter is the following: it is not the ‘hardness’ or the ‘softness’ of the OMC that matters, but its capacity (or, as is the case in health, its failure) to stimulate creative appropriation and action by European, national and sub-national actors. This confirms Scott Greer’s observation that EU governance mechanisms, including those in the health care field, will continue to flourish only if they promote some kind of tangible benefit for participants, either involving learning or governance or both (Greer, 2011). Now that the contours of the reinvigorated Social OMC are becoming increasingly clear, it will be up to policy-makers and experts alike to make that happen in the Europe 2020 Strategy (SPC, 2011).

---

58 The Lisbon Treaty amends Article 152 EC, to further enhance (or possibly constrain) the Commission’s competence to encourage cooperation between the Member States in the public health field. This Commission-sponsored cooperation includes, ‘initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation’. See Article 168.2 TFEU.
Annex 1: Integrated Guideline 10 – Promoting social inclusion and combating poverty

The extension of employment opportunities is an essential aspect of Member States’ integrated strategies to prevent and reduce poverty and to promote full participation in society and economy. Appropriate use of the European Social Fund and other EU funds should be made to that end. Efforts should concentrate on ensuring equal opportunities, including thorough access for all to high quality, affordable, and sustainable services, in particular in the social field. Public services (including online services, in line with Guideline 4) play an important role in this respect. Member States should put in place effective anti-discrimination measures. Empowering people and promoting labour market participation for those furthest away from the labour market while preventing in-work poverty will help fight social exclusion. This would require enhancing social protection systems, lifelong learning and comprehensive active inclusion policies to create opportunities at different stages of people’s lives and shield them from the risk of exclusion, with special attention to women. Social protection systems, including pensions and access to healthcare, should be modernised and fully deployed to ensure adequate income support and services – thus providing social cohesion – whilst remaining financially sustainable and encouraging participation in society and in the labour market. Benefit systems should focus on ensuring income security during transitions and reducing poverty, in particular among groups most at risk from social exclusion, such as one-parent families, minorities including the Roma, people with disabilities, children and young people, elderly women and men, legal migrants and the homeless. Member States should also actively promote the social economy and social innovation in support of the most vulnerable. All measures should also aim at promoting gender equality. The EU headline target, on the basis of which Member States will set their national targets, taking into account their relative starting conditions and national circumstances, will aim at promoting social inclusion, in particular through the reduction of poverty by aiming to lift at least 20 million people out of the risk of poverty and exclusion.’

Source: Council of the European, 2010b (emphasis added).
References


de la Rosa, S. (2007), La Méthode Ouverte de Coordination dans le système juridique communautaire, Bruylant, Brussels.


Kröger, S. (ed.), 'What we have learnt: Advances, pitfalls and remaining questions of OMC research', European Integration online Papers (EIoP), Special Issue 1, Vol.13 (http://eiop.or.at/eiop/index.php/eiop/issue/view/21) accessed 4 November 2011.


Obermaier, A.J. (2009), The End of Territoriality? The Impact of ECJ Rulings on British, German and French Social Policy, Ashgate, Surrey.


UK Parliament (2004), 'Health Care and Long-Term Care', 32nd Report, 9 DOH (25576), House of Commons, European Scrutiny Committee.


CHAPTER 9

The European Social Fund and domestic activation policies: Europeanization mechanisms

Gert Verschraegen, Bart Vanhercke and Rika Verpoorten


Working with the European Social Fund has fundamentally changed people's minds about the activation of people who are really far from the labour market. Before the European Social Fund came into play, these people were simply considered as 'lost' (Interview Pcsa3). This claim by a former political advisor to the Belgian federal government is puzzling, to say the least. Is it really possible that the modest sums of money spent on activation policies in Belgium through the European Social Fund (ESF) could lead to such a cognitive shift? And why is this claim confirmed, with more or less the same wording, in interviews with experts working with the ESF at European, national, regional and local level (Interviews Agency/Fl1, Uvc/Wal, Pcsa1, Pcsa3, Min/Si2, Cec1, Agency/Fl2)? Taking this empirical puzzle as a starting point, this article will analyse in more detail what the ESF has meant for activation policies in Belgium and how this European policy instrument has been able to influence domestic policy-making at local, regional and national policy levels.

Starting as a retroactive instrument used by Member States to finance their vocational training programmes in the 1950s and 1960s, the ESF evolved into a more pro-active European

---

1 We are particularly grateful to Mieke Beckers for her help in preparing an earlier version of this paper and for assistance in carrying out most of the interviews. Our thanks also to Bert Boone, Geert Campaert, Paul de Beer, Annelies Debels, Josee Gorts, Anton Hemerijck, Johanne Poirier, Graham Room, Ludo Struyven, Marc van der Meer, Julien Van Geetsom, Minna Van Gerven, Lieven Van Wichelen, Jelle Visser, Nynke Wiekenkamp and two anonymous reviewers for their perceptive criticisms and helpful suggestions on earlier drafts. The usual disclaimer applies.

2 Gert Verschraegen took the lead for this co-authored piece, to which I provided the bulk of the empirical evidence (including through expert interview) and process tracing regarding the role of the Public Centres for Social Welfare in activating their clients (section 9.3). Building on earlier work on the OMC, I equally contributed substantially to section 9.4 on tracing mechanisms of change and the discussion (in section 9.5) of the wider theoretical and empirical implications of our findings. I continued working on the topic with Minna Van Gerven and Susanna Güroçak (Van Gerven et al. 2014) and Peña-Casas and Matthieu Paillet (Vanhercke et al., 2012b).

3 This article is based on work conducted within the framework of the research project ETOS.be, which was funded by the Belgian Science Policy Office. We equally thank the Shifts in Governance Programme of the Dutch Science Foundation (NWO) for its financial support.
employment policy instrument, closely coupled with the European Employment Strategy (EES)\(^4\) at the end of the 1990s.

In the current European Union (EU) employment governance setting, the ESF's principal objective is to provide financial support for actions taken within the framework of the EES so as to realize common objectives, such as raising employment rates, preventing long-term unemployment, and stimulating equal opportunities and labour-market inclusion for specific social groups (Brine, 2002; European Parliament and Council of the European Union, 2006; Kilpatrick, 2006).

Although the ESF currently constitutes an integral and crucial part of European employment policies, relatively few studies address the broader long-term domestic effects of the ESF or account for mechanisms generating specific domestic outcomes (for example, Bache, 2008; Graziano and Vink, 2007; López-Santana, 2009). This can partly be explained by the fact that the ESF is mostly dealt with in the broader framework of European cohesion policy, which made its activities less visible and harder to disentangle from those of the other Structural Funds. Within the social sciences, three major approaches can be schematically distinguished in the literature on the ESF. A first strand contains economic assessments using macro models to determine the effects of EU Structural Funds on growth, employment and the reduction of regional welfare differences (for example, Bachtler and Gorzelak, 2007; Boldrin and Canova, 2003; Ederveen et al., 2003). Yet, because the Structural Funds mainly focus on 'lesser developed' states (for example, Spain, Portugal and the central Eastern Europe (CEE) countries), these studies rarely refer to the older members. Furthermore, these macro-economic models have been criticized as being imprecise (Cappelen et al., 2003) and as providing insufficient insights into the actual workings of the Funds' interventions at the micro level (essentially the projects and instruments) (Ederveen et al., 2003; Hart, 2007). As already indicated, they also provide little information about the specific and separate effects of the ESF.

The second strand of literature has mainly been concerned with the role of the Structural Funds in the creation of a 'multi-level governance' system in the EU (Bache, 2007; Hooghe, 1996; Hooghe and Marks, 2001). As a matter of fact, the term ‘multi-level governance’ was first developed in the context of European cohesion policy, drawing attention to the fact that the Funds had offered considerable support for sub-national action (Allen, 2005; Marks, 1993). Yet, while this strand of literature provides a helpful insight into the redistribution of powers within Member States, it does not directly address the Europeanizing impact of the ESF on policy fields such as employment (see, however, Bache, 2008). The literature on multi-level governance focuses, moreover, on the interplay between the national and regional tiers and largely neglects the local policy levels.

\(^4\) The 1997 European Council of Luxembourg initiated the European Employment Strategy (EES), which can be considered as an Open Method of Coordination avant la lettre, using non-binding recommendations from the Council to Member States to coordinate national employment policies. Member States adopt employment guidelines (political priorities) and explain, through National Strategic Reports (NSR) how they will implement these guidelines domestically. The EES is supported by a Mutual Learning Programme.
A third strand of literature links the Structural Funds to liberal intergovernmental ideas of side-payments and package deals: the allocation of Structural Funds serves national commercial interests as they constitute the necessary spoonful of honey (or side payment) which enhances the credibility of interstate commitments with a view to larger EU compromises, for example, to smoothen the effects of enlargement, and secure the transition towards economic and monetary union (EMU) (Allan, 2005: 218; Bache, 2008: 48; Lange, 1993; Moravcsik, 1998: 272, 446). From this perspective, ‘the ESF is less an instrument of social and employment policy than a side payment to induce poorer Member States to accept deep economic integration’ (Majone, 2005: 190).

This article adopts a radically different perspective. Rather than focusing on the ‘macro’ effects, we try to understand the ‘micro’ mechanisms of one of the Structural Funds, that is, the ESF. We contend that the ESF is part and parcel of the EU employment governance toolkit and aim to understand how exactly it can ‘dynamise’ domestic policy networks. In our view, the ESF has influenced domestic policies through three different mechanisms. The most important mechanism is strategic ‘usage’ of the ESF by domestic actors. Usage refers to the transformation of EU resources into political practice with the intention of pursuing a specific goal: influencing a particular policy decision, increasing one’s capacity for action or one’s access to the political process (Erhel et al., 2005; Jacquot and Woll, 2003: 6).

A second mechanism is aid conditionality (Dobbin et al., 2007), by which we mean that the ESF can influence domestic policies through the different requirements that are imposed on those making use of their funds. A third mechanism that helps to explain how a rather small financial fund influences domestic policies, is learning (Visser, 2005; Zeitlin and Pochet, 2005), meaning that domestic actors change their policy orientations because of their participation in the ESF. In practice, the mechanisms we identify are sometimes intermingled, and at times the lines between them are blurred. Mostly, however, it is possible to empirically distinguish one mechanism (or sub-mechanism) from another.

We first discuss the analytical framework and the case of Belgium. We then shortly present an overview of data and methods and outline the main results of our empirical analysis. We will argue that over the last decade, the ESF has had a catalytic impact on activation policies in Belgium; first on the innovation of activation instruments, second on the governance of employment policies and third on shifts in policy framing. In the subsequent section, we explain how different mechanisms (leverage, conditionality and learning) generate these effects and how they can account for differential effects in different regions. We conclude by summarizing our framework, suggesting its usefulness for analysing other domestic settings and European instruments, and highlight some transnational implications of our analysis.

### 9.1 Case and analytical framework

For various reasons, Belgium is an interesting case for studying the operations and effects of the ESF on domestic activation policies. First, as in other western European countries, the focus of Belgian employment policy-making has shifted from employment protection to employment
promotion over the past 15 years; likewise there has been an expansion of active labour market programmes and a policy shift towards activating people outside the labour market, to increase not only macro and micro competitiveness but also stimulate social inclusion (for example, Marx, 2009; van Gerven and Beckers, 2009). This raises the question of the role the ESF has played in this evolution. Second, the development towards activating policies in Belgium has gone hand-in-hand with the increasing devolution of employment policies. Due to several state reforms over the past 30 years, employment policy has become a shared responsibility across the federal and various regional governments of the country, with the regions enjoying competences in employment policies that are more relevant to the ESF (that is, job search assistance), while the federal government ministers to the more ‘classic’ competences (that is, labour law and social security). Because of the existence of three powerful regional governments (Brussels, Flanders and Wallonia), alongside a federal government, Belgium can be regarded as a ‘laboratory’ to test the differential regional and federal impact of the ESF. The intricate and highly devolved structure of Belgian employment governance can serve as a substitute for transnational comparison.

To account for variation between the regions, this article will analyse how ESF funds have been appropriated differently by the various political and social actors in Belgium. Because we analyse both ESF funding managed by the national (federal) administration as well as ESF funding managed by the different regional governments, we can trace the differential effects of ESF money. As has already been indicated, ESF funding only makes up a small share of Belgian employment budgets. From 1990 to 2006, the allotted Belgian ESF budget more than doubled: from about 55 million European Currency Unit (ECU) (the ECU was a basket of the currencies of the European Community Member States used as the unit of account of the European Community before being replaced by the Euro on 1 January 1999, at parity) per year (1990–2) to more than €100 million per year for 2000–6. Yet the ESF only accounted for about 1.3 percent of the total public expenditure on employment measures between 2000 and 2005. The largest part of the Belgian ESF budget is granted to Flanders and Wallonia. For 2000–6, Flanders received approximately 48 percent and Wallonia 37 percent of this budget, while the remaining 15 percent was distributed between the federal level (9 percent), Brussels (3 percent) and the German-speaking Community (1 percent) (Commission of the European Community and Belgian Federal Government, 2000). When only preventive measures are taken into account, the Fund accounts for approximately 4.5 percent of total public expenditure. Figure 9.1 shows that on the regional level, this varies between 3 percent (Brussels) and 6 percent (Flanders). Because the Belgian Federal government has little competences with regard to activation policies, their ESF money flows almost entirely to local ‘Public Centers for Social Assistance’.

---

5 These preventive labour market measures include: (1) individual action plans for job seekers, (2) vocational training, (3) job incentives, (4) labour market integration of the disabled, (5) direct job creation and (6) incentives to stimulate business creation. (Eurostat (2006) LMP Database, www.employment.belgium.be/WorkArea/showcontent.aspx?id=12862).
The European Social Fund and domestic activation policies

Figure 9.1 The ESF budget for active labour market measures compared to regional expenditures on active labour market measures (in %, 2006).

ESF budget for active labour market measures includes measures on ‘availability’ and ‘entrepreneurship’ (Flanders); ‘preventive labour market policy’, ‘labour market integration’ and ‘labour market counselling’ (Wallonia); ‘social inclusion and prevention of unemployment’ (Brussels).


As the ESF operates at different levels of government and supplements domestic spending, it is not self-evident to assess its ‘net impact’ or distinguish the extent to which ESF interventions have driven policy initiatives or played a catalytic role in domestic labour-market interventions. To differentiate analytically between the role of domestic policy-making and EU policies, we make careful use of ‘process tracing’ or a causal reconstruction that seeks to identify the different mechanisms through which the ESF produces differential outcomes in the three Belgian regions. According to the literature, analyses of mechanisms produce deeper causal knowledge of social processes and their interrelations (Elster, 2007; Hedstrom and Swedberg, 1998; Mayntz, 2004). Social mechanisms are ‘causal generalizations about recurrent processes’ which seek to explain a given social phenomenon – a given event, structure, or development – by identifying the processes through which it is generated (Mayntz, 2004). The distinction between mechanisms and effects is thus helpful for framing our investigations analytically. The identification and clarification of social mechanisms explaining how the ESF produces different outcomes in different regional contexts helps us better understand why the ESF creates such
substantial effects and how different political actors at different policy levels intervene in this process.

9.2 Data and methods

The primary data for this case study are semi-structured interviews with 28 key policy experts involved in (national, regional and local) ESF management in Belgium and at the EU level. They were selected through a so-called snowball procedure, either because of their (leading) function, or because they were considered important players by their peers (see Annex 1 for more details on interviewees).

Other data were collected or re-analysed to corroborate and help interpret interview data. We analysed a range of official documents (parliamentary proceedings, reports of the Court of Auditors and so on), evaluation studies at both the European and national levels, assessments of the consecutive ESF programmes drawn up by universities and consultancy firms, as well as administrative data on the activation of minimum income beneficiaries through ESF resources. Triangulating sources helps mitigate the limitations of reliance on individual sources.

Where it concerns the timeframe of our inquiries, we started our analysis in 1988, because that year witnessed a major restructuring of the ESF: an agreement was struck to double its financial resources (by 1993), specific objectives were assigned to the ESF, and the core principles of programming, concentration and partnership were added to the additionality requirement (Council of the European Union, 1988a and b). As we will demonstrate, these principles are all key factors in explaining the ESF’s influence and in the operation of the mechanisms we identify.

Some reasons accounting for the ESF’s ability to enact change include the policy framework directly imposed upon the Member States through the ESF and general Structural Funds regulations. Others can only be explained by the strong link between the ESF and the EES. Although the ESF differs significantly from the EES in terms of its legal status, procedures and governance, the Structural Funds reform of 1999 codified an important functional relationship between these two instruments (Hartwig, 2007: 122–3). The ESF regulation of 1999 stipulates that the Fund should support policy measures of the Member States that are in line with the EES (European Parliament and Council of the European Union, 1999). Furthermore, the plans drawn up by the Member States in the context of the ESF are evaluated by the Commission ‘in the light of consistency of the measures envisaged with the national plan for implementing the European employment strategy’ (Council of the European Union, 1999: Art. 15 §3). The 2006 regulation on the ESF for the current programming period (2007–13) adopts an even more tailored approach to use of the ESF to achieve EES-objectives (Kilpatrick, 2006). None of the other Open Methods

---

6 The 28 interviews we mainly draw upon are directly concerned with the ESF. For corroboration and inspiration, however, we also made use of a broader set of about 100 interviews which were conducted in the framework of the ETOS-research project (cf. note 1).

7 The Member States are required to ensure that ‘the actions supported by the ESF are consistent with and contribute to actions undertaken in pursuance of the EES’ (European Parliament and Council of the European Union, 2006: Art. 4). In addition, Member States shall ‘concentrate support, where the ESF can contribute to
of Coordination (OMC) have such a strong link to the ESF. In our analysis we aim to disentangle the effects of the EES and the ESF through the mechanism of conditionality. We will argue that the requirement to spend ESF-money according to the EES framework has not only reinforced the latter, it has also given the ESF a new legitimacy and relevance.

9.3 The impact of the ESF on local and regional activation policies: reviewing the empirical evidence

In recent decades, the ESF has supported very broad and diverse interventions in Belgian domestic employment policy. In partnership with various levels of government, it has channelled its support into strategic long-term programmes (implemented through myriads of projects) in order to advance the modernization of the labour market and the employability of the workforce. The heterogeneous, long-term and programme-based nature of the ESF makes it difficult to assess ESF interventions separately, or to evaluate their short-term impact. The research challenge is therefore to look for broader and long-term influences of the ESF on local, regional and national policy dynamics. We discuss three types of impact (on innovation, governance and policy-framing). The next section will then explain the mechanisms through which these different effects have been generated.

9.3.1 Driving innovation in activation instruments

First, the ESF has stimulated innovation in the instrumentation of Belgian active labour market policies, in Flanders, Wallonia and Brussels. It inspired the use of specific methods for labour market counselling and career guidance. Although similar forms of counselling for the unemployed already existed in Belgium, the ESF introduced fundamental reforms to these services. For instance, counselling for young job seekers was previously voluntary, but under ESF impetus it became compulsory for all job seekers after 6 months of unemployment (Interview Pes/Fl). Furthermore, there was wide agreement among our Flemish and Walloon expert interviewees that the ESF was a key factor in introducing the modular structure of career market guidance, which divides the job-seeking process into different subsequent actions, including intake interviews, vocational training, on-the-job guidance and personal training. This process is adapted to the needs and wishes of the unemployed in order to improve their prospects for successful labour market entry (Commission of the European Community and Flemish Government, 2000; Commission of the European Community et al., 2000). The ESF also improved the practical toolkit for improving the skills of the workforce through education and training. Examples include the introduction of vouchers to finance training and the establishment of specialized training centres both for employees and unemployed persons (in policies, on the implementation of the relevant employment recommendations made under Article 128(4) of the Treaty and of the relevant employment-related objectives of the Community in the fields of social inclusion, education, and training).

8 It can be noted that the ESF Regulation for the 2007–13 programming period also links the ESF to the OMC on Social Protection and Social Inclusion (European Parliament and Council of the European Union, 2006), but this recent programming period is outside the scope of our research.
Wallonia the Competence Centres were given a huge boost by ESF funding) (Interview Permrep/Wal, Pes/Br1, Cec1, Agency/F1, Pes/F1, Agency/F12, Min/F12, Agency/Wal).

Similar innovations in the toolkit of activation policy can be found at the local level. For instance, methodological tools specifically aimed at the socially excluded (people living on a minimum income) were developed through ESF projects. These tools, which were built on pre-existing ad hoc practices, mainly aimed at providing training (including in basic skills). They were widely distributed among hundreds of local Public Centres for Social Assistance (PCSA), where they found fertile ground because the existing employment training services at the end of the 1980s were not adapted to the specific needs of those who were (really) far from the labour market. Some of our interviewees also pointed to ESF-induced working methods such as working with groups of welfare clients, as opposed to the long-standing tradition of considering the guidance of social assistance clients as 'individual' work (Pcsa3, Agency/Wal).

A second category of ESF innovation is the introduction of quantitative monitoring and the evaluation of labour market policies in the three regions. As different levels of government have to account for their use of funds, the ESF has encouraged the institutionalization of monitoring systems and evaluation tools (Council of the European Union, 1999: art. 40; interviews Permrep/Wal, Cec1, Pes/F1, Agency/F2). The strict requirements for evaluating national programmes financed by the ESF have accelerated the introduction and use of quantitative objectives, indicators and benchmarks to measure the evolution and performance of labour market and ESF-related projects. As one key expert puts it: ‘without the direction of the ESF, the creation of the Brussels Observatory for the Labour Market and Qualifications would have been unthinkable’ (Interview Pes/Br1).

In sum, the ESF seems to have provided a ‘creative margin’ for experimentation and innovation of Belgian labour market policies (LMP), especially during the 1990s. An ESF programme manager contends: ‘the ESF creates an additional policy space. Through working with projects, and not structural funding, you can develop new things, experiments, in the shadow of ministerial or government policies’ (Interview Agency/F2). Another interviewee referred to the ESF as ‘our daily vitamin cure’ (Interview Pcsa1). This said, one should not idealize the ‘innovative’ character of ESF projects: both evaluation reports and our interviewees confirmed that in practice a part of ESF funding ends up being ‘structural’ funding, that is, it is used to finance mainstream (already planned) initiatives.

9.3.2 Effects on the governance of employment policies

The ESF has, moreover, affected domestic activating policies in Belgium by altering the institutional configuration or the field of actors involved in the preparation and implementation of those policies. As previous research on the domestic effects of EU cohesion policy has shown (for example, Bache, 2007), Europeanization can transform domestic governance by fostering cooperation between actors at different levels of government and between the public and private sectors. Our analysis shows that working with the ESF has had various effects on the territorial restructuring and governance of domestic Belgian employment policies.
First, there is extensive evidence that the ESF has stimulated governments to collaborate both with each other and with external partners (non-profit organizations, trade unions and private employment agencies) for the development and implementation of ESF projects (Nicaise, 1995). More generally, these partnerships have encouraged the greater involvement of non-state actors in employment policy and stimulated partnerships between public and private actors. This effect is clearly the strongest in Flanders, where ESF support has in some cases led to the launch of consortia: structured forms of cooperation between different actors to improve the services offered to jobseekers (Interview Agency/Fl2). In Brussels, the collaboration between the public employment service (ACTIRIS) and more than 100 non-profit-making associations, public centres for social assistance and so on, is supported by an ESF-funded database where reliable information on the career path of a job seeker can be consulted by all actors involved (Interview Pes/Br1). The Brussels public employment service furthermore seized the ESF to set up collaboration between different regional actors with a view to increasing the availability of childcare. This is quite striking because organizing childcare is a jealously guarded competence of the (linguistic) Communities in Belgium, and not of the (territorial) regions. In Wallonia, ESF funding has remained to a much larger extent a ‘closed shop’ for public authorities, so that initiatives to strengthen collaboration are often restricted to these institutions (Interviews Agency/Wal, Uvc/Wal).

The ESF’s push for cooperation is also tangible at the local level: there has been a slow but certain trend towards more formalized cooperation amongst (smaller) Public Centres for Social Assistance, and between the PCSA and other local actors (Cap Gemini, 2003). Our interviewees confirmed that working with the ESF enabled the PCSA to strengthen their institutional position at the local level through such new forms of cooperation. In part these innovations were introduced by Art. 6 of the ESF regulation (European Parliament and Council of the European Union, 1999), which seeks to stimulate innovative partnership-based local projects involving cross-level (for example, regional–provincial or regional–municipal) cooperation (Ferrera, 2005: 190). Finally it should be noted that via the ESF, international partnerships have also been stimulated, which offer important opportunities to look beyond the borders of Belgian LMPs and beyond the existing regulations and laws (European Parliament and Council of the European Union, 2006: Art. 3 §6)9.

A rather ambitious attempt to stimulate cooperation between the regions was the ESF-NAP Impact Assessment Cell (ENIAC), which was created in 2000 and financed by the ESF. According to a cooperation agreement between the various government levels, the new institution was designed to: (1) analyse the impact of the EES and the ESF on the Belgian LMPs; (2) support the follow-up of the implementation of the employment guidelines (which was perceived as problematic by the European Commission); (3) enhance the coordination of the NAP by supervising the coherence of the regional contributions (ESF-NAP Impact Assessment Cell, 2006). So on paper Belgium had a joint strategic management structure to coordinate the implementation of the ESF and the National Action Plans for Employment (Hartwig, 2002). The

---

9 For example, a Swedish–Belgian collaboration resulted in the introduction of an annual publication of gender statistics. Other examples include the Walloon job clubs and experience certificates (Interview Pes/Fl, Agency/Fl2, Agency/Wal).
European Commission, which took the initiative of creating ENIAC, saw it as a ‘best practice’ and referred to it as such on many occasions (Interviews Min/Empl, Cec3).

In practice, however, ENIAC faced multiple obstacles, including a very complex organizational structure and the perception that the objectives of ENIAC ran counter to the shift towards increased regional autonomy in Belgium: the regional entities saw the tool as a kind of supervision and were hostile to any attempt at ‘coordination’ by the federal level. For these reasons ENIAC could not fulfil its role as a policy evaluator, and the structure was abandoned after 3 years. Remarkably, however, ENIAC continues to exist in practice: the regional experts who were involved in the initial ENIAC structure continue to meet on a regular basis so as to continue the work on the common set of labour market indicators that was developed between 2000 and 2003. As one knowledgeable expert put it ‘ENIAC is dead, long live ENIAC’ (Interview Pes/Brü1). In the absence of the shadow of the federal level ‘controlling’ the work of the Regions, they coordinate their own work, be it on a purely informal basis and with the (smallest) Region, Brussels Capital, in charge of organizing agendas and meetings.

A second ‘governance’ effect is the result of the public tendering procedures used by public employment agencies when granting ESF funding. As such, non-governmental organizations (NGOs), trade unions and private employment agencies can enrol in ESF tendering rounds (Interviews Pes/Brü1, Pes/Fl, Agency/Fl2, Min/Fl2, Agency/Wal). As a result of this, greater discipline and transparency were introduced into the system of award funding. This is because service providers (social partners, NGOs and so on) that want to spend European money must comply with the public procurement requirements. The system of tendering is now being used in the three regions in Belgium. Many of our interviewees agree that this has raised the quality of the provision of services (Interviews Agency/Fl2, Agency/Wal, Cec1).

Third, through the ESF, sub-national governments were, for the first time, given a formal role in the EC policy process. Until 1989, national governments had dominated both EC-level negotiations and the domestic implementation process. As indicated in the literature on multi-level governance, the ESF structure and procedures were instrumental in loosening the monopoly position of central governments and in creating a system of non-hierarchical governance in which sub-national authorities no longer had to channel all their claims through central authorities (Hooghe and Marks, 2001). Consequently, the ESF has been perceived as an instrument whose purpose is ‘not just to improve the efficiency of regional policy, but to give it features specifically designed to penetrate national policy processes’ (Allen, 2005). Moreover, through the decentralized administration of the ESF, regional bodies assumed a greater role in the administration and implementation of the programme (for example, designing their own ESF programmes). Different respondents confirmed that, by offering substantial funding for sub-national policies and providing multi-level decision-making channels, the ESF has acknowledged and reinforced the employment competences of regional actors and contributed to the development of regional employment policy frameworks in Belgium (Interviews Pes/Fl, Min/Si1).
9.3.3 Shifts in policy framing

As the main financial tool translating strategic employment goals into concrete action, the ESF has functioned as a driver of ‘policy shifts’ by helping to implement new policy concepts in the national, regional and local LMPs. According to some interviewees, a by-product of this dynamic is the maturation of ‘a European state of mind’ with regard to employment and LMPs (Interviews Pes/FI, Agency/Wal). Yet as we will see below, this does not happen ‘automatically’: although governments have to adapt their policies to fit into the ESF framework, they also use ESF funding as a source of legitimacy for new policy directions.

The most important example of the impact of the ESF on the cognitive and normative framing of the Belgian LMPs can be found in the shift towards preventive and active LMPs throughout the 1990s; for it was the ESF that, in the early 1990s, directed its focus toward the prevention of long-term unemployment, while most governments and public employment services were still concentrating on reactive measures. Moreover, while domestic LMPs used to focus on high unemployment, the ESF stimulated a shift towards focusing on low employment. It did so by financing projects on education and training both for the unemployed and employees in certain economic sectors, in order to prevent them from becoming long-term unemployed.

The shift towards activation has without doubt been most tangible at the local level. As highlighted in the introduction to this article, many professionals working in the municipal Public Centres for Social Assistance consider that working with the ESF fundamentally changed their cognitive and normative ideas about the activation of people who are far from the labour market. This is not to say that these PCSA did not have the legal potential to pursue activating policies before the ESF came into the picture (in 1988)\(^1\). In practice, however, the activating potential of the law was not exploited on a large scale by the PCSA well into the 1980s. And when welfare clients were activated, this was largely focused on their reintegration into social security rather than into the labour market (Bodart and Nicaise, 2005:10–11).

This passive approach towards welfare beneficiaries can only be understood by considering the broader socio-economic situation at the time. Some of our interviewees explained that in the midst of the severe economic crisis of the 1980s, there were already so many ‘unusual’ unemployed persons (that is, with decent qualifications and work experience) that persons belonging to ‘target groups’ (for example people living on minimum benefits, low-skilled people and so on) were simply not taken into consideration as ‘potential’ for the labour market by employers and the regional public employment services alike. For this reason the latter institutions (VDAB in Flanders, FOREM in Wallonia and ORBeM in Brussels\(^1\)) would not even list these ‘difficult’ groups as job seekers. This situation changed dramatically with the arrival of ESF resources at the local level: hundreds of ESF projects were set up by the PCSA during the

---

\(^1\) In fact, Article 60 §7 of the 1976 law establishing the PCSA gave these centres the possibility of guiding their clients towards the labour market; either indirectly, by offering them education and training; or directly, by employing their social assistance clients within their own service or ‘detach’ them to a social enterprise.

\(^1\) Vlaamse Dienst voor Arbeidsbemiddeling (VDAB), Office communautaire et régional de la formation professionnelle et de l’emploi (FOREM), Office Régional Bruxellois de l’Emploi (ORBeM, now called ACTIRIS).
1990s, leading to a sharp increase in the number of participants in training programmes. As the first evaluations of these ESF programmes showed that the majority of people activated through this kind of scheme were still active on the labour market 2 years after their training (Bodart and Nicaise, 2005:11), the activation of people who are far from the labour market became to be considered not only as a feasible but also as a desirable policy practice, at least in Flanders. In Brussels and Wallonia actors remained, and still remain, far more sceptical (Interviews Pes/Fl, Agency/Wal, Permrep/Fl), partly in view of the different labour market situation.

A second shift in policy framing where the ESF had an additional and catalytic role is in the increased tailoring of the Belgian LMPs to the needs of specific target groups, such as women, the handicapped and migrants. The target group focus was seen – in the three regions – as an essential part of the ESF programme and as a precondition for granting financial assistance to the Member States (Appeltans, 2004; Commission of the European Community and Flemish Government, 2000; Commission of the European Community et al., 2000). By providing funding for projects that promote equal access to the labour market for targeted social groups the ESF has helped in refocusing labour market policies towards vulnerable social groups. Evaluation studies indeed show that certain target groups (including youngsters, migrants and people with low educational levels) are overrepresented in ESF-financed labour market guidance programmes in Flanders (Bollens et al., 2005).

9.4 Tracing mechanisms of change and explaining regional differences

How is it that the ESF can have such diverse and significant effects (driving innovations in activation instruments, changing employment governance and inducing shifts in policy framing), notwithstanding its limited financial weight? And why do these effects differ between regional entities within a single country? Both questions can only be answered by unravelling the precise mechanisms through which the ESF impacts upon activation policies at local, regional and national policy levels. As already indicated, we distinguish between three such mechanisms: leverage, conditionality and learning.

9.4.1 The leverage effect

In our view, usage provides the first key to understanding the differential effects. Indeed, the empirical evidence shows that innovation and an increased focus on activation were not initiated by the ESF, but rather by policy entrepreneurs at the national, regional and local level. These actors actively used the ESF, alongside other, domestic, instruments at their disposal, including national and regional financial instruments, legislation and expert groups. ESF funding did not put activation on the political agenda by itself: it is the fact that a variety of actors has appropriated the instrument to further their own political agendas, which ensured that the activation debate penetrated considerably faster to a variety of national, local and regional actors. In other words: the ESF served as a selective amplifier (Visser, 2005) for activation policies. Four concrete examples may illustrate this point.
A first example shows how the ESF was used to circumvent a situation of political stalemate. The former Secretary of State for social integration explains that in the midst of the economic crisis and stringent budgetary policies of the 1980s, the Public Centres for Social Assistance had been given important additional tasks (including dealing with the new phenomenon of political refugees) while being confronted with compelling scientific evidence that ‘work’ was the best way out of poverty for their clients. Thus, there was an ‘objective need’ to give them additional resources (interview Mincab1). But the only argument that would have been able to convince the then liberal Treasury Minister (Guy Verhofstadt) to free scarce resources, namely using additional resources for activating minimum income beneficiaries, was vetoed by another powerful coalition partner in the federal government. Indeed, for the French-speaking social democrats (Parti Socialiste) strengthening activation obligations of people who depend on social assistance was unacceptable, since this would also involve sanctions in case of non-compliance. In this political labyrinth the ESF, in the words of the former State Secretary, ‘became available precisely at the right time’: since neither issuing new legislation on activation nor obtaining additional domestic financial resources were possible, the ESF made it possible to circumvent the political stalemate at the national level by attracting EU funding while pushing activation policies directly at the local level (Interviews Mincab1, Mincab2).

A second example that can be seen as ESF leverage concerns the strategic interpretation of the ESF’s policy goals (as initially formulated). More particularly, it is clear that a variety of actors at the regional, national and European level have been able to stretch the objectives of this labour market fund to use it, for more than two decades, for setting up projects that were principally aimed at fighting social exclusion. In spite of the formal focus on labour market and economic development, those involved in the ESF at the European Commission, the Member States and subnational actors created sufficient room for manoeuvre to implement a local ‘under the radar’ social inclusion policy. As a former Head of Unit in the European Commission explained: ‘we and everybody else cheated and used it as a social inclusion strategy. But we could not draft legislation that said that’12 (Interview Cec1).

A third example of leverage concerns the use of partnerships at local level. In the context of the ESF, the partnership principle requires national governments to cooperate with actors at the regional, local and supranational (European Commission) level for the preparation and the implementation of ESF programmes. Over time the Commission pushed for and secured agreement on a greater role in the partnership for non-state actors (Bache, 2008: 24). As a result, the local Public Centres considerably increased their chances of getting an ESF project approved if they drew up partnerships: either with other Public Centres and public employment agencies; or with non-state actors such as employer’s organizations, trade unions and social NGOs (Service Public de Programmation Intégration Sociale, 2007).

A last example of leverage is planning: being involved in ESF procedures commits authorities to spending priorities for a seven-year period (the duration of a typical ESF programming period).

12 The EU’s competence in the field of poverty is strictly limited to coordination of policies, with the explicit exclusion of any harmonization measures.
This obviously stretches beyond the duration of any local or regional legislature (typically 5 years) and:

forces people into medium-term planning in terms of action and financing, which is a hugely important discipline even for countries like Belgium, the Netherlands and France. ... This is fundamental in the area of social inclusion, because you will never get any finance minister to commit money seven years ahead for projects in area of social inclusion without this kind of framework. (Interview Cec1)

In other words: by making use of the ESF's long-term time horizons, actors at different levels strategically obtained a budgetary commitment to activation policies for a much longer period of time than they experienced before. Other interviewees confirmed that they 'were used to working with a budget for one single year. Even though changes are noticeable in the political mentality, looking ahead remains difficult for the cabinet, since their reality ends at the next elections' (Interview Agency/FI2).

9.4.2 Conditioning financial support

As already discussed, ESF money needs to be spent on European Employment Strategy priorities. It is crucial to understand that the functional relationship between these EU instruments cannot be discarded as symbolic politics. The requirement that the EES objectives are taken on board in the ESF programming is strictly monitored by the Commission in order to ensure that the EES and the ESF can mutually reinforce each other. Thus, a former Head of Unit in the European Commission explains that:

the big change was in 1999, when all of a sudden the light bulb was switched on and people said 'shouldn't we be spending this money in order to achieve a political objective?' ... So we suddenly had a coherent Employment Strategy, we had a financial instrument of some size, and it became obvious that the two should actually reinforce each other. The EES has given a frame and the direction to the ESF, which has been hugely useful, essential really. The EES has legitimized the ESF in many respects, making it more visible and much more relevant.

(Interview Cec1)

In turn, the requirement to spend the ESF in the EES framework has also reinforced the latter: non-compliance with the EES objectives gives the European Commission real (as opposed to symbolic) powers to block unjustified ESF funding, as happened when several Member States tried to use the ESF to fund primary and secondary education (Interview Cec3). The Commission's strong influence has thus been important in establishing the functional relationship between the ESF and EES: although political actors within Member States predominantly accept the strategic coupling of both instruments, they try to appropriate ESF funds for their own political or administrative needs (cf. Hartwig, 2007: 137).

The requirement to spend ESF money on EES objectives results in relative concentration of spending efforts. In the case of the Public Centres for Social Assistance, for instance, the ‘tiny’ EU
funding constitutes a significant percentage (between 10 percent and 30 percent) of the activation budget of the participating Centres (Interviews Pcsa1, Pcsa2, Min/Si2). Moreover, in the developmental period of activation policies (at the end of the 1980s), this rather small ESF budget had a great importance. For many (smaller) PCSA, for instance, the availability of ESF funds meant the difference between having a social assistant to help welfare beneficiaries make their way onto the labour market, or not having personnel for this task at all. In other words: initially, the ESF resources were ‘all or nothing’ in terms of activation for small- and medium-sized Public Centres for Social Assistance. The concentration mechanism is also key in understanding the differences in ESF take-up between the Belgian regions: especially in the first decade of its operation the concentration of the federal ESF budget on labour market guidance was met with particular scepticism in Brussels and Wallonia, partly because of the much heavier socio-economic problems in those two regions as compared to Flanders. As a matter of fact, the effectiveness of investment in guidance towards the labour market was much higher in the latter region, mainly because of the lower rates of (long-term) employment (Cap Gemini, 2003).

Member States are not only required to concentrate ESF spending, they also have to take into account the additionality principle, which implies that (sub-)national governments are required to spend EU funds in addition to any planned expenditures. This principle, which was strongly reinforced by the Commission from 1988 onward (Bache, 2008:24) gave ample space for innovating activation policies through the PCSA: local governments allowed some ‘playing around’ with this money, which was sometimes considered as relatively ‘cheap’ (as half of it came from the EU). Moreover, the decision to commit ESF money to a new initiative can be made relatively quickly:

> When we want to try something new through the usual administrative and political channels, it takes three years before the law or decree is passed through Parliament. Thanks to ESF, we can try something out much faster without the necessity to create rules. Even if the ESF is very complex to manage, it is actually very supple if you want to launch something new. If it works well, we can always transpose it to a law or decree afterwards.

(Interview Agency/Wal)

The additionality principle aids understanding of the puzzling differences in ESF take-up between the regions. The simple economic reality is that Flemish local authorities had (and still have) far more domestic resources at their disposition than their Walloon or Brussels counterparts. For example, after the Saint-Catharina agreement in 1989, the Flemish communities and the PCSA received a bonus of 500 million Belgian franks (approximately €12.4 million) for projects aimed at combating poverty, integrating migrants (Vanhercke and Campaert, 2009; Vranken and Geldof, 1991), which enabled them to meet the EU’s additionality requirement much more easily.

There is a third condition for entitlement to ESF money: ‘sound financial management’. The Commission’s supervisory role implies that it must check whether the money is spent correctly, that is, the error rate of ESF projects may not exceed the 2 percent limit set by the European Court of Auditors. Although these controls contributed to pushing for greater transparency in
the financing structures of the partners involved in ESF projects, they are experienced as a (very) heavy burden. More generally, many of our respondents refer to the well-known administrative complexity of the ESF. A high-ranking Commission official even referred to it as ‘still complicated, still difficult, it’s frightening actually, you know, it’s just frightening’ (Interview Cec1). The burden of sound financial management becomes the more compelling if one takes into account that ESF money needs to be spent quickly: the notorious ‘n+2’ rule stipulates that money which has been assigned should be spent within 2 years, or it goes back to the EU. By contrast, the European Commission is far less interested in assessing whether the money is well spent in substantive terms. In a nutshell, it seems that the condition of sound financial management has led to a situation in which the requirements of correct (from an accounting point of view) and timely spending are considered more important than respecting substantive requirements.

This principle of ‘sound financial management’ has important implications for the varied take-up of the ESF: while the financial controls and continuing management problems of the federal ESF are seen as problematic in all three regions, the effect on non-take up is clearly more significant in Wallonia, where the intrinsic motivation to participate is already lower (see above). Hence the increasing gap between the percentage of PCSA participating in the ESF in Flanders, Wallonia and Brussels.

9.4.3 Varieties of policy learning

A final mechanism that helps to explain how a small financial fund still has significant effects is learning. Or, to be more precise, varieties of learning. Our empirical analysis suggests that at least three types of learning are promoted through the ESF.

First, all actors simply ‘learn’ how to use the ESF: they readjust their strategies, which enables them to pursue the same objectives in a new context. While discussing the leverage effect, we have already explained how national politicians and bureaucrats learned how to use the ESF and no longer see it as a threat. From this perspective one can understand why consecutive federal ministers for employment resisted strong pressure from the regions as well as the European Commission to transfer the remainder of the (tiny) federal ESF budget to the regions (Interview Cec3). This first type could be considered as a ‘thin’ (or strategic) learning type.

Our interviews also provided some (prudent) examples of mutual learning, namely learning through ‘a combination of enhanced awareness of different approaches and performance standards elsewhere on the one hand, and reflexive self-assessment, including improvements in institutional capacity for information gathering and monitoring on the other’ (Zeitlin and Pochet, 2005: 479). While mutual learning from other Member States is often quoted as an important added value of ESF involvement, learning about other Belgian practices is seen as even more important in the Public Centres for Social Assistance. Some PCSA assisted in sessions during which PCSA exchanged (good and bad) experiences, also across the language frontier in Belgium: ‘On several issues we learned from each other. Project Cycle Management, for example, is something our Walloon colleagues introduced before we did, and we fully copied it from them’ (Interview Agency/Fl2). In another example: ‘we learned a lot from the models used in Flanders
The European Social Fund and domestic activation policies concerning the social economy’ (Interview Agency/Wal). There are also illustrations of transnational learning, as was the case with the job clubs or the Flemish legislation on the local and neighbourhood services that drew directly from a foreign ESF project (Interview Agency/Fl2). In some cases foreign policies are examined during study-visits, which are described as an ‘eye-opener’, making actors reflect upon their own practices and ideas (Interview Agency/Fl2). Other interviewees confirmed that exposing local experience to others gives a clearer vision of one’s own practices through a ‘mirror effect’ (Hamel and Vanhercke, 2009).

The learning taking place between the Belgian Regions in the context of the ESF should not be idealized: there is no ‘structural’ exchange of ideas. As these exchanges take place in a purely informal setting they entirely depend on personal ties: ‘we used to inform each other about our activities, but we are in the dark about what Flanders or the German Community have been doing during the past programming period’ (Interview Agency/Wal). And yet there is a clear demand amongst many of our respondents to increase efforts with regard to a more structured exchange of information and experiences between the regions in the context of the ESF, on the condition that it is about learning, and not about ‘assessment’ or ‘coordination’.

A final sub-mechanism through which key actors change their goals and preferences is diffusion: unlike the two learning mechanisms described above, diffusion does not presuppose there are actors purposefully looking for ideas or solutions to problems they are faced with. It rather ‘happens’ because actors are influenced by ‘ways of doing things’. The most significant example of this is the ESF support for local labour market projects (see above), through which the idea of activation of welfare clients became generally accepted. While a small elite was already convinced of the value-added of activation, involvement in these ESF projects ensured that this conviction spread to a much broader circle of actors. Our interviewees refer to this in terms such as ‘trickling down of ideas’ and ‘changes in mentality’ (Interviews Pcsa1, Agency/Wal, Min/Fl1, Mincab2, Pcsa3). As a result it was not only accepted that people far from the labour market could be activated, but also that they should be. In other words: involvement in the ESF ultimately contributed to a shift in normative orientations of national and local policymakers about activation of welfare clients.

9.5 Conclusions

Our analysis has illustrated that even modest ESF funding can work as a driver of significant domestic policy shifts. In the case of Belgian domestic activation policies, as we have argued, the ESF has had a catalytic impact on the innovation of activation instruments, the governance of employment policies and on policy framing. We have clarified and explained these effects by tracing three different mechanisms through which the ESF operates. Arguably the most significant mechanism, namely usage, implies that the ESF does not work ‘by itself’; the effects we have identified are only possible because key policy entrepreneurs at different levels seized the window of opportunity and created leverage through the ESF, among others, by pressing governments into long-term commitments and setting up strategic partnerships. The fact that ESF spending has been made conditional is equally important, first by linking it to the
Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance

achievement of the EES objectives (concentration on labour market initiatives), second by requiring that EU funding is matched by domestic funding (additionality) and third through stringent financial controls. In addition, (mutual) learning experiences bring about cognitive and normative shifts in activation policies, including with regard to those who are far from the labour market. In a nutshell, the creative use of the highly constraining ESF framework has ensured that considerable EU and domestic resources are committed – for an unusually long time span – to a broad range of national, regional and local activation initiatives. Arguably these long-term effects go beyond the goals of the actors who initially shaped the ESF; over time, for instance, the objectives of this labour market fund have been stretched for setting up projects aimed at fighting poverty.

With regard to the regional comparison, our analysis has provided several explanations for the different impact and take-up of ESF resources between the Belgian regions: the Walloon and Brussels regions are faced with a much greater socio-economic problem than Flanders, they have less access to resources to match EU funding with an equivalent domestic counterpart, and they operate in a regional political context, which is not very favourable to the idea of activation. Finally, the practice of setting up partnerships with non-state actors is less developed in Wallonia and Brussels than in Flanders, where the monopoly of public employment services had already been breached at the beginning of the 1980s.

What are the implications of our analysis for further theoretical and empirical investigations? If the arguments presented in this article have merit, we think there are implications for first, multi-level governance research, second, comparative or transnational research on the ESF and third, research on broader EU employment governance.

A first set of implications concerns research on multilevel governance and Structural Funds. In line with the literature, we found that the partnership requirement of the ESF fed into pressures for regionalization in decentralized Member States such as Belgium (cf. Marks, 1996: 413). Yet, our findings also show that the ‘triad dynamic’ between regions, nations and the EU institutions (Bache, 2008: 167) is by no means a zero-sum game. At least in Belgium, the use of the ESF did not equal a decline in central state power (although it had a positive effect on the development of regional employment policy (cf. pp.008)). In an institutional context of decentralization of activation policies, the federal government learned that through the ESF it could circumvent political and budgetary problems within the federal government by increasing investment in guidance and training, even if these are clearly regional competencies.

This brings us to a second set of implications, namely whether some of our findings could apply to other Member States. Our analysis focused on Belgium, where the ESF represents a modest 2 percent of labour market expenditure. One may expect however that the effect of the ESF is far more significant in countries such as the Czech Republic, where ESF resources approximately equal the total national resources devoted to active labour market policy measures, that is, about 0.2 percent of gross domestic product (GDP) (Sirovátka and Rákoczová, 2009), or Greece, where the ESF represents approximately 40 percent of expenditure on labour market policies (Interview Cec1). Future research could furthermore assess whether variations in some of the scope conditions of ESF effectiveness (socio-economic problems, the role of different sets of
actors, the distribution of labour market competencies, the sequencing of pick-up of ESF resources) have led to different effects on other ‘compound polities’ such as Austria, Germany, Spain and Italy, all of which are states ‘with a combination of a proportional representation system, corporatist policy-making processes, and regionalized or federalized structures’ (Bache, 2008: 3). It is interesting to note that claims that the ESF has induced policy change have been made for Germany (changing its focus to a preventive approach to unemployment) and Ireland (changing its mindset about the provision of childcare) (House of Lords, 2010: 14).

A third set of implications concerns the place of the ESF within the broader context of EU employment governance. Making ESF funding conditional on compliance with the political objectives of the EES gives a strong incentive to local, regional and national actors to take the EES priorities seriously. Non-compliance with these priorities may lead to ESF funding not being committed by the European Commission. In our view, the increasing integration between the ESF and EES suggests that the linkages between the various EU employment instruments have to be studied more closely (cf. Kilpatrick, 2006; Trubek and Trubek, 2005). Most of the literature examines various European policy instruments independently from one another. Yet, in order to understand certain shifts in domestic employment policies, one has to examine how different instruments work together to enact such change. For example, many observers have labelled the EES as a weak and ineffective instrument with limited empirical results (for example, Citti and Rhodes, 2007; Idema and Kelemen, 2006). Mostly this was attributed to the fact that ‘the mechanisms to bring about change [for example Peer Review, benchmarking, naming and shaming] are weak’ (Daly, 2007). Yet, interestingly, these negative assessments scarcely take into account the ESF’s financial underpinning of the EES.

It may indeed be true that there is a problem of effectiveness with regard to the EES: public and private actors will not automatically buy into the EES as it lacks the more obvious sticks and carrots generally available under legislation and under financial instruments. Yet, our analyses show that the financial incentives of the ESF have amplified the effects of the EES, while the latter has provided stronger legitimacy for the ESF (see also López-Santana, 2009).
## Annex 1: List of interviews

<table>
<thead>
<tr>
<th>Reference</th>
<th>Function of respondent</th>
<th>Interview date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency/Fl1</td>
<td>Director, Flemish ESF Agency</td>
<td>April 2007</td>
</tr>
<tr>
<td>Agency/Fl2</td>
<td>Programme manager, Flemish ESF Agency</td>
<td>December 2007</td>
</tr>
<tr>
<td>Agency/Wal</td>
<td>Director and Deputy Director, ESF Agency of the Walloon Region and French Community</td>
<td>December 2007</td>
</tr>
<tr>
<td>Cec1</td>
<td>Former Head of ESF Coordination Unit, European Commission</td>
<td>December 2007</td>
</tr>
<tr>
<td>Cec3</td>
<td>Programme Manager, European Commission</td>
<td>March 2008</td>
</tr>
<tr>
<td>Min/Empl</td>
<td>Two senior civil servants, Federal Public Service Employment, Labour and Social Dialogue</td>
<td>February 2008</td>
</tr>
<tr>
<td>Min/Fl1</td>
<td>Policy Advisor, Work and Social Economy (WSE) Department of the Flemish Government</td>
<td>March 2008</td>
</tr>
<tr>
<td>Min/Fl2</td>
<td>Policy Advisor, WSE Department of the Flemish Government</td>
<td>May 2007</td>
</tr>
<tr>
<td>Min/Si1</td>
<td>President, Federal Public Planning Services (FPPS) Social Integration</td>
<td>February 2008</td>
</tr>
<tr>
<td>Min/Si2</td>
<td>Head of ESF Unit, FPPS Social Integration</td>
<td>February 2008</td>
</tr>
<tr>
<td>Min/Si3</td>
<td>Two senior civil servants, FPPS Social Integration</td>
<td>October 2008</td>
</tr>
<tr>
<td>MinCab1</td>
<td>Former Minister for Employment and Federal State Secretary for Equal Opportunities</td>
<td>June 2009</td>
</tr>
<tr>
<td>MinCab2</td>
<td>Former Head of Cabinet, Federal State Secretary for Equal Opportunities</td>
<td>June 2009</td>
</tr>
<tr>
<td>MinCab3</td>
<td>Former ESF advisor, State Secretary for Equal Opportunities</td>
<td>March 2008</td>
</tr>
<tr>
<td>Pcsa1</td>
<td>Head of subsidised projects, Public Centre for Social Assistance (PCSA)</td>
<td>March 2008</td>
</tr>
<tr>
<td>Pcsa2</td>
<td>Director, Department for Social Integration and Head Social Worker</td>
<td>April 2008</td>
</tr>
<tr>
<td>Pcsa3</td>
<td>Human Resources manager, PCSA</td>
<td>April 2008</td>
</tr>
<tr>
<td>Permrep/Fl</td>
<td>General Representative of the Flemish government at the Belgian Permanent Representation to the EU</td>
<td>October 2007</td>
</tr>
<tr>
<td>Permrep/Wal</td>
<td>General Representative of the Walloon Region at the Belgian Permanent Representation to the EU</td>
<td>December 2007</td>
</tr>
<tr>
<td>Pes/Br1</td>
<td>Head of ESF Unit, Brussels Employment Service (ACTIRIS)</td>
<td>November 2007</td>
</tr>
<tr>
<td>Pes/Br2</td>
<td>Two ENIAC Experts Brussels Labour Market and Qualifications Observatory, ACTIRIS</td>
<td>March 2008</td>
</tr>
<tr>
<td>Pes/Fl</td>
<td>Director, Flemish Public Employment Service (VDAB)</td>
<td>November 2007</td>
</tr>
<tr>
<td>Uvc/Wal</td>
<td>Head of Service, Union of Walloon Cities and Municipalities</td>
<td>April 2008</td>
</tr>
</tbody>
</table>
References


CHAPTER 10

Inside the Social Open Method of Coordination:
retrospect and prospect

Introduction

This PhD started out by situating the debate about the Open Method of Coordination in three ongoing academic debates. These are concerned with social Europe, Europeanisation and new modes of governance, respectively. Chapter 1 detailed the research methodology (data collection) and introduced a number of research questions and hypotheses. It also explained that European social policymaking is much more than unfulfilled potential: in spite of formidable obstacles to an activist role for Brussels in social policy development (Pierson, 1998), a partial but nonetheless significant social acquis has been developed, be it partly under the radar (Vanhercke, 2013a). This final chapter revisits the research questions by summarizing the key findings of the previous chapters, while adding important nuances in view of new insights. Empirical evidence that has come up since the respective chapters were written is presented when this is relevant for answering the research questions.

The chapter is structured as follows. Section 10.1 reconsiders the ‘why did they do it’ question by looking at the emergence of the Social OMC through four theoretical lenses. Section 10.2 revisits ten milestones that ultimately led to the formal launch of the Social OMC in 2000. Section 10.3 re-examines the diverse institutional development of the three strands of the Social OMC between 2000 and 2006. Section 10.4 then asks whether the OMC toolbox has the theoretical capacity to deliver the goods (thereby assessing its adequacy). Crucially, section 10.5 tries to come to terms with the domestic impact of the Social OMC. Section 10.6 explains some of the contradictory findings in OMC research. Section 10.7 looks back at how academics, stakeholders and Member States have been involved in the Social OMC. Section 10.8 explains leverage, learning, socialization and peer pressure as the four key mechanisms of change of the Social OMC. Section 10.9 discusses the implications of this PhD for the aforementioned academic debates. An outlook towards the future is presented in the final section, which discusses the wider relevance of the conclusions of this PhD.

10.1 Why did they do it? Of windows and opportunities

The first research question that was raised in the introduction to this PhD was this: why did a variety of actors decide to launch EU co-operation through the OMC in 2000, after almost a decade of futile efforts to do so? With a view to structuring the many observations that could be relevant

---

1 Section 10.5 (on OMC impact), section 10.7 (on the role of the actors) and 10.8 (on mechanisms of change) draw on Vanhercke (2014) and Vanhercke (2013b), while each of these sections provide recent empirical evidence and embed the findings in recent scholarly research.
to answer the tricky ‘why did they do it’ question, chapter 2 considered some of the most promising approaches in European integration theory. Four theoretical lenses – liberal intergovernmentalism, neo-functionalism, the new institutionalisms, and policy network analysis – proved useful to shed different lights on the same issue. As is impressively illustrated in the historical mystery novel by Iain Pears (1998), *An Instance of the Fingerpost*, there is indeed never just one side to a story, however convincing it is being told: any historical event can be interpreted in a multitude of ways. Which is why I felt it necessary to use no less than four theoretical lenses, as each of them allow us to tell part of the story.

### 10.1.1 Member States’ self-interest: money, pre-emptive strategies and domestic agendas

Seen from an intergovernmentalist perspective, Member States’ self-interest played an important role in the emergence of EU co-operation on social protection and social inclusion. Some EU governments were increasingly reluctant to contribute to EU Social Funds, others strategically accepted new governance to prevent any further surrender of formal national competences to the European level, especially in the sensitive area of social protection (De Ruiter, 2007). Finally, it is clear that some of the Member States who played a major role in launching the Social OMC did so because it served domestic political agenda (I illustrated this for Belgium, France and Finland). Finally, I showed that launching the Social OMC at the Lisbon European Council could be considered as a compromise in the margins, in exchange for an important political commitment to the larger Lisbon reform agenda that was pushed by a coalition of economic actors. In other words: a liberal intergovernmentalist perspective provides a good ‘first cut’ explanation for the broad support for lifting social protection and social inclusion to the European political agenda. But this is by no means the end of the ‘why did they do it’ story.

### 10.1.2 The European Commission as norm entrepreneur and cultivated spillover

The European Commission can be seen as an important norm entrepreneur which kept the debate on social protection going throughout the 90s, by supporting and even creating European NGOs in an effort to counter Member States’ opposition to EU initiatives in this area, and regularly publishing strategic policy documents. Thus, when the Commission felt the time was ripe, it published an overtly political document (European Commission, 1999) that contained the outline of the future co-operation on social protection, in spite of the fact that the Commission President Jacques Santer had just resigned. In other words: the European Commission does not seem to reflect the intergovernmentalist image of supranational organizations as more or less obedient servants of the Member States. Rather, I explained in chapter 2 that the European Commission played a key role in getting the Social OMC going as a textbook example of a cultivated spillover. What exactly the Social OMC is a spillover of remains to be tested empirically: either of the Economic and Monetary Union (the Social OMC as an attempt to correct the legitimacy deficit caused by EMU, and the 1995 enlargement) or of the European Employment Strategy (the Social OMCs as a reaction of social affairs ministers and EU as well as national civil servants to the dominance of employment issues). Or both: a strong case can
indeed be made that the Social OMCs were launched as the result of the strategic interaction of actors who wanted to counterbalance the dominance of economic as well as employment issues at the EU and domestic levels. For some EU policymakers, getting the Social OMC going meant giving body and soul to the elusive notion of the 'European Social Model' by establishing an equilateral triangle between economic, employment and social policies (Diamantopoulou, 2003).

In other words: a neo-functionalist reading is helpful to account for the crucial agency that was displayed by the Commission: even in the absence of any legal competence, it quickly became a broker in the area of social protection and social inclusion. The empirical chapters of this PhD illustrated that the steering role of the Commission plays an influential role in the Social OMC (see also Degnis, 2006). The process provided the European Commission with an alternative channel for seeking supranational influence outside of its traditional role in exercising its right of legislative initiative (Cram, 2011).

10.1.3 The OMC architecture: embedded in concrete historical processes

As explained in chapter 2, the three new institutionalisms are attuned to answering what informs decision-making: past decisions, rationalism, or the logic of appropriateness. Thus, a new institutionalist account can complete the spillover story, by showing how the Social OMC emerged from and is embedded in concrete historical processes: the policy networks involved in employment affairs on the one hand and social protection and social inclusion on the other, facilitated learning from one field to another. This explains why the Social OMC was, from the very beginning, very much inspired by (or in fact: mirrored on) the European Employment Strategy (EES) launched by the Luxembourg European Council in 1997. The implication is that this new institution was, from the outset, constrained by past institutional choices.

The same institutionalist account helps us to understand another element that contributed to the emergence of the Social OMC: the famous Poverty IV ruling by the European Court of Justice at the time contributed to the mobilisation around the issue of social inclusion at EU level and created a ‘gap’ (in the words of Pierson, 1996) in the ability of member governments to control the subsequent development of institutions: after the Court ruling and the consequent mobilisation by NGOs, the Treaty change that gave a legal base (and thereby legitimacy) to anti-poverty initiatives became very difficult to avoid. Sociological institutionalism can bring additional insights into the analyses. For example, the 'logic of appropriateness' was key for explaining why the Council and its High-Level Working Party on Social Protection (HLWSP) were able to launch EU cooperation on social protection and social inclusion in the course of merely a few months' time. Arguably, the pressure from the aforementioned Court's judgements and the agency from the social democratic advocacy coalition made it almost impossible for those who were reluctant to block the emerging process, in spite of the possibilities offered by the unanimity requirement: instead they did what was considered appropriate in the situation.

10.1.4 An advocacy coalition to offset economic pressure

The detailed process-tracing of the emergence of the Social OMC in chapter 2 made it very clear that both the European Commission, and the Member States were very influential in this
process, while none of them played a truly dominant role. Instead, it seems that the dominant arena in which EU cooperation on social protection emerged was a policy network, or rather an advocacy coalition, consisting of a range of actors: social democratic ministers (including from successive EU Presidencies), key people within DG Social Affairs of the European Commission, representatives of a number of European NGOs (the European Commission actively sponsored a new social exclusion lobby), and social scientists (through reports and direct advice to EU Presidencies). Thus, policy network analysis helps us to understand how, in the day-to-day decision-making of the Brussels bubble, the different parts of the puzzle came together. A social democratic advocacy coalition (in 1999, 11 out of 15 governments were headed by social democrats) was the dominant arena, but actual bargaining power seems not to have been crucial: the emergence of the Social OMC illustrates Heclo’s (1974) warning that looking for the web of the few who are powerful, we tend to overlook the influential. The important agency and impact of small Member States during the launch of the Social OMCs seems to be another illustration of the value of Heclo’s claim, and of the usefulness of policy network analyses more generally.

In sum, the short answer to the ‘why did they do it’ question is that at least two sets of actors (socially and economically oriented) had a variety of sometimes conflicting reasons to launch EU-wide co-operation on social protection and social inclusion (thereby confirming hypothesis 1 spelled out in chapter 1). I referred to four explanations for understanding this initial phase of the OMC: first, the European Commission as norm entrepreneur; second, Member States’ self-interest; third, historical embeddedness; and fourth, an advocacy coalition to offset economic pressure.

In retrospect it would seem that a constructivist interpretation of neofunctionalism along the lines of the framework developed by Haknok Kim (2007) has the potential to contribute to a multi-faceted and nuanced picture of this particular case of European integration (see chapter 2). Indeed, this framework provides a promising way to synthesize rationalism with constructivism and therefore reconcile at least some of the approaches presented above. Even if neofunctional constructivism is not a grand theory of European integration (different theoretical approaches should rather be seen as pieces in an inevitably incomplete mosaic), it does allow for a middle-range analysis of the European sectoral policy developments with which this PhD is concerned, involving multiple actors and levels of government. That being said, since the actors in this instance of European integration operated with divergent sets of expectations and interests, theorizing about it requires a corresponding degree of eclecticism: ‘theory should be just as complicated as all our evidence suggests’ (King et al., 1994:20).

10.2 From Paris (1972) to Lisbon (2000): revisiting the ten steps towards the Social OMC

Chapter 2 explained in detail that ten milestones, or important turning points, can retrospectively be identified on the road to the Social OMC in 2000. Taken together, these milestones provide the answer to the second part of the first research question how did a variety of actors manage to get the Open Method of Coordination started?
10.2.1 The EU’s poverty programme and two Council recommendations

The first question is: *where does one begin* when telling the history of social policy coordination? My own process-tracing in chapter 2 started in 1992, with two Council recommendations that proposed a method that resembled a premature version of the OMC. In retrospect, it would seem that the history-telling should start from the acknowledgement that the EU is facing at least two institutional asymmetries (see chapter 1): the first one favouring policy-making by non-political actors and impeding political action at the European level; and the second (constitutional one) favouring negative integration and impeding specific policies of positive integration (Scharpf, 1999). High consensus requirements for such positive integration still hamper European legislation, even after the Lisbon Treaty, and generally favour status-quo positions. According to Scharpf (2010) the EU can, therefore, not be a ‘social market economy’. Social policy is indeed a shared competence between the EU and its Member States, where most policy tools remain firmly in the hands of the latter. For this reason, the Messina Declaration that was signed on 3 June 1955 by the governments of Germany, Belgium, France, Italy, Luxembourg and the Netherlands, remained a dead letter. The declaration indeed begins with the statement that ‘the establishment of a united Europe must be achieved through the development of common institutions, the progressive fusion of national economies, the creation of a common market, and the gradual harmonization of their social policies’ (Messina, 1955:1; my emphasis).

Institutional asymmetries explain why it was only in 1972, at the Paris summit, that Heads of State and Government prudently agreed to foster the Community’s social dimension by establishing a European Social Action Programme. The Council endorsed, amongst others, specific measures to combat poverty (Council of the European Union, 1974), and a European anti-poverty programme was implemented (Bauer 2002: 385). From 1975-1994 the European Commission funded three Poverty Programmes where anti-poverty groups attempted to discover innovative ways of addressing poverty at a national level and also between different Member States. These anti-poverty programmes co-funded pilot schemes (testing and developing new methods); research to improve the understanding of the nature, causes, scope and mechanics of poverty; and the exchange of good practice regarding the fight against poverty (national reports). Perhaps the *single biggest contribution* of the first European anti-poverty programme was the debate it sparked regarding a proper definition of ‘poverty’, which was included in the Council Decision that launched the programme (Council of the European Union, 1975). This definition signaled, for the first time, a convergence of views among Member States on the nature of the phenomenon.

---

2 The Declaration specifies that ‘As for the social field, the six governments believe it is essential to study the progressive harmonization of regulations now in force in the different states, particularly those relating to the length of the work-day and the payment of additional benefits (overtime work, Sunday and holiday work, the length of vacations and vacation allowances)’ (Messina, 1955: 2).

3 According to the Council, being poor refers to persons, families and groups of persons whose resources (material, cultural and social) ‘are so small as to exclude them from the minimum acceptable way of life of the Member State in which they live’ (Council of the European Union, 1975: Art. 1.2).
The third anti-poverty programme (1989-1994), known as Poverty III, included a range of model actions and innovatory measures. It again financed research and – crucially – established the European Observatory on National Policies to Combat Social Exclusion (1991-1994). This Observatory produced four annual reports which were accompanied by a number of thematic reports, based on national reports. The European Observatory on National Policies to Combat Social Exclusion can be seen as a prototype of a European epistemic community that had a considerable influence on policy thinking in this area. More generally, the activities in the EU Poverty Programmes between 1975 and 1994 – which I consider, in retrospect, as the first milestone on the road towards the Social OMC – paved the (political) way for two largely symbolic Council Recommendations which saw the light in 1992, at a time when social protection throughout Europe was seen as under siege. These Recommendations – the first on the convergence of social protection objectives and policies, the other on sufficient resources and social assistance (Council of the European Union, 1992a and b) – provided a premature version of the OMC; they therefore constitute the second milestone towards the Social OMC.

10.2.2 Commission activism, ‘technical’ cooperation on social security and the politics of indicators

The fact that no additional progress was made in getting social Europe on track after these 1992 Recommendations may very well be related to the very complex negotiations, especially in the areas of environment, agriculture, energy and fisheries, at the time of the 1995 EU enlargement to Austria, Finland and Sweden (Dinan, 2005:137). These three affluent new Member States with their strong welfare models (all net contributors to the EU budget), not only brought a greater concern for environmental issues and more progressive national social policies. This enlargement ‘also brought with it another streak of Euroscepticism’, which even led to the widespread belief by the end of the 1990s that a majority of the Swedes would vote to leave the EU (Ibid.: 142). In such a context, any progress in developing a ‘Europe of social protection’ was bound to be slow. Keeping the debate going throughout the 1990s – through regular Commission Communications, and (Green and White) Papers and Reports – seemed the only realistic option at the time. The activism of the European Commission throughout the 1990s, actively nurturing the debate about social protection through regular Reports on Social Protection in Europe, can be considered as a third milestone. By fostering the debate, the Commission indeed made it very clear that the European level could and should act as a platform for the exchange of experience, which was an important step towards getting the Social OMC going.

A fourth milestone towards the Social OMC which is often overlooked – including in chapter 2 of this PhD – is ‘technical’ cooperation between EU Member States, first on social security coordination and social indicators and, second on indicators. A first technical committee that met regularly was the ‘Administrative Commission on Social Security for Migrant Workers’ which is responsible for handling questions of interpretation arising from the provisions of the former Regulation 1408/71 on the coordination of social security systems (Council of the
European Union, 1971). What is sometimes overlooked is that one of the tasks of the Administrative Commission is 'to foster and develop co-operation between Member States in social security matters, particularly in respect of health and social measures of common interest' (Ibid: Article 81c). As a consequence, this group of representatives of the governments as well as the European Commission kept the debate about the European dimension of social protection and social inclusion going since the beginning of the 1970s. This went well beyond the technical requirements of Regulation 1408/71 and contributed to trust-building between leading civil servants of each EU country. Trust was (and still is) indeed a key factor in the Administrative Commission, where the most important decisions were taken unanimously on very complex, and politically sensitive, issues: while EU welfare states essentially rest on a logic of 'closure', Regulation 1408/71 is guided by a logic of 'opening', aimed at fostering free movement (Ferrera, 2009).

The second technical cooperation took place within the context of the European Community Household Panel (ECHP), which was an input harmonised survey conducted in eleven Member States, based on common requirements defined at EU level. Over an eight year period (from 1994 to 2001), the ECHP was operational in 14 of the then 15 Member States (with the exception of Sweden). Importantly, concepts, definitions, classifications and procedures were defined by Eurostat jointly with the ECHP Working Group and applied nationally (European Commission, 2007). Even though, from the beginning, the ECHP project suffered from quality problems, it constituted a unique source of information which was the primary source of data used during the period 1994-2001 for the calculation of indicators in the field of income, poverty and social exclusion. The role of the ECHP was crucial for the first two rounds of EU-15 National Action Plans on inclusion in 2001 and 2003 (European Commission, 2007). ECHP was also key in two other respects: first, it informed an enormous quantity of academic and policy-relevant research (conducted using ECHP data); second, discussions between Member State representatives in the ECHP Working Group regarding indicator development often involved difficult deliberations which went beyond the mere technical aspects.

Robert Salais (2006) therefore refers to the ‘politics of indicators’, while Peeters et al. (2014: 33) argue that ‘we are still far away from understanding the social and political processes through which policy indicators are generated’ (see also Section 10.4 below). Verschraegen (2015:

---

4 This Regulation, one of the EU’s very first pieces of legislation, was later replaced by Regulation 833/2004 (European Parliament and Council of the European Union, 2004).
5 Interview Denis Crowley, 3 December 2012.
6 Such as weighting, imputation, data editing and a blue print questionnaire to be used by all the involved Member States.
7 These problems were, mainly, incomplete geographical coverage, reliability and timeliness. With the aims of solving the ECHP’s technical problems of conforming to the internationally agreed definition of income and of extending the data collection to the enlarged EU (and beyond), the decision was taken to stop the ECHP and launch EU-SILC (Community Statistics on Income and Living Conditions) in 2005.
8 There are mainly three reasons for this: (i) its multi-dimensional coverage of a range of topics; (ii) a standardised methodology and procedures yielding, for the first time, more or less comparable information across countries; and (iii) a longitudinal or panel design in which information on the same set of households and persons is gathered to study changes over time at the micro level.
103,114) goes on to argue that particular data sets, including ECHP and the European Union labour Force Survey (EU LFS) have been used to construct a European social policy sphere: when national policies are re-represented in comparative graphs and rankings, these, in their turn, enact and legitimate the need for supra-national coordination. This illustrates the more general argument that, once in place, policy instruments open new perspectives for use or interpretation by political entrepreneurs, which have not been provided for and are difficult to control, thus fuelling a dynamic of institutionalization (Fligstein et al., 2001).

### 10.2.3 From Court rulings and the Amsterdam Treaty to a detailed architecture for the Social OMC

The fifth milestone that brought social protection back to the European agenda was the agency of the European Court of Justice\(^9\), which, during the second half of the 1990s, applied competition law to social protection (pensions and health care) in a number of landmark cases. While these cases did not undermine the welfare states themselves, they did confront Member States with the fact that social welfare services may fall within the ambit of the internal market. In other words: Member States learned about the limits of their freedom to organise their social security systems as they please, which kick-started a political momentum.

The latter message was skilfully pushed on the political agenda by the incoming Finnish Presidency of the EU and the European Commission, which organized an influential high-level Conference on the ‘Social Challenges of Economic and Monetary Union’ in 1998\(^10\). When the ECJ annulled the Poverty IV Programme, this created a momentum to launch a more ambitious EU project with regard to social protection. As explained above, European-wide mobilization of social NGOs contributed to the incorporation of the social inclusion competency in the 1997 Treaty of Amsterdam, which I consider as the 6th milestone: as a result of the Treaty’s entering into force, social policy becomes a joint responsibility of the European Community and the Member States as of 1 May 1999.

A highly political Communication on a ‘Concerted Strategy’ for social protection was published by the resigning Santer European Commission (1999) and constitutes milestone seven. Arguably this Communication was not so different from what the European Commission (1997) had proposed in its Communication on ‘Modernising and Improving Social Protection’ merely two years earlier: the major change is that Commission officials were more successful in framing EU cooperation in this field in a politically acceptable discourse. That way, they succeeded in occupying the territory through discursive framing. Chapter 2 describes in detail how the 1999 Communication paved the way for some actors to create a sense of urgency around the need to start cooperation on social protection and social inclusion (the eighth milestone). This made it

---

9 Following the entrance into force of the Treaty of Lisbon on 1 December 2009, the ECJ’s official name was changed from the ‘Court of Justice of the European Communities’ to the ‘Court of Justice’.

possible to get the process on track very quickly (merely four months after the publication of the Commission Communication) in a new largely social-democratic political landscape.

The Lisbon European Council politically rubber-stamped the agreement on a Concerted Strategy for social protection (milestone 9), as a result of which the three strands of the Social OMC were fast-tracked: the OMC provided a new Europe-wide approach to social inclusion (winter 2000), pensions (winter 2001) and health care (autumn 2004). Thanks to a strong institutional setup\footnote{The OMC has been implemented by a Social Protection Committee (SPC) which was created through a Council Decision in 2000 and provided the Committee with a strong political mandate (Council of the European Union, 2000). The SPC inherited the working methods of the Employment Committee, including the fact that civil servants report directly to the competent ministers (i.e., deliberations from the SPC go straight to Council, without going through COREPER). At a later stage the SPC even became a Treaty-based Committee in Article 160 of the Treaty on the Functioning of the EU (European Union, 2010).}, the Social Inclusion and Pensions strands of the Social OMC evolved from a blueprint to a detailed architecture (the 10th and final milestone) in the very short time span, i.e. between 2001 and 2002. This architecture encompassed nearly all instruments available: common objectives, harmonised social inclusion indicators, national reports and a first Joint Report. At the same time, important differences prevailed between them: OMCS had been created that ‘together constitute a cookbook that contains various recipes, lighter and heavier ones’ (Vandenbroucke 2002b: 9), as I will discuss in section 10.3.

In sum, the short answer to the ‘how did they do it’ question is that a range of actors, over a time span of more than a decade, contributed to a number of important turning points that, taken together, allowed the Social Affairs Council to the launch of the Social OMC in 2000. I identified the ten following milestones: (1) the EU’s Poverty Programme (1975-1994); (2) two largely symbolic Council Recommendations in 1992; (3) Commission activism during the 1990s; (4) ‘technical’ cooperation in the Administrative Commission on Social Security for Migrant Workers and the ECHP Working Group; (5) the Court of Justice applying competition law to social protection and ruling on Poverty IV; (6) enhanced legitimacy through the Treaty of Amsterdam; (7) a strategic Communication in 1999 from a resigning European Commission; (8) creating a sense of urgency in a new social-democratic landscape; (9) the Lisbon European Council’s political rubberstamp; and (10) the speedy development of the OMC’s basic architecture (2001-2002). The story of the emergence of the Social OMC draws attention to the importance of selling ideas in a convincing way and adequately using the political window of opportunity at hand.

\section{10.3 Variations of institutionalisation of the Social OMC: revisiting the legalization framework}

The second research question of this PhD was formulated as follows (chapter 1): \textit{How did the three strands of the Social OMC – in the fields of social inclusion, pensions and health care – continue to develop between their emergence and the streamlining into one overarching process in 2006?}

With a view to answering this question, Chapter 3 reflected the results of a careful process-tracing of the institutional development of the three strands of the Social OMC in the seven year
period between 2000 and 2006, when the three separate strands were merged into an encompassing Open Method of Coordination on Social protection and Social Inclusion (Social OMC). Through such process-tracing I tried to capture both the similarities and distinct developments between the 3 strands of the Social OMC in a structured way, by integrating them, as far as possible, in a theoretical framework that allows to qualify changes over time between these three variations of new governance.

Chapter 3 started from the concept of ‘legalization’ as developed by Abbott et al. (2000) in order to make sense of the similarities and differences between the three policy coordination processes. Abbott and colleagues define three dimensions of legalization: obligation, precision and delegation. Any institution can, according to the authors, be described in terms of these three dimensions. Even though this conceptualization of institutionalization captures some important dimensions of institutionalization, I consider, in retrospect, that two constructivist dimensions have been omitted from this rationalist theoretical framework if its wants to be useful for this PhD. I therefore propose to add both the dimensions ‘participation’ and ‘revision’ to the framework, so that it captures the reality of institutionalization more fully (the concept of legalization is understood by Abbott and colleagues as a particular form of institutionalization; Ibid: 401).

It can first of all be argued that the active participation in a rulemaking process of a broad range of stakeholders increases the likelihood of the rules being effectively institutionalized. Thus, ‘The diffusion of procedural commitments to transparency and participation in EU networked governance has had a democratizing destabilizing effect in terms of stimulating demands to widen the circle of actors and alternatives involved in policy-making at the national as well as the European level’ (Sabel and Zeitlin, 2008:64). I consider the procedural requirements for ensuring active participation in decision-making by a broad range of non-state and subnational stakeholders – including civil society associations and NGOs as well as industry bodies, social partners and other interested parties – as an important indication for active participation.

A second dimension that has been omitted from the legalization concept is the scope for revision that is provided for in EU-level framework making. This dimension of institutionalization refers to the room for manoeuvre available to actors to revise institutional arrangements as they apply them. It has been argued indeed that that any decision-making process is to some degree deliberative: actors’ initial preferences are transformed through discussion by the force of the better argument. In other words: ‘consensus is regarded as provisional, a necessary condition for taking decisions that have to be confronted now, but certainly not the final word of discussion’ (Sabel and Zeitlin, 2008:4). Thus, in complex areas of decision making ‘actors have to learn what problem they are solving, and what solution they are seeking, through the very process of problem-solving’ (Ibid: 46). To the extent that along the road revision of the institutional arrangement makes it possible to adapt the rules in use to the complex situation to which they apply, revision seems indeed an important additional dimension of the institutionalization framework.

As explained in chapter 3, each of these dimensions of institutionalization is a matter of degree and gradation, not a rigid dichotomy, and each can vary independently (Abbott et al., 2000:401),
as can be seen in Figure 10.1 below. Thus, participation varies from the formal involvement of state actors, to formal and informal networked governance between a wide range of state, subnational and non-state actors. Revision varies between flexible rules, that are adapted to new or complex situations on a regular basis, and rules that are fixed over long periods of time, requiring considerable political and/or administrative effort to change them. The other dimensions of institutionalization are explained in detail in chapter 3.

**Figure 10.1 The dimensions and degrees of institutionalization**

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Level</th>
<th>Source: adapted from Abbott et al. (2000: 404)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obligation</td>
<td>Expressly</td>
<td>Non-legal norm</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Binding rule</td>
</tr>
<tr>
<td>Precision</td>
<td>General</td>
<td>General principles</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Precise, highly elaborate rules</td>
</tr>
<tr>
<td>Delegation</td>
<td>Diplomacy</td>
<td>International court, organization</td>
</tr>
<tr>
<td></td>
<td></td>
<td>domestic application</td>
</tr>
<tr>
<td>Participation</td>
<td>State actors at MS level</td>
<td>Involvement of wide range of regional and non-state actors</td>
</tr>
<tr>
<td>Revision</td>
<td>Fixed rules, amended only at high costs</td>
<td>Regularly amended flexible rules</td>
</tr>
</tbody>
</table>

Chapter 3 plotted the particular arrangements of the social inclusion and social protection OMCs on these dimensions of the institutionalization concept. This allowed to depict variations in the degree of institutionalization of the three strands of the Social Protection and Social Inclusion OMC over time. The overall conclusion from the detailed process tracing of the development of the three Social OMC strands is that they have followed their own particular institutionalization processes. Thus, the analysis has shown that these social protection OMCs differ significantly from each other, first in terms of the (subjective) obligations they create for Member States; second, with regard to the precision of the conduct they require; third as to the degree of delegation of the management of the procedural routine as well as of the power to propose soft recommendations. The same is true for the two dimensions I have added to the legislation framework: the three strands differ in important respects, in terms of expected (formal and informal) participation of (sub-)state and non-state actors, both at national and EU-level; and finally, as regards the degrees of freedom for actors to revise the institutional arrangements along the road.

The analysis of the institutionalization of the Social OMCs provides a first indication that it is too easy to consider ‘the’ Social Protection and Social Inclusion OMC as a ‘light’ or non-constraining process. A simple dichotomy which is sometimes used in the literature between ‘Treaty-based/heavy OMCs’ (such as the European Employment Strategy) on the one hand and ‘non-
treaty-based/light OMCs’ (such as the Social OMC) on the other is not very helpful. Indeed, at least in some respects this new governance process, which was launched as a voluntary cooperation between Member States, seems to have grown much more constraints (teeth), than could have been expected in view of the choice of non-constitutionalisation of the Social OMC. As I will explain in the next two sections, these institutional variations between the Social OMC strands had significant implications on both their adequacy and impact.

10.4 Adequacy: can the OMC deliver the goods?

The third research question to which this PhD tried to find a plausible answer is this: *To what extent can the Social OMC be considered as an ‘adequate’ policy tool, i.e. does its architecture (operational framework at the EU level) have the potential to contribute to reaching the goals set at EU and national level?* Chapter 5, which dealt with this question in detail, presented a rather gloomy picture of the theoretical capacity of the OMC toolbox to produce results.

Due to the lack of transparency of the OMC process, both the *public awareness* about and the *institutional visibility* of the process are weak overall, but there are strong variations between countries and the OMC strands over time. This (lack of openness) feature of the OMC architecture has important implications for the possibilities of creative appropriation by actors (see section 10.7.1). The Social OMC’s *Common Objectives* provide the political mandate: they concern social protection and social inclusion outcomes as well as the way in which social policy should be developed, i.e. *principles of good governance* (Council of the European Union, 2006). Because the common objectives are meant to be fairly constant over time and had to be agreed unanimously by the Member States, they are deliberately imprecise and sometimes contain conflicting elements, especially in the pensions and health care strand.

Similarly, Country-specific messages are deemed too subtle even to be assessed by scholars; at the same time there is evidence that the very same messages as well as the Common Objectives bite more than is generally acknowledged: this is especially so in the field of social inclusion, where identifying country specific challenges has been the Commission’s politically correct way of drawing attention to worrying developments and/or doubtful policy initiatives pertaining to, for example, stakeholder involvement, the situation of immigrants and the Roma as well as tackling child poverty, regional inequalities and pension adequacy. For the three strands of the OMC the *national reports* that are produced are often seen as administrative documents rather than planning devices. But here too important exceptions exist (i.e. in some cases triggering national responses, integration of the NAP/Incl into domestic planning efforts). The adequacy of the linkages both *within* the Social OMC (between the three strands) and with *other* policy areas at EU level is rather questionable: ‘feeding in’ and ‘feeding out’, in the EU jargon, do not work in practice.

As discussed in chapter 5, the adequacy of common indicators as tools for measuring progress towards the common objectives has equally been criticized by many authors, especially in the pensions and healthcare strands of the Social OMC. Some prudence is in order though: I pointed to the fact that some of the key developments in the EU’s statistical apparatus are simply ignored
by a large part of the literature. Assessing the more recent developments, Verschraegen (2015) points to the fact that the EU’s governance by numbers has in fact been crucial in the Europeanisation of social and employment policies:

‘By setting up common data-infrastructures, procedures, and networks of expertise, the EU has created a space in which national policies are routinely observed in comparison to European averages, norms, and targets. Almost fusing the realms of knowledge and policy, European networks of calculative experts and policy-makers formulate EU policy categorisations, co-define what counts as national policy ‘problems,’ and make suggestions for new policy orientations. In this way, social and employment policies are drawn closer into European frameworks’ (Ibid: 118).

In sum, while the Social OMC’s institutional setup should allow it to produce at least some results, some important flaws are apparent from the discussion. The question now is whether these flaws imply that the Social OMC has by and large failed to deliver the goods (i.e. has no tangible impact). The next section argues that to say so would be jumping to conclusions too fast.

**10.5 Coming to terms with the impact of the Social OMC: did it matter after all?**

The empirical chapters of this PhD were concerned with answering research question 4: *Has the Social OMC had any impact – i.e. actual, empirically established effects – on policies and policymaking processes, both at EU and national level?* Chapters 6, 7 and 8 mostly provided evidence on the impact in Belgium, though chapter 4 considers the OMC as a learning tool, focusing on the EU level, and chapter 6 compares the impact of the social inclusion strand in Belgium and France (section 10.8.2 below discusses the similarities and differences in terms of impact between these two countries).

In a nutshell the key finding of these empirical chapters is this: even though none of the (80 or so) domestic actors I interviewed claimed that the OMC was *revolutionising* domestic social policymaking, those who are working in the areas of social inclusion and pensions in Belgium see the OMC as a *useful governance template* in federal, regional (based on the notion of ‘territoriality’: Flanders, Wallonia and Brussels) and local policymaking, notably with a view to coordinating complex horizontal coordination issues in cross-cutting policy areas. Experts working in the field of health care do not share this view, as for them this strand of the OMC is largely invisible in the domestic setting. At the same time, the use of OMC tools such as indicators, targets and Peer Reviews has spilled over to adjacent policy areas, such as equal opportunities (section 10.6.5 below); in one instance the use of OMC has become institutionalised through regional legislation (see section 10.5.1 below). While actors try to use the OMC tools to pursue their own ambitions, their opinions, behaviour and interests are altered, *inter alia* because gaps in knowledge become apparent.

Some important nuances need to be added to this general appraisal, since the OMC’s operation and impact is not only *difficult to establish* (there is never a smoking gun or Holy Grail that
provides the ultimate proof of OMC impact, see chapter 1). It also *varies a great deal both across countries, issue-area and time* (hypothesis 3). Indeed, section 10.8.2 below discusses the specificities of the Belgian case, and how these might influence the significance of the empirical findings relative to the broader theoretical debates I discuss. The empirical chapters of this PhD that dealt with the impact of the Social OMC also highlighted the importance of the time factor when addressing the OMC’s operation and impact. While the initial period (2000-2005) already showed prudent, mostly procedural, effects of the OMC/SI, this period especially helped to sow the seeds of commitment to the Social OMC amongst a range of actors. The full procedural as well as substantive impact only materialised in the period 2006-2010 (i.e., after the OMC had already been found wanting by the mainstream academic literature, see section 10.6 below), which I therefore called ‘time for harvest’. The streamlining of the Social OMC in 2006 did not have significant effects in Belgium, as the actors involved decided to hang on, as long as they could, to the pre-streamlining way of doing things. Further research will have to establish to what extent the integration of the OMC in the Europe 2020 Strategy has changed the way in which it is used by EU and domestic actors in the different policy strands.

**10.5.1 Social inclusion: substantive and procedural effects**

In the area of social inclusion two sets of domestic effects can be attributed to the OMC. First, and probably least surprising, the OMC has caused *procedural* changes, including a boost in statistical capacity building, which is in line with the wider phenomenon of Europeanization of national statistical systems (Peeters *et al.* 2014). Furthermore, participation in this OMC strand convinced domestic social inclusion policy makers of the utility of adopting national and sub-national poverty targets (a novelty in Belgian policy-making, which has now become a wide practice), even though their implementation and monitoring remains problematic. One key spillover effect of the OMC is that the European way of doing things stimulated learning about one’s own practices: a mirror effect occurred through prudent yet significant intra-regional policy learning (an OMC within Belgium), which is far from evident in the current political climate. As a result of EU pressure as well as learning, participation in this OMC strand has, step-by-step, led to strengthening and institutionalisation of stakeholder involvement (vertical coordination), both in the OMC process and in domestic social inclusion policymaking more generally, especially in Brussels and Wallonia. The *actual relevance* of these newly empowered actors remains to be established: so far enhanced stakeholder involvement does not seem to have led to changes in the distribution of power or the rules of the political game. In fact it seems that the institutional players allow the new actors to play their role precisely because they are not perceived as a threat (at most as an ‘irritant’) to the existing polity.

The OMC/SI also facilitated horizontal coordination: most notably increased cross-sectoral coordination initiatives in the Brussels Regions (chapter 6 explained that the Brussels Poverty Report found its legitimation in the OMC and uses the Laeken indicators wherever this is possible). Another striking finding is that the Social OMC keeps the federal level at the centre, even in a policy area such as inclusion that are shared with the regional level. This happened more particularly through the federal administration’s light steering role for the National Strategy Report on social protection and social inclusion, and its (still ongoing) coordination of the (Actions and Indicator) Task Forces that bring together federal and regional administrations
as well as stakeholders under the chairmanship of federal civil servants. This finding confirms the general conclusions of Beyers and Bursens (2006) that because of European integration the Belgian central government remains an influential actor even with respect to issues outside its competences\textsuperscript{12}.

The Social OMC also led to substantive shifts in social inclusion policies. First, the OMC/SI pushed child poverty as a new issue onto the policy agendas (previously children living in poverty were almost invisible in the Belgian social inclusion discourse), despite rather strong initial resistance to this topic. Indeed, this topic was seen by a range of national, regional and local actors as a window of opportunity for furthering their agenda. There is equally compelling evidence that participation in the OMC raised the profile of the poverty issue in general on the political agenda in Belgium. Thus, it provided bargaining arguments in budgetary negotiations: the OMC provided important leverage effects to justify raising the minimum income benefit levels of poor elderly (called GRAPA), generating synergistic effects between the OMC/SI and OMC/P. Note that during the spring of 2015 the new right-wing Belgian federal government decided to implement its earlier promise to raise all minimum social security benefits to the level of the EU poverty norm (Federal Government, 2014).

Some of the effects and usages of the Social Inclusion OMC that were described in chapter 6 have been corroborated by more recent developments at the regional level. This is for example the case for child poverty: the agenda-setting effects of this OMC-driven issue area spilled over from the federal to the Flemish level. Thus:

- During the weeks before the May 2009 European elections, a picture of a pretty girl saying ‘I wish I were a cow’\textsuperscript{13} drew attention to the ‘fact’ that ‘thanks to 41 billion European agricultural subsidies there are no cows living in poverty. But what about the 19 million poor children in Europe’? The intense look of the ten-year-old was probably meant to underline that Flemish social democrats were serious about their ‘zero tolerance regarding child poverty’.
- The Flemish Minister-President Kris Peeters launched himself into the fight against child poverty by naming the issue as one of the desired priorities of Belgium’s 2010 EU-Presidency (Flemish Government, 2009a: 13).
- In its ‘Pact 2020’ the Flemish government and key stakeholders went one step further and committed themselves to a concrete target in this policy area: the intensive fight against poverty and social exclusion should result within a decade in ‘halving the number of children born in poverty’ (Flemish Government, 2009b: 28).
- At the local level, several communities picked up the issue of child poverty as a new theme, as a result of earmarked resources being made available by the federal government (e.g. a number of projects in the city of Leuven); other cities announced they would boost their

\textsuperscript{12} In the UK context ‘The NAP/Ind has created the opportunity to develop a truly national overview of what is going in the UK post-devolution and therefore has, fortuitously, plugged a gap between the UK government’s Opportunity for All report and the respective substate reports’ (Armstrong, 2005: 299-300).

\textsuperscript{13} In Dutch: ‘Ik wou dat ik een koe was’, a slogan also broadcast on radio and television.
efforts regarding this issue (Mechelen and Aalst) (*Het Laatste Nieuws*, October, November and December 2010).

**10.5.2 Social protection: health care and pensions**

In the area of health and long term care, there is *no convincing evidence* that the OMC had any significant effects, whether administrative or substantive, on domestic policymaking in Belgium. This strand remains a largely virtual process, only known to a very small circle of – mostly federal – civil servants. The more general group of health care actors is largely unaware of the process, which is struggling with a very low level of ownership. The existence of many competing (new) governance processes largely explains why the healthcare strand has not been picked up so far, neither is it likely that this will change in the foreseeable future. This is not to say that there has been no influence at all, but tracing impact in this case is much like looking for a needle in a haystack. As explained in chapter 8, the developments regarding the issue of health inequalities should be further considered: some of our interviewees claimed that the Commission’s insistence on the topic of health inequalities – through the joint reports, indicator development, an SPC Opinion on this issue as well as through PROGRESS funding in support of innovative action in this field – led to increased awareness about this topic among domestic policymakers (but this needs to be corroborated). Similarly, further research will show whether the Commission will be successful in its attempt to encourage Member States that provide long-term care in a devolved context to adopt *national targets* to ensure uniform provision (Greer and Vanhercke, 2010).

Chapter 7 showed that, by contrasts, the OMC’s impact in the area of pensions is undeniable. In Belgium, this form of policy coordination provides opportunities to create windows of opportunity (Kingdon, 1995), which policy makers use, together with a range of other tools available, in their efforts to discuss, manage and reform pension systems. Most importantly, chapter 7 showed that the OMC on pensions influences the acceptance of compelling problems, so that decision makers pay serious attention to them. Thus, the gradual accumulation of ideas in the OMC (including regarding the development of pension replacement rates) altered actors’ views – and in fact contributed to a paradigm shift – as regards early retirement: the European framework led actors to accept early retirement as a compelling ‘Belgian problem’ and no longer as peculiarity of ‘the Belgian model’. The 2008 federal governmental agreement referred, for the first time, to increasing the replacement rate of pensions (Federal Government, 2008: 13).

The impact of the Social OMC on policy decisions was found in the increase of minimum pensions (GRAPA) and the Generation Pact. As illustrated in the empirical chapters, messages from the Social OMC do not simply fall into the domestic arena. Thus, chapter 7 explained how the pension replacement rates were seized upon by federal ministers and trade unions alike during negotiations and in public debates. More generally, a variety of actors feel that the EU provides very strong legitimation (pressure) as regards the need to reform the Belgian pensions system, also as a result of easy comparison of the performance, and pace of reform, of other Member States. Procedurally, however, no evidence was found that the OMC/P affected Belgian policy-making processes and structures. The reason for seem rather straightforward: the OMC/P, and especially the elaboration of the relevant section of the NSR, remains confined to a
very small group of people. Box 10.1 below illustrates – through the pension replacement rates example – how process-tracing helps to understand the operation of the Social OMC in a domestic setting. In section 10.8.3 below I return to the question how one can account for the contradictions in existing academic accounts of the adequacy and impact of the Social OMC.

**Box 10.1 Tracing the influence of the Social OMC: the case of pension replacement rates**

A former Director General at the Ministry for Social Affairs, who had been responsible for writing two of the Belgian National Strategic Reports on pensions, made a rather strong statement during an interview. He claimed that the influential Study Committee on Ageing (from here onwards ‘Study Committee’, CEV) was strongly influenced, as regards the calculation of its pension replacement rates, by the work done on this topic in the Social Protection Committee’s Subgroup on Indicators. This came as some surprise, since another highly-informed civil servant, working at the Banking, Finance and Insurance Commission, had explained in a previous interview that the Study Committee had been using replacement rates before the ISG subgroup started working on this topic (in 2003), and that it did so based on calculations from the Planning Bureau. Therefore, this respondent did not see a significant influence coming from the OMC.

The question then was: how do we account for these apparently contradictory pieces of information provided by two highly-informed civil servants?

The initial Annual Reports of the Study Committee seem to confirm the ‘no influence’ scenario: macro-economic replacement rates for pensions were indeed used by the Study Committee as from its first report on the ageing issue (CEV, 2002), i.e. immediately after the formal launch of the pensions strand of the Social OMC, and before the ISG started working on this topic. These macro-economic replacement rates (the rate between average pension and the average income of different categories of active persons in a given year) are indeed calculated by the Planning Bureau in the context of their involvement in the Working Group on Ageing (AWG) of the Economic Policy Committee (EPC).

However, an examination of the Study Committee’s following Annual Reports tells a different part of the story. Thus, the CEV (2004) Annual Report explains that the replacement rates examined are now based on the contribution of the Belgian delegation to the ISG’s first report on prospective pension replacement rates (SPC, 2004). The Study Committee’s Annual report of 2005 then combines the (previously developed) macro-economic replacement rates and the micro-economic replacement rates developed in the context of the OMC (CEV, 2005). The latter reflect the level of pension income the first year after retirement as a percentage of individual earnings at the moment of take-up of the pension. The Study Committee’s (CEV) 2008 Annual Report continues to use both types of replacement rates, but ‘micro economic’ replacement rates are now labelled ‘theoretical’, following the jargon used in the context of the OMC (CEV, 2008). The Study Committee’s 2009 and 2010 Annual Reports, finally, present a number of indicators taken from EU-SILC, including aggregate replacement rates (a comparison is made with neighbouring EU Member States as well as the EU 25) and the at-risk-of-poverty rate for persons aged 65 years and over (CEV, 2009, 2010).

In sum, it seems that both our interviewees were right about their side of the story: while the Study Committee on Ageing continued to use the calculations from the Federal Planning Bureau, their analysis was further enriched (and thus influenced), first by the ISG’s theoretical replacement rates and later by EU-SILC indicators. This empirical example shows that process-tracing, combining in-depth interviews with key actors and detailed documentary research, allows us to understand, at least to some extent, the usages of the Social OMC.

---


15 Interview, Member of the Management Committee, Banking, Finance and Insurance Commission, 30 November 2010.
10.6 Explaining discrepancies in OMC research: adequacy versus impact

The detailed analysis of the actual impact of the Social OMC allows to answer research question 6 of this PhD: How can one account for the variation in existing academic accounts of the impact of the Social OMC? The rather mixed picture of the OMC's theoretical capacity to have an effect (see Section 10.4) is largely in line with the more skeptical literature. Indeed, as explained by (Schäfer, 2006) the initial praise for the OMC – both by politicians and scientists – quickly turned into skepticism. Some five years into its operation, the academic community indeed took a far more critical stance: some find the OMC to be a ‘weak and ineffective’ instrument and thus a ‘paper tiger’ through which ‘little or nothing happens’, except producing ‘rhetoric and cheap talk’ (Hatzopoulos, 2007; Collignon et al., 2005; Smismans, 2004; Sapir, 2005; Kok, 2004). While the OMC is simply ‘remote and irrelevant’ for some, it may even be contributing to the aggravation of the democratic deficit (Kröger, 2009a). Some scholars stretched the argument considerably further: for some the OMC is considered to be a ‘fashionable red herring’ (Ideman and Keleman, 2006) which distracts attention from the continuing relevance of EU legislation, while others suspect it has damaging ‘Kafkaian’ dimensions (Alesina and Perotti, 2004: 8). In such a view, the OMC is thus no less than ‘a virus that needs to be quarantined before it infects the whole community’ (Trubek and Trubek, 2005). Many other examples could be given, but the general picture is this: merely a few years into its operation, the OMC was weighed on the scales and found wanting by at least part of the academic literature.

These skeptical views stand in sharp contrast with empirical evaluations of the OMC ‘in action’, for example undertaken by Zeitlin and Pochet (2005) and Heidenreich and Bischoff (2008), which provide convincing evidence of different kinds of impact of these OMCs. These overtly critical views are also in contrast with the views expressed by many actors involved in the Social OMC as they emerged from a formal large-scale evaluation by the Commission: many of them provide examples of impact, and not a single Member State argued either that the process was without value or that the burden outweighed the benefits (European Commission, 2005).

Finally, the skeptical academic views contrasted with a report from the European Parliament (2007: 4-5), in which the Committee on Legal Affairs warned against the ‘indirect legal effects’ of new governance which is ‘liable to circumvent the influence of the other (democratic) instruments’ and would ‘allow the executive effectively to legislate by means of ‘soft law’ instruments, thereby potentially undermining the Community legal order’.

So how can one bridge this puzzling gap in our understanding of the OMC’s adequacy and its impact (see also chapter 5)? A first, quite evident element in the explanation is that many of the studies focusing on the OMC’s potential effect (adequacy) simply fail to look at the actual impact of the OMC on the outcome of policies or politics. More specifically, few theoretically enriched studies, focusing on the instruments of the OMC, have looked at the extent to which the OMC has

---

16 Note that authors like D. Chalmers and M. Lodge (2003) labelled the OMC as ‘symbolic’ and ‘futile’ from the onset.

17 For a literature overview of four categories of OMC literature - theoretical, normative, empirical, and critical - see Citi and Rhodes (2007).
supported or complemented existing discourses on particular paths of national reform, which requires a more in-depth and analysis over a longer period of time. In some cases, scholars are rather vague about what it is that is being assessed: adequacy, or rather impact.

A second, and arguably the most important explanation for the discrepancy in the findings regarding the OMC’s adequacy versus its impact, is the fact that the Social OMC is being used by EU and domestic actors. Such creative appropriation involves the strategic use of EU concepts, objectives, guidelines, targets, indicators, performance comparisons and recommendations by national and sub-national actors as a resource for their own purposes and independent policy initiatives. This PhD clearly shows that this is a strong mechanism of OMC influence on national social policies (see also section 10.7). Note that Baeten et al. (2010) describe Member States’ creative adaptation in the shadow of the CJEU’s case law on patient mobility. In other words: leverage also applies to 'hard law' contexts.

A third explanation for the discrepancy between the adequacy and the impact of the Social OMC is that most studies discard the capillary effects of the Social OMC: through the involvement of a wide range of stakeholders, benchmarking as a governance tool is increasingly being promoted outside the formal OMC inner circle of government and Commission officials. Nongovernmental expert and EU (civil society) stakeholder networks indeed acquire cross-country knowledge (typically through EU funding) and become part of what could be called the ‘Social OMC community’, which should be acknowledged in further research: during its first decade the OMC was more open to different actors than is usually assumed. A case in point are the PROGRESS Peer Reviews: EU and domestic stakeholders did not only actively participate in them, but are also active in disseminating its output and started to organize their own (shadow) Peer Reviews. Thus, it would seem that some scholars took a bit of a shortcut when they noticed the irony of the term ‘open’ method of coordination, which is perceived by some as being much more closed than the Community method (Jacobsson and Vifell, 2003:23). Due to its ‘lack of transparency and pluralism’, (Smismans, 2004:15) even suggested that the OMC should instead be labelled a ‘closed method of coordination’ or even an ‘open method of centralisation’.

The fourth explanation is that most research disregards the cumulative effects of the OMC instruments. Thus, the assessment by OSE and PPMI (2012) describe several examples where European Peer Reviews were engineered by the European Commission as stepping stone in a longer process of framing and further developing an issue. In some cases a PROGRESS Peer Review indeed builds on earlier work done in the context of EU independent expert networks while it provides legitimacy for furthering the development of indicators or targets, issuing stronger Country-specific challenges or funding subsequent EU studies. The latter in turn may result in an EU seminar, a Commission Communication, ultimately followed by a new Peer Review on the same (or similar) topic, which then completes a virtuous circle that creates considerable pressure on Member States (Ibid).

The fifth explanation is more methodological (hypothesis 6 in chapter 1) and refers to the OMC’s own dynamic. It seems that few of the studies dealing with the adequacy of the Social OMC, even the most recent ones, take into account the many changes in the OMC process, including completion of the increasingly multidimensional portfolio of indicators (e.g. extension to
pensions and health care, development of input and output statistics), the increased use of quantified objectives and targets, the enhancement of mutual learning activities, the streamlining of the Social OMC in 2006 (including the introduction of overarching objectives) and most recently the partial integration in the Europe 2020 Strategy. In other words: the OMC is more dynamic than is usually acknowledged and researchers should be far more precise about the precise instruments they are assessing. A case in point is the ongoing refinement of the OMC’s Peer Review methodology: any claim about ‘the OMC Peer Reviews’ needs to make a sharp distinction between the early SPC Peer Reviews, the in-depth SPC reviews, the (good practice versus policy reform), Peer Reviews organized through the PROGRESS Program, and the more recent ex-ante reviews of prospective social reforms. It goes without saying that researchers can only include the state of the art of the OMC toolbox in their analyses if information about these instruments is readily available, which is often not the case.

Taken together, these different explanation help us to understand why new governance has indeed had more impact on the ground than could be expected from a purely functional reading (the OMC’s adequacy). In other words: it seems that at least some of the skeptical literature dismissed the OMC too lightly, a point to which we return in section 10.9.3.

10.7 Actors: academics, stakeholders and (small) Member States

Chapters 4, 6, 7 and 8 of this PhD explained how different sets of actors are involved in the different strands of the Social OMC. In retrospect some more nuance seems to be needed as regards the role played by three types of actors: the research community, (domestic and EU) social stakeholders and (small) Member States.

10.7.1 Academic researchers: between honest brokers and issue advocates

The proliferation of Open Methods of Coordination at the turn of the century went hand in hand with a steady stream of scientific production on this topic, cumulating in ‘an enormous literature’ (Citi and Rhodes, 2007) both in the EU and the US. Similarly, from the outset, the new OMC aroused a great deal of attention from Belgian academics. An important driver for such abundant written production was the 2001 Belgian Presidency of the EU. Berghman and Okma (2002a) describe how the Presidency, together with the European Commission (EC), engaged the Belgian and EU research community in its political work on social indicators and social protection (notably pensions), while starting a debate about health care and the EU. This was done through the organisation of three international conferences (on social indicators, pensions and health care) that were thoroughly prepared by scientific reports and were deemed ‘amazingly effective’ in setting the political agenda (Berghman and Okma, 2002b:552).

---

18 The same kind of caution applies to process tracing in the context of the Europe 2020 Strategy. Thus, Degryse, Jepsen, and Pochet (2013) repeatedly cite the Commission’s original (highly prescriptive, one-size-fits-all) recommendation as evidence of the unchallenged dominance of EU economic policy actors over pension issues and the anti-social character of the CSRs, without noticing its subsequent amendment by the Council.
At the same time, these authors identified some risks that result from this peculiar dialogue within the epistemic community of researchers and politicians, which could lead to a parallel decision-making process and blurred boundaries between politics and science: ‘*When academics act as ‘policy advocates’, taking normative positions, and when politicians present themselves as academics, it is hard for the reader or listener to know who is acting in what capacity, and to understand the basic rules of the debate* (Berghman and Okma, 2003). Or, in the words of Pielke (2007): maintaining scientific integrity requires careful attention to roles and responsibilities, and sometimes choosing a path that *facilitates* decision making rather than trying to *determine* it. A range of Belgian academics indeed openly contributed to supporting the Belgian input to the development of the OMC/SI in the initial period of the Social OMC (2000-2005):

- Some of the academic contributions were written at the specific request of the Belgian government: this was notably the case for reports produced by Atkinson et al. (2002), Esping-Andersen et al. (2001), and Mossialos et al. (2001). These strengthened Belgium’s key role in keeping the momentum generated in Lisbon going by developing the OMC Inclusion’s detailed architecture (Berghman and Okma, 2002a; Armstrong, 2010: 70; Marlier, 2003).
- Cantillon et al. (2001) set out recommendations for a European poverty norm, while the same team from the Center of Social Policy (CSB) discussed the possibilities and difficulties for Belgium to work with poverty targets, drawing on the experience of other countries (Cantillon et al., 2003)
- Several publications analysed the (instruments of the) OMC/SI and provided recommendations for their improvement. Examples include:
  - Indicator development (Adriaensens et al., 2003; Peña-Casas, 2004, van Dam, 2005);
  - Improving participation (Nicaise and Groenez, 2003; Wuiame, 2009);
  - Monitoring (Nicaise and Groenez, 2003);
  - The overall development of the OMC process (CNT, 2005; Marlier, 2003; several studies by the Higher Institute for Labour Studies, KULeuven and the European Social Observatory).

When criticism was formulated, this was often paired with concrete suggestions for improvement of the process. At the same time, quite a few decision makers published their views in scientific journals, more particularly the *Belgian Review of Social Security*, which seems to have been quite instrumental in this regard.

The involvement of the research community in the development of the OMC toolbox is exemplified by the debate on indicators (discussed in Kröger, 2004), which was one of the top-priorities for the Belgian Presidency of the EU (second half of 2001). Frank Vandenbroucke, the then Belgian Federal Minister of Social Affairs and Pensions, established a group of high-level academic experts\(^\text{19}\), which drafted and thereby secured agreement on the so-called Laeken indicators (Armstrong, 2010: 78), namely through the final report for the Social Protection Committee (SPC), later published as Atkinson et al. (2002). The consultation process undertaken

\[^\text{19}\] Named after its chair Sir Tony Atkinson; the group also included Brian Nolan as well as Bea Cantillon and Eric Marlier.
by the Atkinson group – strongly encouraged by the Belgian Presidency – with the SPC’s sub-group on indicators as well as a broader informed academic network is a striking example of a cooperative, successful academic participation in a political process (Friedrich, 2006). In this case too, academics played a role that went beyond that of what Pielke (2007) calls ‘honest brokers of policy alternatives’ (who seek to expand, or at least clarify, the scope of existing policy options), taking on the role of ‘issue advocates’ who seek to reduce the scope of choice available to the decision maker.

10.7.2 Domestic and EU stakeholders: building an OMC community

A second category of actors which played a key role in institutionalizing the Social OMC were social stakeholders. Thus, there was not only an interest in but also a written production about the OMC/SI from the Belgian social partners, gathered in both the National Labour Council (CNT) and the Central Economic Council (CCE) (referred to as ‘the Councils’ hereafter). In the period 2001-2005 these institutions adopted no less than six joint Opinions that dealt (amongst others) with the OMC:

- From the very beginning of the OMC/SI, the Councils requested to be informed about OMC activities at the EU level and implementation at the national level (CNT and CCE, 2001b). As a result, the CNT met on a regular basis with the Belgian representatives in the SPC and asked them to take its view into account in EU-level discussions.
- There was a particular interest in the procedures for the elaboration of the National Action Plan against poverty and social exclusion and in the debates about the indicators (CNT and CCE, 2001a, b). At the same time, the CNT pointed out that the OMC is a rather closed shop with a high administrative burden (CNT, 2005); the institution also struggles with the increased complexity of the policy process, including as a result of a variety of coexisting domestic and EU processes (CNT and CCE, 2001a).
- Importantly, the Councils clearly state that the OMC cannot be the only instrument for social policy: legislation and social dialogue must play an important role in EU social policymaking (CNT and CCE, 2001a). The OMC should therefore be seen as a first essential step towards a social EU (CNT, 2005).
- In 2005 the Councils published a rather elaborate evaluation of the pensions and OMC/SI which was prepared by two seminars, on the pensions OMC (22 March 2005) and the OMC/SI (10 May 2005) (CNT, 2005).
- Surprising as it may seem, it was the OMC that raised awareness about the EU as an important policy arena in these central domestic institutions (see chapter 6).

Note that several national and regional policymakers also published on the OMC/SI at an early stage20. By contrast, it is clear that the Belgian (national and regional) Parliaments were completely absent from the initial OMC. I found one single Parliamentary question about the Social OMC, namely dealing with health care: the question – about the progress made with regard to the development of the OMC/H-LTC – was asked in November 2003; the minister found time to answer it 2.5 years later (sic) (Chambre, 2003). He merely confirmed that Belgium

20 Examples include Adriaensens et al. (2003); Guio (2003); Jansen (2007); Marlier (2003); SPP Intégration Sociale (2005); van Dam (2005); and Vandenbroucke (2002a and b).
had supported the implementation of an OMC in the field of health care and long term care, including the general objectives of accessibility, quality and financial sustainability. Similarly at the EU level the one actor that is largely absent from this story is the European Parliament. In that sense, one can understand why it complained about the institutional and legal (read, democratic) implications of the use of ‘soft law’ instruments (European Parliament, 2007).

As explained in chapter 4, commitment to objectives of the Social OMC is also supported by the involvement of two additional types of actors which tend to be overlooked by OMC critics: independent, or rather non-governmental expert networks on the one hand; and civil society stakeholder networks on the other. Some of these EU level stakeholder networks are indeed very active in mobilising civil society as well as in lobbying the European Parliament (an institution otherwise only to a very limited extent reached by the OMC) and in linking up the EU process with other international related processes (e.g. UN or OECD). Which is more, many of these civil society networks have organised benchmarking exercises and developed scorecards of their own, consulting their members on what governments are actually doing with regard to specific issues. The Commission has actively been promoting the development of a ‘Social OMC community’, bringing together all these actors regularly in the context of conferences and seminars, but also in the context of Peer Reviews.

In some (admittedly rare) cases these EU stakeholders managed to influence the development of the Social OMC. Section 10.2.3 above referred to the key role of certain NGO’s in the run-up to the Amsterdam Treaty. Another example relates to the 2005 relaunch of the Lisbon Strategy: the first drafts of the 2005 Spring Report were void of any reference to the social cohesion pillar of the Lisbon Strategy. Commission civil servants informally confirm that scenario’s circulated which proposed to abandon the Social OMC altogether21. After an intense series of bilateral meetings between the Luxembourg Presidency and the European Commission, some of the Lisbon policy triangle (economic, employment and social affairs) was brought back in the text. High level civil servants in the Luxembourg Presidency claim that a number of meetings between the Luxemburg Prime Minister and representatives from the European Social Partners and European NGO’s contributed to Juncker’s endurance to ‘get some of the original Lisbon agenda back on the table, even if it was not much more than damage control’ (Vanhercke, 2007).

10.7.3 Member States

The key actors participating in the Social OMC are the Member States, who are responsible for the ultimate decision-making through the Council and its preparatory Committees. An important nuance that needs to be added, in retrospect, is the fact that both individual Member States and small groups of Member States can have considerable influence on the debates, especially when they manage to set up networks that include national and European civil servants, academics and politicians.

21 In response to furious reactions from unions and socialist MEPs, who warned against dropping the social and environmental pillars during the Lisbon relaunch, former President Barosso explained that ‘it is as if I have three children - the economy, our social agenda and the environment’. Like ‘any modern father, if one of my children is sick, I am ready to drop everything and focus on him until he is back to health ... but it does not mean I love the others any less’ (EUobserver, 2005).
Clearly, the six-monthly rotating Presidency of the Council of the European Union provides a significant window of opportunity for political engineering. Thus, acting and incoming Presidencies agreed between them on necessary political mandates: the incoming Belgian Presidency, for example, sought and obtained some of the precise wording of the 2001 Stockholm European Council Conclusions\textsuperscript{22} as well as the 2001 Göteborg European Council Conclusions\textsuperscript{23}. Similarly, chairs of the key EU Committees bodies were maneuvered so as to underpin the respective Presidency’s political goals. Thus, Secretary of State Viera da Silva was successfully pushed by the Portuguese government to become the first Chair of the interim High-Level Working party on Social Protection in 2000\textsuperscript{24}. Finally, it has been pointed out in the previous chapters that scientific reports and academic prestige were skillfully used the Finnish, Portuguese and Belgian Presidencies of the Council of the European Union to underpin the emergence and development of the different strands of the Social OMC (see also section 10.7.1 on this point).

This PhD clearly illustrated that small Member States effectively influence EU decision making, more particularly during an EU Presidency, in spite of the lack of sheer bargaining power. This is plausible if (and only if) one considers that economic lightweights have access to a range of soft techniques of persuasion. These include, as far as Belgium is concerned, (1) political weight, derived from being a founding Member State, its geopolitical position, and having a legitimate say on social issues; (2) political practice, derived from its coalition-building capacity with other governments and the fit’ between the domestic practice of consensus-seeking on the one hand and the procedural norms of the EU system on the other; (3) social practice, where Belgium is able to deploy convincing arguments grounded in observable practice, including in the context of the OMC; (4) persuasive ideas, thanks to the country’s ability to turn practice into framing concepts, e.g. ‘Europe speaks with one voice on pensions’; social inclusion as a multidimensional concept; and providing a platform to people experiencing poverty; (5) compelling demands, which refers to those rare occasions where Belgium was a convincing ‘demandeur’ in that it was able to sell a strong demand on a critical issue as being compellingly important (e.g. holding on to the possibility of private funding in determining the national ESF counterpart); and (6) credibility and consistency, in that certain Belgian positions (e.g. the development of social Europe, or extending QMV in social affairs) have been deployed iteratively over many years, which creates a degree of predictability and reliability, especially in combination with the country’s political practice of consensus-seeking.

The use of these techniques are strengthened by the fact that developing a European social space is not perceived as primarily aimed at satisfying a specific ‘Belgian’ interest, but rather as a European ‘general interest’. The existence of informal networks (in which individuals can play an important role), the proximity to the EU institutions and consecutive successful Belgian EU Presidencies (1987, 1993, 2001, 2010) considerably increased uploading capacity in general and agenda-setting power more specifically. The permanent Representation to the EU – the

\textsuperscript{22} This Stockholm European Council requested an ‘agreement about indicators by the end of the year’.
\textsuperscript{23} The Göteborg European Council requested a ‘joint progress report on pensions to the Laeken European Council’.
\textsuperscript{24} Similarly, Raoul Briet was successfully elected as the first Chair of the SPC in 2000 as the result of active lobbying (including a tour of EU Capitals) by the French government.
interface between EU and Belgian level – plays a key role, to the extent that attachés are regularly compelled to take formal positions without political coverage. At the same time, there is no room for self-satisfaction: elsewhere I provided ample examples of missed uploading opportunities (including the Directive on services in the Internal Market, and the Pension Funds Directive). Even more importantly, the enlargement of the EU and its consequent return of intergovernmentalism, the decreased investment of Belgian politicians in European affairs (including the lack of strategy regarding the seconding of national officials or parachute of top officials) and the weaker role of the European Commission strictly limit Belgium’s current capacity to use the described soft mechanisms of persuasion. There is thus no room for unwarranted ‘uploading heroism’ (Vanhercke, 2011).

In sum, while Member States and the European Commission have played a vital role in the emergence and development of the Social OMC, this PhD underlines the necessity ‘to capture the gradually unfolding implications of a very complex and ambitious agenda of shared decision-making’ (Pierson, 1998: 58), even in an area such as social policy which is widely seen as an area of Member State autonomy.

10.8 Mechanisms of change: leverage, learning, socialization and peer pressure

The finding that the Social OMCs had a real impact on domestic social policies, at least in Belgium, raises the fifth research question that structured this PhD: through which mechanisms can a ‘soft’ tool such as the OMC have any (substantive or procedural) effects on hardboiled domestic and EU politics? The analysis of mechanisms is indeed seen as a way forward to produce deeper causal knowledge of social processes and their interrelations (Graziano et al., 2011; Mayntz, 2004; Elster, 2007). Understanding these mechanisms improves our understanding of the relationship between domestic and exogenous variables, without becoming trapped in attempts to establish simple causal linkages between EU policies and domestic reforms (Kröger, 2009b, Haverland, 2006).

In this PhD I have explained how the OMCs plausibly influences domestic policies (in spite of its flawed adequacy) through four related but empirically distinguishable mechanisms: creative appropriation (leverage), learning, socialization, and peer pressure (hypothesis 5). In practice, these mechanisms are sometimes intermingled, and at times the lines between them are blurred. Mostly, however, it is possible to distinguish, empirically, one mechanism (or sub-mechanism) from another.

10.8.1 The leverage effect

A first mechanism is the creative appropriation of the OMC by domestic actors, also termed the 'leverage effect' (Erhel and Palier, 200525, Graziano et al., 2011): the transformation of EU resources into political practice by boundedly rational actors, who seize the OMC instruments
with the intention to further their own political agendas. The latter include influencing a particular policy decision, increasing one's capacity for action or one's access to the political process (Jacquot and Woll, 2003: 6).

Leverage is by far the most powerful mechanism through which the OMC works in Belgium: actors creatively appropriate the different instruments of the OMC toolbox to legitimize their own preferences. To be more precise: policy entrepreneurs at the national, regional and local level actively used the OMC, alongside various other, domestic, instruments at their disposal, including national and regional financial instruments, legislation and expert groups (hypothesis 4). This leverage occurs with the common objectives (e.g. use of the child poverty issue, to legitimize actions aimed at other target groups), the NAP/Incl (e.g. to demand increased NGO participation in Belgium), targets (as a means of increasing the coordination capacity of the federal government in Belgium or to raise regional levels of ambition); indicators (e.g. to show that national performance is not so good after all, or to boost the statistical apparatus); and Peer Reviews (as a means of pointing out deficiencies in policies in comparison to other Member States).

An important nuance in retrospect, is that creative appropriation does not simply reinforce actors' fixed preferences: in some cases appropriation leads to a transformation of those preference, for example giving more attention to a previously ignored policy challenges. Or, as Sanchez Salgado (2014) argues: if there is no impact of Europe without usage by domestic actors, there is also no usages of Europe without an impact on the actors concerned. This brings us to the issue of learning.

10.8.2 Different types of learning

A second mechanism that helps to explain how new governance can effectively influence domestic policies, is learning (Visser, 2009; Zeitlin and Pochet, 2005), which comes in different types.

Thin learning occurs when actors 'learn' how to use the OMC: they readjust their discourses and funding strategies, which enables them to pursue the same objectives in a new EU context. Thus, I found that some local communities and Public Centres for Social Assistance (CPAS) in Belgium are picking up elements from the social inclusion OMC toolbox because it provides additional legitimacy for pre-existing choices (see Box 10.2 below). Espeland and Sauder (2007: 29) provide other examples of thin learning, namely when policy actors learn how to 'game' indicators: in order 'to maximize their rank, actors may focus on improving indicators without improving the qualities that the indicators are supposed to measure'. As indicated in the previous section, such thin learning attempts is not a completely innocent choice: in several cases elites begin by 'talking the talk' (i.e. they refer to the language of EU instruments such as the OMC or the ESF) but end up by 'walking the walk' (Sanchez Salgado, 2013): they ultimately practice what they preached before. This was the case with the Brussels Poverty Report, which

Note that Erhel and Palier (2005) were the first to coin the notion of 'leverage' in the context of the Open Method of Coordination, while Zeitlin (2009) used the term 'creative appropriation'.

25
acquired more resonance after it started using the Laeken indicators and is being framed in Europe-speak; at the same time, issues like child poverty have become far more prominent on the political agenda.

**Box 10.2 Local open coordination in social inclusion**

<table>
<thead>
<tr>
<th>The largest Public Centers for Social Assistance, of the City of Antwerp, proposed its ambition (strategic plan, October 2010) to reduce the number of early school leaver to maximum 10%, and the proportion of people living below the poverty line to 25% by 2020 (Het Laatste Nieuws, 13 October 2010: 19).</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Public Center for Social Welfare of the city of Leuven explicitly adopted the same 3 key priorities as the 2006-2008 Belgian NAP/SI as this 'made it easier to legitimate the Policy Memorandum 2007-2012. So in a way, Europe is a trick' (Interview, CPAS). At the same time, the child poverty was placed as a new issue on the local political agenda, together with a search for good practices at the local level (OCMW Leuven, 2007).</td>
</tr>
<tr>
<td>The Public Center for Social Assistance of Laakdal equally refers to the NAP/SI 2006-2008 and its activation as well as housing targets (OCMW Laakdal, 2008). Its Secretary sees the European framework as a useful source of inspiration which 'puts things in perspective' (Interview, CPAS).</td>
</tr>
<tr>
<td>The community of Chapelle-Lez-Herlaimont chose to re-frame its pre-existing local practices (an 'integrated approach' with regard to social exclusion, coordination of local stakeholders; and mutual learning between actors) as a 'local OMC' in the hope that this would increase the chance of EU funding.</td>
</tr>
</tbody>
</table>

*Thick* learning occurs when actors, through their participation in the OMC, become increasingly aware of differences in approaches and performance standards elsewhere (comparison with others), or of their own practices (reflexive self-assessment or mirror effect) and as a result change their policy orientations (Visser 2009: 42; Zeitlin 2005: 479). A more *systematic comparison* with other countries is cited by most of the actors as one of the most important contributions of the Social OMC: almost invariably, my interviews confirm that OMC has institutionalised awareness of policies, practices, and performances in other countries, by non-state as well as by governmental actors. OMC facilitates the comparison of performance with other countries, which has become regular practice, also among social partners. This confirms the claim by Verschraegen (2015: 103) that comparative statistics 'might be interpreted as an intermediary institution between the national and the international; they enable the meaning of national data to be translated into policy terms in the European or global arena, and, conversely, can locate European or global developments in the national space'.

The empirical chapters of this PhD (6, 7 and 8) provided several examples of mirror effects in the context of the Social OMC. In some case these mirror effect entail a confirmation of pre-established ideas, namely when policymakers get the impression of being 'on the right track' as a consequence of European deliberations: these discussions thereby provide outside legitimation for national, regional, or local (good) practice. In other cases Belgian policy makers learned through the OMC that their participatory model (which looked much better on paper than in practice) could be further improved so as to increase quality of stakeholder participation. They also learned that aspects of the child poverty *problematique* had been overlooked, including teenage pregnancies and, crucially, poverty among certain migrant children. Most unexpectedly, learning (e.g. on cross-policy coordination or NGO involvement) is taking place *between* Regions.
in Belgium, as a consequence of the regular European reporting obligations, which have contributed to unprecedented trust building between actors.

Trust also played a key role in learning on the issue of pensions: as explained in chapter 7, several of our interviewees explained that Belgium really did not need the Social OMC to raise the issue of the financial sustainability of its pension system: the Economic Policy Committee (EPC) and the OECD had already done a fine job in this regard. And yet, key actors confirm that the feedback that was provided on the poor performance of Belgium’s pensions systems was considered to be far more legitimate since the SPC and DG Social Affairs of the EC (the social wing of the process) were involved than previous reports that emanated from economic actors. In a similar way, section 10.5.2 explained how the Social OMC contributed to a paradigm shift as regards early retirement. Importantly, these examples suggest that real-world social learning does necessarily follow the logic of Peter Hall’s learning orders (Hall, 1993): involvement in EU-level cooperation seems to have contributed to a paradigm shift/third order change in pension policy (the overarching goals that guide pension policy have been changed) but this has not been accompanied by significant changes in the instruments and their precise settings (first and second order learning).

The previous chapters found that policy learning between countries is difficult, but it happens, for example in the context of PROGRESS Peer Reviews. The first systematic assessment of these Peer Reviews equally found clear examples of policy learning, namely between countries belonging to very different welfare models, or with different practices on precise issues (OSE and PPMI, 2012). Indeed, many of the 171 respondents interviewed for this assessment experienced learning from difference as an important opening up of perspectives, even if it does not lead to immediate policy transfer. Indeed, as a result of having explained one’s own practice to others, actors sometimes revised their opinion about these practices. This regularly resulted in the host country becoming a learner rather than a tutor, even in those cases where the initial objective of the host country was to showcase a good practice. The fact that tutor and learner roles change during the course of a Peer Review suggests that at least in some of them genuine reflexive learning is taking place. In other words, homines dum docent, discunt: even when they teach, men learn. This also applies to the other national and EU experts involved in the Peer Review: many of them confirmed that they learned (a lot) about national experiences (Ibid). The study therefore concludes that, having a good mix of welfare models in the reviewed practices is an absolutely key factor for the success of policy learning (OSE and PPMI, 2012).

10.8.3 Socialization and discursive diffusion

A third mechanism of change is preference change through socialization and discursive diffusion: in this case changes do not result from systematic evaluation or actors purposefully looking for ideas or solutions to problems, but usually ‘happen’ (hence actors may not be aware of it) as a result of day-to-day events, failures or pressures (Visser, 2009: 42). In other words, socialization and diffusion is about the incorporation of European categories and concepts into the domestic debate through involvement in the OMC. While using the OMC, the ideas, norms, and beliefs of the actors involved may be altered, and so they import and incorporate the orientations on which it is based. If and when an alteration of views occurs through participation in the OMC,
this does not happen overnight, but rather gradually, through repetition of policy discourse. Or as one key actor explained: ‘one can imagine Europe’s influence as a trickle-down effect: Europe diffuses slowly and calmly, which allows certain issues to be brought to the table, some of which suit us, others do not’ (Interview, FGTB).

One particular mechanism of diffusion through which the OMC has more recently strengthened its domestic impact in Belgium is the extension of the OMC toolbox itself – indicators, targets, Peer Reviews – to different levels of government. The practice of organising Peer Reviews on a variety of topics has been spreading at the federal level, e.g. on the ‘Communication on Pension Rights in Europe’, ONP and ESIP, 2010; at the regional level, e.g. on integrated services for target groups, access to housing and inclusive education (Flemish Parliament 2010:11); and at the local level (e.g. the city of Sint-Niklaas organised a European Peer Review on child poverty).

At the regional level, the 2010 Policy Memorandum of the former Flemish Minister for Poverty Reduction, Ingrid Lieten, contains multiple references to OMC instruments (National Action Plan, indicators, child poverty, European and Flemish Peer Reviews, benchmarking, etc.). In the same Policy Memorandum the at-risk-of-poverty norm is confirmed as the dominant threshold, when the Vice Minister-President uses it as a benchmark to raise ‘all minimum benefits (Flemish Parliament, 2010: 12). In other words, the OMC is not simply referred to in this regional government programme; in this case its content has also impacted on the level of ambition of the policymakers. Furthermore, the Flemish Pact 2020 commits the entire regional government, the employers’ organisations and the unions (united in the Social Economic Council of Flanders, SERV), as well as a variety of associations from civil society, to twenty quantified objectives. For each of these targets, the Pact stipulates how progress will be measured, how indicators are defined and which sources are used (Flemish Government, 2010). One of the objectives of Pact 2020 is to achieve for every family in Flanders an income above the European poverty line by 2020 (Ibid).

Perhaps even more significantly, the OMC instruments are also being used in policy areas that are outside the immediate scope of the Social OMC. In 2004, the Flemish Minister for Equal Opportunities (Kathleen Van Brempt) launched an OMC in equal opportunities to integrate the policies of the different departments (Flemish Government, 2004: 23-25). Interestingly, the use of the OMC as a governance tool in the area of equal opportunities has been codified, in 2008 in a Decree (Flemish Parliament, 2008). The Decree (a piece of regional legislation) transposes several EU equal treatment Directives into Flemish legislation, and thereby provides the overall framework for the Flemish equal opportunities and equal treatment policy:

- The Flemish Policy Memorandum defines this Flemish OMC as ‘a learning process in which explicit, clear, and mutually agreed equal opportunity objectives are defined, after which ‘Peer Review’ enables the policy entrepreneurs in the various Flemish issue areas to examine best practices; and to learn from each other’s successes and failures (Flemish Parliament, 2010: 12).
- Each minister in the Flemish government is invited to set equal opportunity objectives, which should be translated into (realistic and ambitious) benchmarks; quantifiable indicators will be used to measure progress (Ibid).
• The OMC toolbox is considered part of ‘coordinated and coherent’ policymakers in this area: this includes strategic objectives (Ibid, Art. 9), as well as an integrated action plan (Ibid, Article 10) which should be updated every two years and should include for each policy area, operational objectives, a time schedule, analysis, actions, indicators, and the planned resources and instruments (Ibid, Article 10, §1-6).

• The new Flemish Minister for Equal opportunities started a new cycle of the OMC in this area for the period 2010–2014 with updated objectives; his Policy Memorandum refers 24 times to the OMC (Flemish Government, 2009c).

The Walloon regional Government equally discovered the OMC as a tool for regional policymaking. The 2004–2009 governmental agreement launched the renewed Contrat d’Avenir (contract for the future) as an ‘innovative governance method’ that is wrapped up in OMC-speak (Walloon Government, 2004). The agreement indeed refers to ‘transversal strategic plans’, ‘qualitative and quantitative targets’ which will need ‘systematic monitoring’ through ‘impact indicators’, ‘reporting’ and ‘enforced evaluation’.

Note that a group more than 100 Belgian Economists (2009) proposed to back up the coordination of regional employment policies ‘by agreed-upon regional targets and mutual surveillance, in a way similar to the Open Method of Coordination (albeit with a higher degree of enforceability than in the EU case)”26. Similarly, it is proposed to benchmark redistributive policies through social security (regional transfers): this can be done ‘within Belgium, but also relative to other regions in Europe’ (Ibid: 6). Obviously not every single OMC process is a success story. In 2008, Belgium’s official news agency Belga reported on a newly to be created OMC with regard to ethical behaviour in sports: federations would have a large degree of responsibility while trying to live up to jointly agreed guidelines (Belga, 12 November 2008). This OMC was never heard of again, as was also the case with the OMC proposed by Olivier de Schutter (2002) for implementing the Charter of Fundamental Rights27.

10.8.4 Peer pressure

External or peer pressures and associated practices, such as recommendations and rankings, can also help to explain domestic policy changes. Chapter 4 illustrated how, in spite of the sensitivities amongst and the pressure from the Member States, the European Commission has tried to make the best of its role of independent arbiter in the Social OMC’s benchmarking exercise. Thus, since the start of the Social OMC, Member States have been ranked on the basis of commonly agreed indicators in the annual Joint Reports. The fact that, 15 years after the launch of the Social OMC, the SPC Chair and the European Commission officials are regularly compelled to remind Member States that indicators are not being used to ‘name and shame’ but to group countries according to the common challenges they face, clear signals that organizing peer

---

26 The proposal was made as part of a wider reflection put forward in January 2008 by some 120 academic economists from across the country on reforming the Belgian institutions by combining flexibility and coordination (Belgian Economists, 2009).

27 Note that De Burca et al. (2013: 749) argue that although ‘the domain of human rights protection may at first sight appear an unlikely candidate for Experimentalist Governance [...] the U.N. Convention on the Rights of Persons with Disabilities (CRPD) includes many provisions characteristic of an experimentalist system.'
pressure, although part and parcel of the Social OMC, remains a sensitive issue. This is especially the case when such ranking of Member States also examines causal factors, as was the case with the 2008 child poverty report (SPC 2008).

The empirical chapters of this PhD indeed illustrated that external pressure is in general not felt as soft at all. Actors perceived, for example, strong EU pressure to take child poverty on board as a priority issue, to prudently start monitoring and evaluation of social exclusion policies, to involve a wide variety of actors in policymaking, to start using (harmonized) European indicators in social policies, and finally to set quantified national targets (which was introduced in Belgian social inclusion policymaking through the OMC). In pensions, chapter 7 described how the OMC provides strong pressure (which is not necessarily felt as a good thing) on the need to reform: accepting the status quo is no longer an option. It should be noted that the aforementioned Peer Review assessment (section 10.8.2) concluded that, perhaps surprisingly, genuine pressure can also be exerted through a PROGRESS (now EaSI) Peer Review: it feels harder to participants than they would have expected themselves; interviewees often see these Peer Reviews as way for the European Commission to develop a 'supportive monitoring function' that signals that 'we are interested in what you are doing, but we are also watching over your shoulder' (OSE and PPMI, 2012). As a result, some Peer Reviews moved certain, often previously known problems higher on the list of priorities to be dealt with (Ibid). In other words, those scholars who claimed that the 'delivery gap' of the OMC was predictable in view of the 'weakness of the peer pressure system' (Collignon et al., 2005) spoke too quickly. The recent developments within the European Semester have further enhanced peer pressure between the Member States (Bekker, 2015).

Note that a growing literature raises questions about commensuration (reducing and simplifying disparate information into numbers that can easily be compared) and policy comparison (Espeland and Sauder, 2007). Peeters et al. (2014), for example illustrate the problems associated with scoring and ranking the outcomes of unique and complex pension systems by means of internationally standardized indicators. For these authors, the construction of a common metric inevitably leads to a certain bias, favouring some institutional pension policy mixes over others and leading to distorted conclusions about the performance of national pension systems (Ibid: 32). A more systematic reflection on the presuppositions and limitations of rankings is social policymaking is therefore warranted.

All in all this PhD has provides strong evidence for the operation of four mechanisms that can plausibly explain the OMC’s domestic impact, in spite of its rather poor adequacy: leverage, learning, socialization and peer pressure. In section 10.9.1 below we argue that aid conditionality, notably through the European Social fund, in some cases acts as a powerful additional mechanism for Europeanisation, as it (1) directs financial aid towards certain objectives; (2) encompasses sound financial management: the assigned money must be spent correctly, and within two years; (3) ESF money should be spent in addition to, and not replacing, planned expenditures; (4) EU funding must be matched by domestic funding: the additionality principle; and (5) the ESF should be implemented through a multilevel and integrated approach, bringing together a range of state and non-state actors at different levels of government. Importantly, section 10.9.2 argues that the OMC's impact is also related to the degree to which
domestic actors were able to influence the EU decision-making process in the first place (OMC effectiveness as reciprocal influence, rather than as a one-way street).

10.9 Theoretical implications: Social Europe, Europeanisation and new governance

This section revisits how this PhD contributed, first, to the current debate about ‘Social Europe’, second, to the literature that deals with the reciprocal relationship between EU and its Member States and, third, the debate about ‘new modes of governance’.

10.9.1 The debate about social Europe

This PhD addresses, first of all, the debate about Social Europe, to which it has contributed three ways. Firstly, it explained how the OMC is coping with what Tholoniat (2010) calls the ‘soft law dilemma’: showing sufficient flexibility to remain politically relevant, while recognizing the historical process it emerged from and is embedded in; in addition, the OMC should ensure sufficient institutional predictability, so that the actors involved continue to adhere to ‘their’ process. The previous chapters indeed show how the OMC is constantly being reinvented while being constrained by past choices. Thus, the three strands of the Social OMC emerged for very different (and sometimes contradictory) reasons, at different moments in time (but were all mirrored on the European Employment Strategy), developed rather different institutional architectures (with varying degrees of bite), were largely sidelined (but not abandoned, see section 10.9.1 below) in the revised Lisbon Strategy in 2005, were streamlined into one overarching Social OMC in 2006 (allowing the health care OMC to be launched, in spite of Member States’ foot-dragging), while some of its architecture has been integrated in the Europe 2020 Strategy five years ago.

In 2011, Member States (and not the European Commission) took the initiative to continue and even reinvigorate the Social OMC in the context of the Europe 2020 strategy: the goals was to counterbalance the Europe 2020 Strategy's excessive focus on fiscal and economic considerations in the first cycle of the European Semester, and to tackle the narrowing down of social policy to policy against poverty and social exclusion and the one-sided focus on social protection as a cost factor in the setup of the new strategy. Certainly, the ‘socialization’ of the European Semester (Barcevicius et al., 2014) has been a slow evolution. Thus, the role of the Social Protection Committee (SPC) in Europe 2020 needs further clarification, as became clear in the discussions surrounding the re-invigorated Social OMC (Council of the European Union 2011) and, during the 2014 European Semester, the tense debate about who has the last word regarding the pensions CSRs. Still, after five years of implementation of the European Semester, the employment and social actors involved have begun to formalize their positions and continue to do so in preparation of the 2015 European Semester (Zeitlin and Vanhercke, 2014).
Secondly, this PhD showed that the OMC is not simply here to stay, i.e. existing on paper merely because it is difficult to abolish any institution. Indeed, the Social OMC has been institutionalized – at national and EU levels – in ways that may not have been expected: OMC has become a template for new governance, not only in the crowded EU health space, but also for coordinating social (inclusion) policies in federalized countries; OMC has become linked to various EU policy instruments such as legislation and the EU funds; and OMC has become a trusted resource – amid others – for a variety of domestic and EU actors. But the OMC is doing considerably more than ‘staying around’: it is, in my view, becoming increasingly relevant as an EU policy instrument. One indication is that for new governance (including in health) sooner or later refer to the OMC as a goal to attain. Staying relevant has by no means been a piece of cake. Thus, while at first sight the social issues in the new Europe 2020 Strategy were fairly prominent, they were quickly subsumed under other – economic – priorities. This mirrored the foreseeable risks involved in integrating social issues into the EU main strategy (cf. Marlier and Natali 2010; Zeitlin 2010). Nevertheless, it is remarkable that in an environment so strongly defined by the economic crisis, the Employment Committee (EMCO), the SPC, and the Directorate General for Employment, Social Affairs and Inclusion (DG EMPL) of the European Commission have used the Europe 2020 context of intensified mutual surveillance throughout the year to strengthen their own analytical toolbox, and thereby their overall influence on the contents of the Country-specific Recommendations (CSR), in the areas of employment, poverty, pensions and (to a lesser extent) healthcare and long-term care (Zeitlin and Vanhercke, 2014).

Thirdly, this PhD contributes to the understanding of how the interaction between EU law and policy is developing. I argue that we have moved from mere ‘interaction’ to a ‘hybridization’ of EU governance tools. Indeed, among the neatly separated social policy instruments described in the Introduction to this PhD – open coordination (new governance), EU funding and EU legislation – hybrid instruments are emerging that combine elements from ‘hard’ and soft forms of governance to tackle society’s pressing problems. The ESF Regulation 2007-2013 (which explicitly referred to the Social OMC), the potential influence of new governance on the judgments of the CJEU and the prediction that the CJEU will be increasingly inspired by the outcomes of new governance processes in its judgements (Hervey and Vanhercke, 2010), are further examples of the interaction between law and policy. Hervey (2010) even inverts the entire paradigm, when she provocatively examines adjudication by the European Court of Justice ‘in the shadow of the informal settlement’. Courts do engage in dialogue, more or less formally, with other institutions, and rarely make decisions that frontally attack a strong consensus. In this context one could imagine that national authorities, when they act in a case that is brought before the CJEU, would argue that some of the core objectives of the European Union are being made explicit in new governance mechanisms and should therefore figure amongst the teleological criteria of interpretation to be used by the Court. This would require a closer cooperation between social ministries and the legal service of the foreign affairs administration and no longer considering the European adjudication process as a mere technical matter.

28 Commission civil servants informally confirm that scenario’s circulated which proposed to abandon the different OMC processes at the time of the preparation of the 2005 Spring European Council.
More recently it became clear that funding under the European Structural and Investment Funds (ESIF) for the period 2014-2020 are conditional upon the presence of a national strategic policy framework for poverty reduction that aims at active inclusion, provides a sufficient evidence base to develop policies for poverty reduction and monitor developments. The national policy framework should also contain measures supporting the achievement of the national poverty and social exclusion target (as defined in the National Reform Programme) and involve relevant stakeholders in combating poverty (European Parliament and Council of the European Union 2013: 448). The non-respect of these new ‘ex ante conditionalities’, which are inspired by the Social Inclusion strand of the Social OMC, gives the Commission the power to ask for a revision of the Member States’ Operational Programme, or even to suspend interim payments under precisely defined conditions. In view of the important catalytic effect of aid conditionality (domestic influence through the requirements that are imposed on those making use of the funds) in the context of the European Employment Strategy (EES), this new reality is highly significant. Indeed, as I have shown in chapter 9, the fact that ESF funding has been made conditional on compliance with the political objectives of the EES certainly contributed to the paradigm shift – from passive to active labour market measures – which scholars attribute to the EES (see also Heidenreich and Zeitlin, 2009; Lopez-Santana, 2006; Van Gerven et al., 2014).

10.9.2 The Europeanisation debate

This PhD makes a twofold contribution to the academic debate about the Europeanisation of social policies. Firstly, this PhD adds to the body of literature highlighting the importance of viewing OMC effectiveness as reciprocal influence (as opposed to one-way impact). In spite of the repeated recognition of the reciprocity between the uploading (projecting domestic preferences to EU level decision-making processes and structures) and the downloading dimension of Europeanisation, the bulk of the recent literature does little more than pay lip service to the former process. The reason for this is not so difficult to understand: tracing the effects of uploading efforts by domestic actors is a difficult exercise which requires a combination of multiple research tools. This PhD showed that the OMC’s domestic influence is indeed strongly influenced by the uploading dimension, but in a subtle way. Indeed, I found that what matters is the fact that uploading efforts generate a great deal of commitment to (and arguably knowledge of) the EU process, which is far more important than the actual success or failure of Member States’ uploading efforts. As the previous chapters have shown, such uploading attempts are never perfect: multiple actors around the EU negotiation tables obviously create uncertain outcomes, and those who uploaded an issue to the EU may be surprised by the final result of their efforts (boomerang effect).

The OMC as reciprocal influence confirms the crucial role of domestic political actors in the Europeanisation process. As highlighted in section 10.6.1 above (the leverage effect), there is ample evidence that domestic actors appropriate and redefine European resources to advance their own agenda (Graziano et al., 2011: 9) and find the toolbox of the OMC particularly appropriate in this perspective. At the same time, I have argued that there is rarely ever usage of the OMC without an impact on the actors themselves. The key point is that new governance mechanisms are like anything else in politics: intensely political. They do not transcend the strategies and calculations of EU institutions, states and interest groups. Rather, new governance
mechanisms and their products are deeply affected by those interplays. Further research will be needed on the importance of national political cultures which seems to provide fertile soil for new governance techniques in Belgium, but probably less so in other countries with a stricter parliamentary control on how European integration hinges on restraining national sovereignty (Woll and Balme, 2005).

The second contribution to the Europeanisation debate relates to the usefulness of the ‘goodness of fit’ literature. According to Börzel and Risse (2000), the goodness of fit between the European and the domestic level indeed determines the degree of pressure for adaptation generated by Europeanisation on the Member States. To be more precise: the lower the compatibility (or the greater the misfit) between European and domestic processes, policies, and institutions, the higher the adaptational pressure, and thus the likelihood of domestic change (for a further discussion, see Van Gerven et al. 2014). This PhD found that misfit is neither a necessary nor a sufficient condition for Europeanisation while the paradigm is too static and deterministic (assuming that policy-makers want to maintain the status quo at all costs, see also Mastenbroek and Kaeding 2006). Indeed, domestic actors are sometimes able to exploit even small policy misfits to try and enact domestic changes through OMC instruments. Consider, for example, the strengthening of NGO involvement in Belgium as a consequence of participation in the OMC, in spite of the fact that there was already a fit between EU-level requirements and Belgian practices. In other cases, a large misfit did not have any meaningful impact, in spite of considerable peer pressure through the OMC. In other words: actors do not simply ‘respond’ to EU initiatives in order to reduce misfit: at times they actively create these misfits, if this suits them.

10.9.3 Mind the gap: beyond the ‘hard’ versus ‘soft’ modes of governance debate

The introduction to this PhD described how EU social policy is constructed through legal regulation, financial instruments, social dialogue and policy coordination. Scholars like Trubek and Trubek (2007) and Hervey and Trubek (2007) were among the first to point to the increased dependence or even hybridization of these instruments, which can no longer be neatly separated.

The prospect of instrument hybridity raises some fundamental question: as Goetschy points out:

‘Is a complementarity possible or are those different regulatory regimes in competition with each other? Is it likely that in the future, the traditionally dominant community method will be slowly nibbled by more intergovernmental methods – the latter rendering ambitious Treaty reforms redundant? Or will a subtle mechanism of hybridization between the variety of regulatory tools occur?’ (Goetschy, 2007).

The prospect of law and governance of becoming increasingly interwoven opens the door for hybrid EU policy instruments that mutually influence one another. This suggests that a more nuanced discussion is needed about (‘hard’) legislation versus (‘soft’) new governance in the EU and underlines the necessity to develop theoretical tools which can help to grasp the hybrid
nature of these instruments. Or, as Armstrong (2014: 252) puts it: ‘It is this differentiation within EU governance rather than a decisive shift from one state of affairs—the Community Method—to another state of affairs—new governance—that needs to be better characterised so that we might then begin to make sense and attach significance to what is changing in governance and what it might mean for law. As I concluded in Chapter 2, only by bridging the paradigmatic divide between constructivist and rationalist approaches to EU governance can we grasp the significance of new modes of governance for the EU’s social architecture in the 21st century.

The empirical chapters indeed found many illustrations where the lines between open coordination on the one hand and legislation on the other became blurred. This if for example the case with the European Social Fund (ESF), which has since long been linked to the European Employment Strategy and more recently to the Social OMC (see section 10.9.1), and provides significant financial incentives to support the objectives of some of the OMCs. It was argued in chapter 9 that the relationship between the ESF and the OMC works both ways: if the ESF strengthens the OMC, the latter influences cohesion policy (see also de la Rosa, 2007). In the field of health care, chapter 8 described the soft pockets in the new Directive on patients’ rights: different types of cooperation are clearly inspired by the OMC (European Parliament and Council of the European Union, 2011). The ‘soft-to-hard-to-soft’ development of the Health Technology Assessment (HTA) framework is another illustration: not only does this framework illustrate how experimental governance is consequently translated into EU law, it also illustrates how EU law ultimately reverts to governance mechanisms for its actual implementation. There are equally strong illustrations in the field of pensions: the 2005 Generation Pact, which was later transposed into legislation, was clearly influenced by European debates and indicators: some of our interviewees explained that the OMC’s objectives already determined the large contours of the negotiation, while some used the term ‘terror of benchmarks’, and others confirmed that ‘they are also a very important authoritative argument’ which are used when it suits the agenda. In the area of social inclusion, the significant increase of the legal minimum income for elderly people (Garantie de revenus aux personnes âgées, GRAPA) in December 2006, was legitimized by referring to the European risk-of-poverty norm (see chapter 6). Finally, section 10.6.5 above explained how in 2008 a Flemish Decree legalized the use of the OMC as a governance tool in the area of equal opportunities.

Taken together, these examples call for a nuanced discussion about ‘hard’ law and new governance in the EU: assessments of the impact of the OMC need to acknowledge instrument hybridity. But this PhD showed that more is needed than acknowledging the interactions between the OMC and other EU instruments if one want to understand the significance of new governance29. Section 10.6 above provided several explanations that help to bridge the puzzling gap in our understanding of the OMC’s adequacy and its impact. Taken together, these different explanation help us to understand why new governance has indeed had more impact on the ground than could be expected from a ‘theoretically enriched’ reading. The previous chapters

---

29 Recently, Dawson (2015) argued that the post-crisis EU has increasingly adopted methods of decision-making in the economic field which marry the decision-making structure of inter-governmentalism with the supervisory and implementation framework of the Community Method.
demonstrated that new governance also functions in the absence of a shadow of hierarchy. This is because the OMC's tools have been more hybrid (links with other policy instruments), diversified (variety of existing tools) and dynamic (constant innovation of instruments) than has been acknowledged; in some cases they have been creatively picked up by actors and created cumulative effects (combining different OMC instruments), while they had more bite (exerting considerable pressure) and have been more open to different actors (leading to capillary effects outside the OMC inner circle) than is usually assumed. As discussed in chapter 4, the crux of the matter is this: it is not the 'hardness' or 'softness' of the OMC (having recommendations, national reports, indicators) that matters in the end, but its capacity to stimulate policy learning and especially creative appropriation and leverage by European, national and sub-national actors. Or, as Sabel and Zeitlin (2008: 309) put it: 'bargaining under these conditions is not bargaining in the shadow of hierarchy, but rather deliberating when hierarchy has itself become a shadow: powerful not for what it can deliver, but only for what it can obscure and disrupt'.

The perspective of a ‘penalty default’ – the threat that penalizes non-cooperation by engaging in traditional rulemaking that is disruptive and produces dysfunctional results (Sabel and Zeitlin, 2012) – remains relevant for explaining, for example, EU cooperation in health care. New governance in this issue area became attractive to Member States at approximately the same time that they realized that the penalty for lack of action is health policy made by ECOFIN and the progressive submission of health care policy to internal market law and extended in an unpredictable, case-by-case manner by the CJEU and DG Internal Market and Services. Such a scenario would substantially reduce the social affairs actors’ control over their fate, and thus induced a re-evaluation of the relative benefits of joint efforts, as predicted by Sabel and Zeitlin (2008) and De Burca et al. (2013).

It will come as no surprise then that I side, in retrospect, with Armstrong, when he explains that the term ‘soft law’ – which I used in some of the previous chapters – does not add a lot to the debate. This scholar indeed convincingly argues that ‘scholarship ought to make a more decisive break with the concept’ which risks mischaracterizing the very phenomenon it seeks to explain (Armstrong, 2014: 263). First, the term ‘soft law’ detracts attention from new governance process in which binding norms are present: as illustrated above, governance is not unconnected to the Community method. Second, the term hides the fact that new governance is doing different things (has different objectives) than law: new governance is a second order process intended to stimulate and inform domestic processes and policy-making, rather than first order rulemaking (Ibid: 259). Third, new governance and law work through entirely different mechanisms of change (see section 10.8).

In sum, this section discussed how this PhD contributed to three sets of literatures. First, to the current debate about ‘Social Europe’: it showed that OMC is constantly being reinvented while being constrained by past choices; it has been firmly institutionalized, both at national and EU level and thereby became increasingly relevant as an EU policy instrument; and it has played an important part in the ‘hybridization’ of EU governance tools. This PhD also makes a twofold contribution to the academic debate about the Europeanisation of social policies, adding to the body of literature that deals with the reciprocal relationship between EU and its Member States: research should do more than pay lip service to the uploading dimension, and bringing domestic
politics back into the equation of the Europeanisation debate. I concluded that ‘misfit’ is neither a necessary nor a sufficient condition for Europeanisation: actors at times actively create these misfits, if this suits them, to try and enact domestic changes. This PhD, also adds to the debate about new modes of governance, demonstrating that the OMC also functions in the absence of a shadow of hierarchy, but is helped by the perspective of a ‘penalty default’. OMC research should (1) assess the actual impact of the OMC on the ground, (2) acknowledge the possibility that the Social OMC is being used by a range of EU and domestic actors, (3) understand both the capillary and cumulative effects OMC instruments and (4) take into account the many changes in the OMC process.

10.10  The hard politics of new governance: wider relevance and next steps

This PhD dealt with one form of new governance, which I define as (a) an assemblage of processes that aim at giving further effect to Community norms, objectives and policies which (b) do not operate primarily through formal mechanisms of command-and-control (even if governance is increasingly interwoven with other policy instruments), but rather through reporting, reviewing and monitoring and which (c) may can have effects on EU and Member States’ policies through leverage, learning, socialization and peer pressure. Section 10.10.1 discusses whether the impact of the most widely known form of new governance, the OMC, is limited to Belgium, which we introduced as a ‘most likely’ case in chapter 1. Section 10.10.2 argues that there is no reason to consider Belgium as an outlier when compared to other countries, while section 10.10.3 looks considers some future prospects for the OMC at EU and national level.

10.10.1  A most likely case

It would be naïve to assume that the EU’s Open Method of Coordination in social protection and social inclusion (Social OMC) has transformed social policymaking in Belgium over the past decade. And yet, the empirical chapters of this PhD explained in detail how features of both the social inclusion and (to a lesser extent) the pensions strand of this EU process are perceived as useful by a variety of actors at different levels of government; this is not the case for the health care strand. As a result these actors selectively pick up its tools and use them to pursue their policy goals. While doing so, their opinions, behaviour and interests are altered. In several instances, OMC-driven initiatives inspired legislative changes, in one case the use of the OMC was codified in a (Regional) Decree. Perhaps more important is that the use of certain OMC instruments has spilled over in other-than-OMC issue areas and is becoming a template for federal, regional and at times local policy coordination. As a result, this PhD contends that the Social OMC has influenced substantive policymaking and induced procedural changes in the Belgian social policymaking setting (hypothesis 4).

While the finding that the Social OMC has a considerable impact in Belgium will certainly come as a surprise to policymakers, academics and stakeholders alike, it is plausible if one considers that Belgium can be seen as a most likely case in terms of OMC usage and impact. ‘Soft’
instruments such as the OMC indeed fit well with the (still) on-going gradual reform process of the country's institutions and its social policies. In terms of its temporal dynamics, 'the self-transformation of the Belgian social insurance system, due to the particular institutional makeup of the Belgian polity, proceeded gradually, cumulatively and effectively by stealth' (Hemerijck and Marx, 2010). The OMC also fits well with the Belgian informal decision-making culture and is in tune with the positive attitude towards the EU in general (e.g. trust of the population in the EU) and repeated calls for stronger EU involvement (through qualified majority voting) in social policies more particularly.

Thus, the Belgian delegation tabled a proposal to the 1996 Intergovernmental Conference, with a view to proposing EU policy coordination on social protection, similar to the European Employment Strategy (Armstrong, 2010: 59). The Belgian Presidency of the European Union in 2001 provided a window of opportunity to revisit those earlier ambitions, and deliver on them. During this Presidency, Belgian policymakers indeed played a key role in shaping the basic architecture of the social inclusion OMC, launching the pensions OMC and sowing the seeds for EU cooperation in health care. This spurred commitment to these processes among a wide range of domestic actors, not only among politicians and civil servants but also among social stakeholders and academics who were very much engaged in reflections about the detailed architecture of the OMC, especially in the initial years. Belgium continued to push for the operationalisation of the OMC/P after the 2001 Presidency, including through a range of influential texts (for example, Vandenbroucke, 2002b).

10.10.2 Looking across the borders

The question then is: how relevant are these findings in a comparative perspective? While this PhD was largely focused on the Belgian case, chapter 6 provided a systematic comparison of the operation of the Social Inclusion OMC in Belgium and France. Target setting was found to be a new feature of social inclusion policy making which has been introduced through the OMC in both countries (even if this happened at a slower pace, and largely covertly, in France). Participation in the OMC raised the profile of the poverty issue on the political agenda in both countries, and it increased the focus on activation in French social inclusion policies. Perhaps most importantly, I found compelling evidence that the social inclusion OMC pushed child poverty as a new issue onto the policy agendas in Belgium and France alike, despite rather strong initial resistance in both countries. Finally, the social inclusion OMC also served as inspiration for the French national administration to redefine its new (coordinating) role in the context of decentralisation. As was the case in Belgium, by far the most powerful mechanism through which the OMC works in France is leverage through strategic actors. Perhaps unsurprisingly then, formal reference to the (Social Inclusion) OMC is common in domestic policy documents, both in Belgium and, to a somewhat lesser extent in France.

Perhaps the most important conclusion from this comparative chapter 6 is that the domestic effects of the OMC are by no means predetermined by the institutional setting. On the one hand, different institutional settings result in similar effects: consider, for example, the significant effects the OMC had on statistical capacity-building (including increased coherence of national poverty indicators) in Belgium and France, in spite of these countries' totally different starting
positions (note that Ferrera and Sacchi (2005) came to similar conclusions for Italy). On the other hand, several examples have been provided where similar institutional settings resulted in significantly different effects. Thus, in the context of devolution of social inclusion policies, national and subnational policymakers have reacted very differently to the OMC: an increased national coordination role in Belgium, and rejection, for now, of this Parisian role in France. Another example is the strong NGO involvement in Belgium and France in the pre-OMC era, resulting in increased NGO involvement through the OMC in Belgium and little change to the status quo in France.

There is therefore no reason to assume that Belgium is an odd case, and that the impact of the OMC would be very different in other Member States. This is confirmed by a recent comparative assessment led by the Public Policy and Management Institute (PPMI), which involved in-depth country studies on five countries, while providing additional evidence from five additional cases (PPMI 2011). The comparative chapter of the study finds that the Social Inclusion OMC, as the oldest and most institutionalised of the three social OMCs, affects all of the ten EU Member States reviewed in the study. While the influence is indisputable, it has varied greatly in intensity, scope and type. In two of the cases, Denmark and Germany, the OMC has mostly led to substantive shifts, while there have been more significant procedural effects in Italy, Lithuania and Poland. In the remaining five cases – Belgium, France, Portugal, Spain and the UK – the study found a more balanced distribution of effects, albeit with great variations in intensity (Weishaupt, 2014).

In contrast to social inclusion, the evidence from this comparative study for OMC-related effects on national pensions is more sketchy and varied. On a general level, there is almost universal agreement that the OMC has contributed to a general increase in systematic EU-wide comparisons, awareness raising and problem consciousness. Finally, this comparative study found that the influence of the healthcare OMC remains the most limited. In numerous country reviews, the OMC/H-LTC was deemed to have no apparent impact, either in the area of health or of long-term care. Note that there are some countries, however, in which the OMC/H-LTC was broadly seen as an inspiration for reforms and an important source for new information and ideas (Poland and Portugal), a catalyst for new legislative initiatives (Lithuania) or a strategic resource (Germany) (Ibid).

In other words: there is compelling evidence that the OMC has a considerable impact on Member States' policies and politics, in spite of the more skeptical literature which dismissed the OMC because of its institutional weakness. In other words: it would seem that the mechanisms through which the OMC works in Belgium – leverage, learning, socialization and peer pressure and (in the case of a hybridity) conditionality – are also at work in other settings and are useful to explain diffusion of public policies more generally (Dobbin et al., 2007). The Belgian case is therefore far from a curiosity, but rather an illustration of how experimental governance

30 For an early review of the available empirical evidence about the OMC’s performance in the fields of employment and social inclusion, see Zeitlin and Pochet (2005).
31 Belgium, Denmark, France, Germany and the UK.
32 Italy, Lithuania, Poland, Portugal and Spain.
processes and mechanisms work for ‘the best pupil in the class’ (Vanhercke, 2013b, 2014). This PhD also showed that OMC’s impact is not limited to the domestic level: I found different kinds of EU-level effects, including shaping of discourses and deliberation (homelessness, child poverty, equal access to healthcare) and providing legitimacy for economic (and other actors) to further bring social protection and social inclusions under their influence. Also, the EU has incrementally and together with Member States and anti-poverty organizations, developed the discourses and policy analysis that are at the heart of the OMC procedure.

That being said, there is no general agreement about the overall direction and scope of the OMC’s impact. While many analyses point to beneficial effects, others point to undesirable effects, which for some include pushing for neoliberal solutions and policy tools, worsening welfare state performance and providing legitimacy for economic actors to exert further influence on social protection and social inclusion. Some Scholars therefore argue that we need a better understanding of public policy through its instruments. Lascoumes and Le Gales (2007), for example, make the point that public policy instruments are not neutral devices: they produce specific (political) effects, independently of the objective pursued in that they will eventually privilege certain actors and interests and exclude others.

Crucially, both the abovementioned OMC assessment and the review of the existing literature (chapters 5 to 8 in this PhD) have made it quite clear that the impact of the OMC varies substantially between Member States and may merely represent a bureaucratic exercise in some countries, notably when it is not being picked up by domestic actors to (selectively) amplify national reform strategies. This concurs with the more general conclusion by Vandenbroucke and Vleminckx (2011) regarding the former Lisbon Strategy, namely that ‘open coordination did not prevent national and regional governments and social partners from buying in selective bits and pieces of the new paradigm, but not its gestalt’. As explained in the previous sections, OMC was never a panacea: whether it works will always depend on who engages.

10.10.3 Prospect

This thesis illustrated the premise that the Open Method of Coordination has shown a great deal of elasticity (some would say instability) since it was formally launched in 2000: through the different stages of its life so far -experimentation, streamlining, maturity, reinvigoration and integration- the actors driving the process creatively adapted (at times reinvented) the procedural routines to changing political circumstances, so that the OMC could ‘sustain policy activism at the highest EU political level in order to supply the EU agenda’ (Tholoniat, 2010: 94). Rather than abandoning legislative responses, EU institutions pursue these more classic modes of implementation and enforcement alongside the array of governance mechanisms available to them. In spite of a ‘Cambrian explosion’ of new forms of governance (Sabel and Zeitlin, 2008), there is ‘no apparent loss of appetite for the adoption of substantive and detailed legislative acts

33 The choice of instruments will partly determine what resources can be used (e.g. imposing a statistical frame of reference) and by whom, while driving forward a certain representation of problems and thereby structuring the process and its results (Lascoumes and Le Gales, 2007:9).

34 See Rhodes and Visser (2011) for a discussion of the emergence, evolution and execution of new modes of socio-economic governance.
including the use of directly applicable regulations’ (Armstrong, 2014: 253). EU social policy thus seems to have been characterized by a gradual ‘institutional layering, which involves the partial renegotiation of some elements of a given set of institutions, while leaving others in place’ (Thelen, 2000: 225). The most recent step in this layering has been the OMC’s partial integration in the Europe 2020 Strategy. At the time of its launching, Europe 2020 indeed had a rather all-encompassing political agenda – resembling, to a certain extent, a return to the original Lisbon Strategy – that attached considerable visibility and importance to employment and social inclusion (but far less so to pensions and health care). The Europe 2020 Strategy indeed included a poverty target, a Flagship dubbed the European Platform Against Poverty (EPAP) and an Integrated Guideline 10 on ‘promoting social inclusion and combating poverty’. While Guideline 10 focuses in particular on social inclusion, it also covers the areas of pensions and healthcare and is reminiscent, as such, of the main points in the common objectives of the Social OMC. Contrary to most predictions, it would thus seem that policy coordination in social policy has been shown to be rather resilient.

One of the most recent and innovative developments in mutual learning in the EU’s Europe 2020 Strategy indicates that the actors involved in the Social OMC continue to reinvent the process so that it remains relevant for them, and not a mere oxymoron (Vanhercke 2011). This innovation consists of the so-called ex ante reviews of prospective social reforms that are now being conducted by the Social Protection Committee. During 2014, five EU Member States volunteered to present their planned reforms in the fields of minimum income, incapacity-for-work benefits, active inclusion, long-term care, and pensions, respectively (Zeitlin and Vanhercke 2014). The plans were reviewed by the Commission and a peer country and vigorously discussed by other Member States in the committee. The countries that presented appear to have particularly appreciated the exercise, as they benefitted from ‘experience-based feedback of other Members who had implemented similar reforms in the past’, including what not to do, and ‘received concrete advice on how to improve the policy design of the envisaged reforms and work toward acceptance of difficult policy choices’ (Ibid: 42-43). The exercise proved so popular that five more Member States presented their own reforms for ex ante review.

For now, it seems that the OMC is here to stay because it serves the different purposes of many actors, even if it changes its appearance and toolkit, and its name (the term OMC has become rather rare in European documents after 2005, but has made a gradual comeback since 2011). Several authors have proposed changes in the OMC’s instruments. Thus, Ferrera argues that the ‘virtuous nesting’ of the nation-based welfare state within the overall spatial architecture of the Union entails the strengthening of an EU ‘social space setting’: the setting of precise and measurable targets with the Social OMC, is seen as a first concrete step in this direction (Ferrera, 2005, 2009). Similarly, the High Level Group on Social Union (Friends of Europe, 2015: 36), acknowledges that ‘for the EU to be a laboratory for learning we already have instruments like the Open Method of Coordination’. The Group recommends that policy support work should draw on the ‘practical experiences of Member States, building on and greatly enlarging the cooperative work undertaken through the Open Method of Coordination’ (Ibid: 37).

The background report for the same High Level Group discusses, as its ‘third nut to crack’ on the way to a ‘European Social Union’, the idea of mainstreaming social policy concerns in the
This includes a discussion of (the nervousness around) the socialization of the auxiliary indicators in the Macroeconomic Imbalances Procedure (MIP), the relevance and use of the new Scoreboard of key employment and social indicators, and finally the precise role of this new scoreboard vis-à-vis the analytical tools developed recently by the EPSCO Council: the Employment Performance Monitor and the Social Protection Performance Monitor (Ibid: 90–91).

Other changes to the Europe 2020 architecture are discussed by Sabato and Vanhercke (2014: 30), who conclude that the European Platform Against Poverty has some fundamental limitations (it is a rather static tool and the quality of stakeholder involvement is decreasing): rather than throwing out the baby with the bathwater, the mid-term review of the Europe 2020 Strategy should be used as a window of opportunity to revamp this tool. Finally note that the Luxembourg Presidency of the Council of the European Union (2nd half of 2015) will continue to work on the socialization of the European Semester as proposed by Zeitlin and Vanhercke (2014). The real test will be whether (strengthened) social OMC monitoring can at some point feed into the mainstream economic governance architecture. The latter would include monitoring of the impact of the far-reaching social and labour market reforms that are being imposed upon Member States having signed a Memorandum of Understanding with the IMF, the EU and the ECB in exchange for a financial rescue umbrella through the European Financial Stability Facility (EFSF).

Thus, at first sight, the Social OMC will continue to play its parts (both as an integral part of in parallel to) the Europe 2020 strategy. Its future seems equally guaranteed in Belgium, in view of the sixth reform of the Belgian State, better known as the (hard-fought) Butterfly Agreement of 11 October 2011. This reform, which is currently being implemented, will significantly extend regional competences in Belgium in social policies (Accord institutionnel, 2011). Thus, family allowances and key components of health care policies (including hospital policy and long-term care) are (further) regionalised; and so are key employment policies. In other words the need for policy coordination – both internally and vis-à-vis the EU – will further increase. If extensive regional capabilities in Belgium continue to coincide with a high level of cooperative behaviour, the new reform that is currently being implemented may even raise the prospect of an OMC for all policies – going beyond social policymaking – in Belgium.

Whether this happens will ultimately depend on how attractive the tool remains for policymakers. Indeed, in contrast to earlier accounts of the OMC as a largely bureaucratic (administrative) exercise, this PhD highlighted the highly political nature of the Social OMC, which at every step of its emergence (in every of its three strands) and current operation leads to fierce debate, opposition, debate and bargaining. This PhD has shown that OMC in different policy areas is felt and perceived as being much ‘harder’ than could be expected. Non-binding measures are far from being perceived as irrelevant by the Member States and the decision-making process leading to their adoption involves hard politics. At the same time, this makes OMC highly vulnerable to political preferences in the Council as well as at Member State level. In view of the importance of creative appropriation in the operation of the OMC, its continued relevance will only be materialised if investments are made, by the European Commission and national decision makers alike, in the real involvement of stakeholders. This is indeed what will
determine whether and if so, how, actors consider that the OMC it can be used for agenda-setting, conflict resolution, maintaining focus on a policy issue and developing a policy dialogue.

References


Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance


European Commission (2005), Evaluation of the Open Method of Coordination for Social Protection and Social Inclusion, Synthesis of replies by Member States and other actors to an evaluation questionnaire on the Open Method of Coordination in the fields of Social Inclusion and sustainable pensions’, Commission Staff Working paper.


governance in Europe: governing in the shadow of hierarchy, Palgrave Macmillan, Basingstoke, pp.104-134.


Sapir, A. (2005), 'Globalisation and the Reform of European Social Models', Background document for presentation at ECOFIN Informal Meeting in Manchester, BRUEGEL Institute, Brussels, 9 September.


Smismans, S. (2004), ‘EU Employment Policy: Decentralisation or Centralisation through the Open Method of Coordination?’, EUI Working Paper LAW, No.2004/1, Brussels


Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance


Zeitlin, J. and Pochet, P. with L. Magnusson (eds.) (2005), The Open Method of Co-ordination in Action: The European Employment and Social Inclusion Strategies, PIE/Peter Lang, Brussels
### LIST OF ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACTIRIS</td>
<td>Office Régional Bruxellois de l'Emploi</td>
</tr>
<tr>
<td>AGE</td>
<td>European Older People’s Platform</td>
</tr>
<tr>
<td>AGS</td>
<td>Annual Growth Survey</td>
</tr>
<tr>
<td>ASISP</td>
<td>Analytical Support on the Socio-Economic Impact of Social Protection Reforms</td>
</tr>
<tr>
<td>AISSR</td>
<td>Amsterdam Institute for Social Science Research</td>
</tr>
<tr>
<td>BEPG</td>
<td>Broad Economic Policy Guidelines</td>
</tr>
<tr>
<td>BusinessEurope</td>
<td>The Confederation of European Business</td>
</tr>
<tr>
<td>CCE</td>
<td>Conseil Central de l’Economie (Central Economic Council)</td>
</tr>
<tr>
<td>CEC</td>
<td>Commission of the European Communities</td>
</tr>
<tr>
<td>CEE</td>
<td>Central Eastern Europe</td>
</tr>
<tr>
<td>CEEP</td>
<td>European Centre of Employers and Enterprises providing Public Services</td>
</tr>
<tr>
<td>CEV</td>
<td>Comité d’Etude sur le Vieillissement</td>
</tr>
<tr>
<td>CILE</td>
<td>Inter-Ministerial Committee to Combat Social Exclusion</td>
</tr>
<tr>
<td>CJEU</td>
<td>Court of Justice of the European Union</td>
</tr>
<tr>
<td>CNLE</td>
<td>Conseil national des politiques de lutte contre la pauvreté et l’exclusion sociale (National Council for the Fight Against Poverty and Social Exclusion)</td>
</tr>
<tr>
<td>CNT</td>
<td>Conseil National du Travail</td>
</tr>
<tr>
<td>COG</td>
<td>Chiefs of Government</td>
</tr>
<tr>
<td>COREPER</td>
<td>Committee of Permanent Representatives</td>
</tr>
<tr>
<td>CPAS/OCMW</td>
<td>Centre Public d’Action Sociale/Openbaar centrum voor maatschappelijk welzijn</td>
</tr>
<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities.</td>
</tr>
<tr>
<td>CSB</td>
<td>Center of Social Policy</td>
</tr>
<tr>
<td>CSR</td>
<td>Country-specific Recommendation</td>
</tr>
<tr>
<td>DG</td>
<td>Directorate General</td>
</tr>
<tr>
<td>DG ECFIN</td>
<td>Directorate General for Economic and Financial Affairs</td>
</tr>
<tr>
<td>DG EMPL</td>
<td>Directorate General for Employment, Social Affairs and Inclusion</td>
</tr>
<tr>
<td>DG MARKT</td>
<td>Directorate General for Internal Market and Services</td>
</tr>
<tr>
<td>DGAS</td>
<td>Direction Générale de l’Action Sociale (General Directorate for Social Action)</td>
</tr>
<tr>
<td>DIIS</td>
<td>Interdepartmental Directorate for Social Integration</td>
</tr>
<tr>
<td>DPT</td>
<td>Documents de politique transversale (Cross-Cutting Policy Documents)</td>
</tr>
<tr>
<td>DREES</td>
<td>Direction de la Recherche, des Études, de l’Évaluation et des Statistiques (Division of Research, Studies, Assessment and Statistics)</td>
</tr>
<tr>
<td>DWP</td>
<td>Department for Work and Pensions</td>
</tr>
<tr>
<td>EAPN</td>
<td>European Anti-Poverty Network</td>
</tr>
<tr>
<td>EaSI</td>
<td>Employment and Social Innovation Programme</td>
</tr>
<tr>
<td>EC</td>
<td>European Community</td>
</tr>
<tr>
<td>ECHP</td>
<td>European Community Household Panel</td>
</tr>
<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
</tr>
<tr>
<td>ECOFIN</td>
<td>Economic and Financial Affairs Council</td>
</tr>
<tr>
<td>ECU</td>
<td>European Currency Unit</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>EEA</td>
<td>European Economic Area</td>
</tr>
<tr>
<td>EEC</td>
<td>European Economic Community</td>
</tr>
<tr>
<td>EES</td>
<td>European Employment Strategy</td>
</tr>
<tr>
<td>EFSF</td>
<td>European Financial Stability Facility</td>
</tr>
<tr>
<td>EFTA</td>
<td>European Free Trade Association</td>
</tr>
<tr>
<td>EHPF</td>
<td>EU Health Policy Forum</td>
</tr>
<tr>
<td>EMCO</td>
<td>Employment Committee</td>
</tr>
<tr>
<td>EMU</td>
<td>Economic and Monetary Union</td>
</tr>
<tr>
<td>ENIAC</td>
<td>ESF-NAP Impact Assessment Cell</td>
</tr>
<tr>
<td>EPAP</td>
<td>European Platform Against Poverty</td>
</tr>
<tr>
<td>EPC</td>
<td>European Policy Committee</td>
</tr>
<tr>
<td>EPM</td>
<td>Employment Performance Monitor</td>
</tr>
<tr>
<td>EPSCO</td>
<td>Employment, Social Policy, Health and Consumer Affairs Council</td>
</tr>
<tr>
<td>ERDF</td>
<td>European Regional Development Fund</td>
</tr>
<tr>
<td>ESF</td>
<td>European Social Fund</td>
</tr>
<tr>
<td>ESIF</td>
<td>European Structural and Investment Fund</td>
</tr>
<tr>
<td>ESIP</td>
<td>European Social Insurance Platform</td>
</tr>
<tr>
<td>ESN</td>
<td>European Social Network</td>
</tr>
<tr>
<td>ESPANET</td>
<td>European Network for Social Policy Analysis</td>
</tr>
<tr>
<td>ETOS</td>
<td>European Tools for Social Policy in Belgium</td>
</tr>
<tr>
<td>ETUC</td>
<td>European Trade Union Confederation</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EU LFS</td>
<td>European Union Labour Force Survey</td>
</tr>
<tr>
<td>HTA</td>
<td>Health Technology Assessment</td>
</tr>
<tr>
<td>EUSA</td>
<td>European Union Studies Association</td>
</tr>
<tr>
<td>EU-SILC</td>
<td>European Union Statistics on Income and Living Conditions</td>
</tr>
<tr>
<td>FEANTSA</td>
<td>European Federation of National Organisations Working with the Homeless</td>
</tr>
<tr>
<td>FERPA</td>
<td>European Federation of Pensioners and Elderly People</td>
</tr>
<tr>
<td>FGTB</td>
<td>Fédération Générale du Travail de Belgique</td>
</tr>
<tr>
<td>FOREM</td>
<td>Service Public de l’Emploi et de la Formation en Wallonie</td>
</tr>
<tr>
<td>FPS</td>
<td>Federal Public Service</td>
</tr>
<tr>
<td>FSMA</td>
<td>Financial Services and Markets Authority</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GRAPA</td>
<td>Garantie de revenus aux personnes âgées (Guaranteed income for elderly persons)</td>
</tr>
<tr>
<td>HiAP</td>
<td>Health in all Policy</td>
</tr>
<tr>
<td>HiT</td>
<td>Health Care Systems in Transition</td>
</tr>
<tr>
<td>HL WPSP</td>
<td>High-Level Working Party on Social Protection</td>
</tr>
<tr>
<td>H-LTC</td>
<td>Health and Long-Term Care</td>
</tr>
<tr>
<td>HTA</td>
<td>Health Technology Assessment</td>
</tr>
<tr>
<td>IGAS</td>
<td>Inspection générale des Affaires sociales</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>IMC</td>
<td>Inter-Ministerial Conference</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>INAMI/RIZIV</td>
<td>Institut National d'Assurance Maladie-Invalidité (National Sickness and Disability Insurance Institute)</td>
</tr>
<tr>
<td>ISG</td>
<td>Indicators Subgroup (of the Social Protection Committee)</td>
</tr>
<tr>
<td>JAF</td>
<td>Joint Assessment Framework</td>
</tr>
<tr>
<td>JIM</td>
<td>Joint Memoranda on Social Inclusion</td>
</tr>
<tr>
<td>LMP</td>
<td>Labour Market Policies</td>
</tr>
<tr>
<td>LOLF</td>
<td>Loi organique relative aux lois de finances (National Commitment to Poverty Eradication)</td>
</tr>
<tr>
<td>MFF</td>
<td>Multiannual Financial Framework</td>
</tr>
<tr>
<td>MIP</td>
<td>Macroeconomic Imbalances Procedure</td>
</tr>
<tr>
<td>NAP/Incl</td>
<td>National Action Plan for Social Inclusion</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental Organisation</td>
</tr>
<tr>
<td>NRP</td>
<td>National Reform Programme</td>
</tr>
<tr>
<td>NSR</td>
<td>National Strategy Report</td>
</tr>
<tr>
<td>NWO</td>
<td>Nederlandse Organisatie voor Wetenschappelijk (Netherlands Organisation for Scientific Research)</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OMC</td>
<td>Open Method of Coordination</td>
</tr>
<tr>
<td>ONP</td>
<td>Office national des pensions (National Pensions Office)</td>
</tr>
<tr>
<td>ONPES</td>
<td>Observatoire National de la Pauvreté et de l’Exclusion Sociale (National Monitoring Centre for Poverty and Social Exclusion)</td>
</tr>
<tr>
<td>ORBEM</td>
<td>Office Régional Bruxellois de l’Emploi</td>
</tr>
<tr>
<td>OSE</td>
<td>European Social Observatory</td>
</tr>
<tr>
<td>OSH</td>
<td>Occupational Safety and Health</td>
</tr>
<tr>
<td>OSI</td>
<td>Open Society Institute</td>
</tr>
<tr>
<td>PCSA</td>
<td>Public Centre for Social Assistance</td>
</tr>
<tr>
<td>PNAI</td>
<td>Plan national d’action pour l’inclusion sociale</td>
</tr>
<tr>
<td>PPMI</td>
<td>Public Policy and Management Institute</td>
</tr>
<tr>
<td>PROGRESS</td>
<td>Community Programme for Employment and Solidarity</td>
</tr>
<tr>
<td>PSBH</td>
<td>Panel Survey on Belgian Households</td>
</tr>
<tr>
<td>QMV</td>
<td>Qualified majority voting</td>
</tr>
<tr>
<td>R&amp;D</td>
<td>Research &amp; Development</td>
</tr>
<tr>
<td>RMI</td>
<td>Revenu minimum d’insertion (Guaranteed Minimum Income)</td>
</tr>
<tr>
<td>RQMV</td>
<td>Reverse Qualified majority voting</td>
</tr>
<tr>
<td>RSA</td>
<td>Revenu de solidarité active (Active Solidarity Income)</td>
</tr>
<tr>
<td>SDC</td>
<td>Social Dialogue Committee</td>
</tr>
<tr>
<td>SEA</td>
<td>Single European Act</td>
</tr>
<tr>
<td>SIP</td>
<td>Social Investment Package</td>
</tr>
<tr>
<td>SPC</td>
<td>Social Protection Committee</td>
</tr>
<tr>
<td>SPPM</td>
<td>Social Protection Performance Monitor</td>
</tr>
<tr>
<td>SPSI</td>
<td>Social Protection and Social Inclusion</td>
</tr>
<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
</tr>
<tr>
<td>UEAPME</td>
<td>European Association of Craft, Small and Medium-Sized Enterprises</td>
</tr>
</tbody>
</table>
Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Organization Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations International Children's Emergency Fund</td>
</tr>
<tr>
<td>VAP</td>
<td>Vlaams Actieplan Armoedebestrijding (Flemish Action Plan for Poverty Reduction)</td>
</tr>
<tr>
<td>VDAB</td>
<td>Vlaamse Dienst voor Arbeidsbemiddeling en beroepopleiding</td>
</tr>
<tr>
<td>WAGE</td>
<td>Center for World Affairs in the Global Economy</td>
</tr>
<tr>
<td>AWG</td>
<td>Working Group on Ageing Populations and Sustainability (of the EPC)</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

Introduction

The process of European integration has gradually but irreversibly altered the configuration of national welfare states. In spite of formidable institutional and political hurdles, over the last decades incremental European social regulation indeed led to the development of a genuine EU social policy. The latter involves a complex institutional arrangement for shared governance and joint policy-making, which has gradually affected the workings of welfare states’ institutional structures and policy making processes.

This PhD is mainly concerned with one particular ‘soft’ EU social policy instrument: the Open Method of Coordination on Social Protection and Social Inclusion (hereafter ‘Social OMC’). The ambition is to understand whether and how the Social OMC has become a significant element in the shaping of national and EU policies over the last decade, alongside and in interaction with other policy instruments such as EU law, structural funds and European social dialogue. This PhD is situated in and contributes to three ongoing academic debates: these are concerned with social Europe, Europeanisation and new modes of governance, respectively.

The main thesis put forward is that the Social OMC – in spite of overwhelmingly skeptical academic accounts and repeated attempts to weaken the process – 15 years after its formal launch continues to appeal to EU and domestic actors because it is seen as a tool with an added value in at least two respects:

- The OMC’s so called ‘soft’ tools – reporting, indicators, targets, peer reviews etc. – are being used by policymakers and stakeholders alike to shape key phases of the ‘hard’ policy development process;
- Under certain conditions, the OMC operates as a catalyst or selective amplifier for reform strategies, and as a consequence has both substantive and procedural effects on domestic and EU policymaking.

1. Methods and case studies

Understanding whether the Social OMC is an adequate policy tool that has a tangible impact on policymaking, demands a research design that envisages the OMC as a two-way interaction between the EU and its Member States. Indeed, Member States play a key role in shaping the content, procedures and operation of the OMC toolbox, which can therefore not be considered as one-way street (or causal impact).

I selected the social inclusion, pensions and health care strands of the Social OMC as my primary case studies to understand the mechanisms and effects of the reciprocal influence between domestic and EU social policymaking. These three strands indeed provide the variation – including in terms of their temporal development, institutional embeddedness, the presence of competing networks and policy instruments – that is needed in order to be able to trace
similarities and differences in the use and impact of the OMC. For each strand, I assessed the different stages of its institutional development: initial emergence; further institutionalisation; and consequent operation, both in terms of adequacy as a policy tool and substantive as well as procedural impact. The impact was studied both at the EU level and in one particular Member State: Belgium. The latter is considered as a most likely case that nevertheless allows to draw more general conclusions that are relevant for other Member States.

In view of the challenges of causal inference in the context of the Social OMC (which cannot be considered as an ‘independent variable’, as outlined above), I conducted contextualised process tracing for each of the case studies. This involved combining different methods of data collection in order to check the results: first, systematic document analysis and literature review; and second, several waves of semi-structured expert interviews with more than 100 respondents. In addition, a limited quantitative online survey and press content analysis supported the process tracing. Taken together these qualitative sources allowed for a careful triangulation of results.

2. Inside the Social OMC: Key findings

2.1 Why did they do it? Of windows and opportunities

The first research question that is raised is this: why did a variety of actors decide to launch EU co-operation through the OMC in 2000, after almost a decade of futile efforts to do so? With a view to structuring the many observations that could be relevant to answer this question, I considered some of the most promising approaches in European integration theory. Four theoretical lenses – liberal intergovernmentalism, neo-functionalism, the new institutionalisms, and policy network analysis – proved useful to shed different lights on the same issue.

The short answer to the ‘why did they do it’ question is that at least two sets of actors – socially and economically oriented – had a variety of conflicting reasons to launch EU-wide co-operation on social protection and social inclusion. I refer to four explanations for understanding this initial phase of the OMC: first, the European Commission as norm entrepreneur; second, Member States’ self-interest; third, historical embeddedness; and fourth, an advocacy coalition to offset economic pressure. It would seem that a constructivist interpretation of neofunctionalism has the potential to contribute to a multi-faceted and nuanced picture of this particular case of European integration, since this framework allows to synthesize rationalism with constructivism, and therefore reconciles at least some of the four theoretical lenses presented above.

2.2 From Paris (1972) to Lisbon (2000): ten steps towards the Social OMC

Ten milestones, or important turning points, can retrospectively be identified on the road to the Social OMC in 2000. Taken together, these milestones provide the answer to the second part of the first research question ‘how did a variety of actors manage to get the Open Method of Coordination started’? In sum, the answer to the ‘how did they do it’ question is that – over a time span of more than a decade – a range of actors created turning points that ultimately allowed the Employment and Social Affairs Council to the launch of the Social OMC in 2000.
I identified the ten following milestones: (1) the EU's Poverty Programme in the period 1975-1994; (2) two largely symbolic Council Recommendations, on social protection and social assistance adopted in 1992; (3) Commission activism during the 1990s; (4) ‘technical’ cooperation in the context of the Administrative Commission on Social Security for Migrant Workers and the European Community Household Panel; (5) the Court of Justice applying competition law to social protection and ruling on the proposed ‘Poverty IV’ programme; (6) enhanced legitimacy through the Treaty of Amsterdam; (7) a proposal for a concerted strategy on social protection from a resigning European Commission in 1999; (8) creating a sense of urgency in a new social-democratic landscape; (9) the Lisbon European Council’s political rubberstamp; and (10) the speedy development of the OMC’s basic architecture (2001-2002). The story of the emergence of the Social OMC illustrates the importance of selling ideas in a convincing way and using the political window of opportunity at hand.

2.3 Variations of institutionalisation of the Social OMC: revisiting the legalisation framework

The second research question of this PhD was formulated as follows: How did the OMC strands in the fields of social inclusion, pensions and health care develop institutionally between their emergence and their streamlining into one overarching process in 2006? The overall conclusion from the detailed process tracing of the institutional development of the three Social OMC strands between 2000 and 2006, is that they followed their own distinctive institutionalisation processes. Thus, the analysis shows that these social protection OMCs differ significantly from each other, first in terms of the (subjective) obligations they create for Member States; second, with regard to the precision of the conduct they require; third as to the degree of delegation of the management of the procedural routine as well as of the power to propose ‘soft’ recommendations.

The same variation is present for the two dimensions which I added to the ‘legalisation’ framework which I used in order to make sense of the similarities and differences between the three policy coordination processes: the three strands indeed differ in important respects in terms of expected (formal and informal) participation of state and non-state actors, both at national and EU-level; and, as regards the degrees of freedom for actors to revise the institutional arrangements along the road.

2.4 Adequacy and impact: does the OMC deliver the goods?

The third research question to which this PhD tried to find a plausible answer is this: To what extent can the Social OMC be considered as an ‘adequate’ policy tool, i.e. does its operational framework at the EU level have the potential to contribute to reaching the goals set at EU and national level? This PhD presents a rather gloomy picture of the theoretical capacity of the OMC toolbox to produce results. While the Social OMC’s institutional setup should allow it to produce at least some results, many important flaws are apparent from the analysis. The question then is whether these flaws imply that the Social OMC has by and large failed to deliver the goods (i.e. has no tangible impact). This PhD clearly concludes that to say so would be jumping to conclusions too fast.
The empirical chapters of this PhD are concerned with answering research question 4: Has the Social OMC had any impact – i.e. actual, empirically established effects – on policies and policymaking processes, both at EU and national level? In a nutshell the key finding of these empirical chapters is this: even though none of the (80 or so) domestic actors I interviewed claimed that the OMC was revolutionising domestic social policymaking, those who are working in the areas of social inclusion and pensions in Belgium see the OMC as a useful governance template in federal, regional and local policymaking, notably with a view to coordinating complex horizontal coordination issues in cross-cutting policy areas.

Experts working in the field of health care do not share this view, as for them this strand of the OMC is largely invisible in the domestic setting. At the same time, the use of OMC tools such as indicators, targets and peer reviews has spilled over to adjacent policy areas, such as equal opportunities (see section 2.6 below). Some important nuances need to be added to this general appraisal of the Social OMC’s impact, since the OMC’s operation and impact is not only difficult to establish (there is never a smoking gun or Holy Grail that provides the ultimate proof of OMC impact). It also varies a great deal both across countries, issue-areas and time.

2.5 Explaining discrepancies in OMC research: adequacy versus impact

The detailed analysis of the actual impact of the Social OMC allows to answer research question 6 of this PhD: How can one account for the variation in existing academic accounts of the impact of the Social OMC? A first, quite evident element in the explanation is that many studies limit themselves to the OMC’s potential effect (adequacy) and simply fail to look at the actual impact of the OMC on the outcome of policies or politics. A second, and arguably the most important explanation is the fact that the Social OMC is being creatively (and selectively) used by EU and domestic actors. This PhD clearly shows that this is a strong mechanism of OMC influence on national social policies.

A third explanation for the discrepancy between the adequacy and the impact of the Social OMC is that most studies ignore the capillary effects of the Social OMC: through the involvement of a wide range of stakeholders, OMC benchmarking tools are increasingly being promoted outside the formal OMC inner circle of government and Commission officials. The fourth explanation is that most research disregards the cumulative effects of the OMC instruments – including peer reviews, EU independent expert networks, indicators, targets, country-specific messages, funding of EU studies and conferences – which in some cases produce a virtuous circle that creates considerable pressure on Member States. The fifth and final explanation is more methodological and refers to the OMC’s own dynamic: few of the studies dealing with the adequacy of the Social OMC take into account the many changes in the OMC process, including completion of the portfolio of indicators, the increased use of target setting, the enhancement of mutual learning activities, and most recently the partial integration of the Social OMC into the Europe 2020 Strategy.

2.6 Mechanisms of change: leverage, learning, socialization and peer pressure

The finding that the Social OMGs had a real impact on domestic social policies, at least in Belgium, raises the fifth research question that structures this PhD: through which mechanisms...
can a ‘soft’ tool such as the OMC have any (substantive or procedural) effects on ‘hard’ domestic and EU politics? In this PhD I explain how the OMCs plausibly influences domestic policies through four related but empirically distinguishable mechanisms: creative appropriation (leverage), learning, socialization, and peer pressure.

Leverage is the most powerful mechanism through which the OMC works: national, regional and local policy entrepreneurs creatively appropriate the different instruments of the OMC toolbox and use them – alongside various other instruments at their disposal – to legitimize their own preferences. An important nuance is that creative appropriation does not simply reinforce actors’ fixed preferences: in some cases appropriation leads to a transformation of those preferences, for example by giving more attention to a previously ignored policy challenges.

A second mechanism that helps to explain how the OMC can effectively influence domestic policies, is learning. Thin learning occurs when actors ‘learn’ how to use the OMC: they readjust their discourses and funding strategies, which enables them to pursue the same objectives in a new EU context. As indicated in the previous section, such thin learning attempts is not a completely innocent choice: in several cases elites ultimately practice what they previously preached. A more systematic comparison with other countries is cited by most of the actors as one of the most important facilitator of thick learning within the Social OMC: the OMC has institutionalised awareness of policies, practices, and performances in other countries, by non-state as well as by governmental actors. The empirical chapters of this PhD equally provide examples of thick learning through ‘mirror effects’ in the context of the Social OMC. In some case these mirror effects entail a confirmation of pre-established ideas, in other cases policy makers learned that their policies looked much better on paper than in practice and that some problems had been overlooked. Most unexpectedly perhaps, learning is taking place between Regions in Belgium, as a consequence of the regular European reporting obligations. Importantly, I found that real-world social learning does necessarily follow the order of Peter Hall's widely used model: involvement in EU-level cooperation seems to have contributed to a paradigm shift/third order change in pension policy but this has not been accompanied by significant changes in the instruments and their precise settings (first and second-order learning). A second key finding as regards learning is that in some cases tutor and learner roles change (e.g. during the course of a peer review), which suggests that at least in some of them genuine reflexive learning is taking place. In other words, homines dum docent, discunt: even when they teach, people learn.

A third mechanism of change is preference change through socialization and discursive diffusion: in this case changes do not result from systematic evaluation or actors purposefully looking for ideas or solutions to problems, but simply ‘happen’ (hence actors may not be aware of it) as a result of day-to-day events, failures or pressures on policymakers. One particular mechanism of diffusion through which the OMC has more recently strengthened its domestic impact in Belgium is the extension of the OMC toolbox itself – indicators, targets, peer reviews – to different levels of government (federal, regional and local). Perhaps even more significantly, the OMC instruments are also being used in policy areas that are outside the immediate scope of the Social OMC, as in the area of equal opportunities: not only was an OMC launched on this topic, but its use as a governance tool in this area has been codified, in 2008 in regional legislation.
Fourthly, external or peer pressure and associated practices such as recommendations and rankings, can also help to explain domestic policy changes. The empirical chapters of this PhD indeed illustrate that pressure is in general not felt as ‘soft’ at all. Actors perceived, for example, strong EU pressure to take child poverty on board as a priority issue, to prudently start monitoring and evaluation of social exclusion policies, to involve a wide variety of actors in policymaking, to start using European indicators in social policies, and finally to set quantified targets. In pensions, the OMC provides strong pressure on the need to reform, which is not necessarily felt as a good thing by all actors.

In addition to these four mechanisms, aid conditionality through the European Social Fund can act as a powerful mechanism for OMC domestic impact. This happen more particularly through the principles of targeting, sound financial management and (especially) additionality. Importantly, I also found that the OMC's impact is related to the degree to which domestic actors were able to influence the EU decision-making process in the first place, which again points to the importance of viewing OMC effectiveness as reciprocal influence, rather than as a one-way street (or cause-effect).

3. Theoretical implications and wider relevance

3.1 Social Europe, Europeanisation and new governance

As highlighted in the introduction, this PhD contributes to three sets of literatures. First, with regard to the debate about 'Social Europe', I show that the OMC is constantly being reinvented, while being constrained by past choices; the process has been firmly institutionalized, both at national and EU level and thereby became increasingly relevant as an EU policy instrument; and it has played an important part in the emergence of 'hybrid' EU governance tools that combine elements from 'hard' and 'soft' forms of governance.

This PhD also makes a twofold contribution to the academic debate about the Europeanisation of social policies, adding to the body of literature that deals with the reciprocal relationship between the EU and its Member States: a firm conclusion is that Europeanisation studies should do more than pay lip service to the uploading dimension, and bring domestic politics back into the equation of the debate. I concluded that 'misfit' is neither a necessary nor a sufficient condition for Europeanisation: actors at times actively create these misfits, if this suits them, to try and enact domestic changes.

Finally, this PhD, also adds to the debate about new modes of governance, demonstrating that the OMC also functions in the absence of a shadow of hierarchy, but is helped by the perceived existence of a 'penalty default' (i.e. something worse will happen if the OMC fails). OMC research should (1) assess the actual impact of the OMC on the ground, (2) acknowledge the possibility that the Social OMC is being used by a range of EU and domestic actors, (3) understand both the capillary and cumulative effects OMC instruments, and (4) take into account the many changes in the OMC process.
3.2 Wider relevance and next steps

This PhD deals with one form of ‘soft’ governance, which I define as (a) an assemblage of processes that aim at giving further effect to Community norms, objectives and policies which (b) do not operate primarily through formal mechanisms of command-and-control (even if governance is increasingly interwoven with other policy instruments), but rather through reporting, reviewing and monitoring and which (c) may can have effects on EU and Member States' policies through leverage, learning, socialization and peer pressure.

While the finding that the Social OMC has a considerable impact in Belgium is likely to come as a surprise to policymakers, academics and stakeholders alike, it is plausible if one considers that Belgium can be seen as a most likely case in terms of OMC usage and impact. ‘Soft’ instruments such as the OMC indeed fit well with the (still) on-going gradual reform process of the country's institutions and its social policies. The OMC also fits well with the Belgian informal decision-making culture and is in tune with the positive attitude towards the EU in general (e.g. trust of the population in the EU) and repeated calls for stronger EU involvement in social policies more particularly.

The question then is: how relevant are these findings in a comparative perspective? While this PhD was largely focused on the Belgian case, chapter 6 provided a systematic comparison of the operation of the Social Inclusion OMC in Belgium and France. Target setting was found to be a new feature of social inclusion policy making which has been introduced through the OMC in both countries (even if this happened at a slower pace, and largely covertly, in France). Participation in the OMC raised the profile of the poverty issue on the political agenda in both countries, and it increased the focus on activation in French social inclusion policies. Perhaps most importantly, I found compelling evidence that the social inclusion OMC pushed child poverty as a new issue onto the policy agendas in Belgium and France alike, despite rather strong initial resistance in both countries. Finally, the social inclusion OMC also served as inspiration for the French national administration to redefine its new coordinating role in the context of decentralisation.

There is therefore no reason to assume that Belgium is an odd case, and that the impact of the OMC would be very different in other Member States. This is confirmed by a recent comparative assessment led by the Public Policy and Management Institute, which involved in-depth country studies on five countries, while providing additional evidence from five additional cases (PPMI 2011). The comparative chapter of the study finds that the Social Inclusion OMC, as the oldest and most institutionalised of the three social OMCs, affects all of the ten EU Member States reviewed in the study. Crucially, both the abovementioned OMC assessment and the review of the existing literature have made it quite clear that the impact of the OMC varies substantially between Member States and may merely represent a bureaucratic exercise in some countries, notably when it is not being picked up by domestic actors to (selectively) amplify national reform strategies. As explained in the previous sections, OMC was never a panacea: whether it works will always depend on who engages.
Conclusion

This thesis illustrated the premise that the Open Method of Coordination has shown a great deal of elasticity (some would say instability) since it was formally launched in 2000: through the different stages of its life so far - experimentation, streamlining, maturity, reinvigoration and integration - the actors driving the process creatively adapted at times reinvented the procedural routines to changing political circumstances. Rather than abandoning legislative responses, EU institutions pursue these more classic modes of implementation and enforcement alongside the array of governance mechanisms available to them. One of the most recent and innovative developments in mutual learning in the EU’s Europe 2020 Strategy indicates that the actors involved in the Social OMC continue to reinvent the process so that it remains relevant for them. This innovation consists of the so-called ‘ex ante reviews’ of prospective social reforms that are now being conducted by several EU Committees.

It seems that the OMC is here to stay because it serves the different purposes of many actors, even if it changes its appearance and toolkit, and even its name: the term OMC became rather rare in European documents after 2005, but has made a gradual comeback since 2011. Currently the Social OMC continues to play its parts both as an integral part of the Europe 2020 strategy and as a parallel process to it. Its future seems equally guaranteed in Belgium, in view of the sixth reform of the Belgian State, better known as the Butterfly Agreement of 11 October 2011. This reform, which is currently being implemented, will significantly extend regional competences in Belgium in social policies. In other words the need for policy coordination – both internally and vis-à-vis the EU – will further increase. If extensive regional capabilities in Belgium continue to coincide with a high level of cooperative behaviour, the new reform that is currently being implemented may even raise the prospect of an OMC for all policies – going beyond social policymaking – in Belgium.

Whether this happens will ultimately depend on how attractive the tool remains for policymakers. Indeed, in contrast to earlier accounts of the OMC as a largely bureaucratic (administrative) exercise, this PhD highlighted the highly political nature of the Social OMC, which at every step of its emergence, institutionalisation and operation leads to fierce opposition, debate and bargaining. This PhD has shown that OMC in different policy areas is felt and perceived as being much ‘harder’ than could be expected. Non-binding measures are far from being perceived as irrelevant by the Member States and the decision-making process leading to their adoption involves ‘hard politics of soft governance’. At the same time, this makes OMC highly vulnerable to political preferences in the Council as well as at Member State level. In view of the importance of creative appropriation in the operation of the OMC, its continued relevance will only be materialised if investments are made, by the European Commission and national decision makers alike, in the real involvement of stakeholders, who find themselves increasingly at the margin of the process. This is indeed what will determine whether and if so, how, actors consider that the OMC it can be used for agenda-setting, conflict resolution, maintaining focus on a policy issue and developing a policy dialogue.
SAMENVATTING

Inleiding

Het Europese integratieproces veranderde geleidelijk maar onomkeerbaar de contouren van de nationale verzorgingsstaten. Ondanks de enorme institutionele en politieke obstakels werd de voorbije decennia heel wat Europese sociale regelgeving ingevoerd. Dit leidde tot de ontwikkeling van een heus ‘sociaal beleid’ van de Europese Unie (EU), dat steunt op complexe institutionele afspraken tussen de EU en haar lidstaten. Hun gezamenlijk optreden beïnvloedt in toenemende mate de institutionele structuren en beleidsprocessen van de nationale verzorgingsstaten.

Deze doctoraatsstudie buigt zich vooral over één ‘zacht’ (want niet-bindend) Europees sociaal beleidsinstrument: de Open Coördinatiemethode voor Sociale Bescherming en Insluiting (hieronder ‘Sociale OMC’ genoemd). De studie heeft als doel na te gaan of en hoe de Sociale OMC tijdens het voorbije decennium een significante rol heeft gespeeld in de ontwikkeling van nationaal en Europees (sociaal) beleid. Daarbij wordt ook gekeken naar de mogelijke interacties met andere beleidsinstrumenten, zoals Europese wetgeving, de structuurfondsen en de Europese sociale dialoog. Het onderwerp van deze doctoraatsstudie situeert zich binnen drie actuele academische discussies, en levert er ook een bijdrage aan: deze discussies houden verband met het sociale Europa, de europeisering van beleid en nieuwe methodes van beleid voeren (new modes of governance).

De belangrijkste these die naar voren wordt geschoven, is dat de Sociale OMC - ondanks de overwegend sceptische academische beoordelingen en herhaalde pogingen om het proces te verwateren - 15 jaar na haar formele lancering nog steeds een belangrijke aantrekkingskracht uitoefent op nationale en Europese actoren, met name omdat zij de Sociale OMC zien als een instrument dat minstens op twee vlakken toegevoegde waarde biedt:

- De zogenaamd ‘zachte’ instrumenten van de OMC - rapportering, indicatoren, gekwantificeerde doelstellingen, feedback geven tussen gelijken (peer review), enz. - worden zowel door beleidsmakers als stakeholders gebruikt in verschillende fases van ‘harde’ beleidsontwikkeling;
- Onder bepaalde voorwaarden functioneert de OMC als een katalysator of selectieve versterker voor hervormingsstrategieën en heeft ze bijgevolg zowel inhoudelijke als procedurele gevolgen voor zowel het nationale beleid als EU-beleid.

1. Methodes en case studies

Om na te gaan of de Sociale OMC een geschikt beleidsinstrument is dat ook een tastbare impact heeft op het beleid, wordt de OMC in deze studie beschouwd als een vorm van wederzijdse interactie tussen de EU en de lidstaten. Deze laatste spelen immers een belangrijke rol bij het definiëren van de inhoud,
de procedures en de werking van de OMC-instrumenten: er is dus geen sprake van eenrichtingsverkeer of oorzakelijk verband.

Ik selecteerde de deel-OMC’s inzake sociale insluiting, pensioenen en gezondheidszorg (dit zijn de onderdelen van de overkoepelende ‘Sociale OMC’) als case studies om de complexe mechanismen te begrijpen van de wederzijdse beïnvloeding tussen nationaal en Europees sociaal beleid. Samen leveren deze drie case studies inderdaad de variatie op die nodig is om zowel de gelijkenissen als de verschillen - inzake het gebruik en de impact van de OMC - na te gaan tussen verschillende beleidsdomeinen. Het betreft variatie tussen de deel-OMC’s inzake hun temporele ontwikkeling, de mate van institutionalisering, alsook de aanwezigheid van concurrerende netwerken en beleidsinstrumenten. Voor elke deel-OMC (sociale insluiting, pensioenen en gezondheidszorg) evaluateerde ik de opeenvolgende fasen in hun institutionele ontwikkeling: het ontstaan ervan, de verdere institutionalisering en vervolgens de eigenlijke werking. Om dit laatste aspect te onderzoeken werd zowel gekeken naar de (theoretische) geschiktheid van het beleidsinstrument als naar de inhoudelijke en procedurele impact ervan. De impact werd zowel op EU-niveau als in één bepaalde lidstaat (België) bestudeerd. Dit land wordt beschouwd als een vrij specifiek geval (most likely case), dat toch toelaat meer algemene conclusies te trekken die relevant zijn voor andere lidstaten.

In het licht van de moeilijkheden om tot causale gevolgtrekkingen te komen in de context van de Sociale OMC (deze kan immers niet als een ‘onafhankelijke variabele’ worden beschouwd), paste ik gecontextualiseerde procestracing toe op de casestudies. Hiervoor combineerde ik verscheidene methodes van dataverzameling om de empirische bevindingen te controleren: om te beginnen systematische documentanalyse en literatuuronderzoek. Vervolgens semigestructureerde expertinterviews met meer dan 100 respondenten (in verscheidene golven). De procestracing werd ten slotte ondersteund met een beperkte kwantitatieve online enquête en analyse van de inhoud van persartikels. Samen zorgen deze diverse kwalitatieve bronnen voor voldoende empirisch onderbouwde resultaten.

2. De Sociale OMC binnenstebuiten: belangrijkste bevindingen

2.1 Waarom dan toch een Sociale OMC? Een streepje geschiedenis

De eerste vraag die in het onderzoek werd gesteld, luidt als volgt: waarom besloot een gevarieerd gezelschap van beleidsmakers in 2000 om Europese samenwerking inzake sociale bescherming te lanceren via een OMC, na bijna een decennium van vergeefse pogingen om dit te realiseren? Om een plaats te geven aan de talrijke empirische observaties die relevant zouden kunnen zijn om de verraderlijke “waaromvraag” te beantwoorden, hanteerde ik enkele van de meest belovende Europese integratietheorieën. Vier theoretische invalshoeken - liberaal intergouvernementalisme, neo-functionalisme, het nieuwe institutionalisme en beleidsnetwerkanalyse - bleken nuttig om de kwestie vanuit verschillende invalshoeken te benaderen.
Op de vraag ‘waarom werd de OMC gelanceerd?’ zou het antwoord kort kunnen zijn: minstens twee groepen van actoren - met respectievelijk een sociale en een economische oriëntatie - hadden diverse en zelfs tegenstrijdige redenen om op Europees vlak samen te gaan werken inzake sociale bescherming. Om deze beginfase van de OMC te begrijpen verwijs ik meer bepaald naar vier verklaringen. Ten eerste, de Europese Commissie als normverspreider; ten tweede, het eigenbelang van de lidstaten; ten derde, historische padafhankelijkheid; en ten vierde, coalitievorming tegen economische druk. Achteraf bekeken lijkt het erop dat een constructivistische interpretatie van het neofunctionalisme potentieel kan bijdragen tot een genuanceerd begrip van dit specifieke staaltje van Europese integratie. Een dergelijke interpretatie biedt immers de mogelijkheid om rationalisme met constructivisme te combineren, en zo minstens enkele van de vier hierboven geschetste theoretische invalshoeken met elkaar te verzoenen.

2.2 Van Parijs (1972) tot Lissabon (2000): tien stappen naar de Sociale OMC

De volgende onderzoeksvraag luidde: Hoe slaagde een gevarieerd gezelschap van beleidsmakers erin om in 2000 de Open Coördinatiemethode te starten? Het bondige antwoord op de ‘hoe-vraag” luidt als volgt: een waaier van actoren zette actief - over een periode van meer dan een decennium – een reeks mijlpalen uit die de raadsformatie Werkgelegenheid en Sociaal Beleid uiteindelijk in staat stelde om in 2000 de Sociale OMC politiek te lanceren. Ik onderscheid in het bijzonder deze tien mijlpalen: (1) het Programma van de EU inzake armoedebestrijding in de periode 1975-1994; (2) twee grotendeels symbolische Aanbevelingen van de Raad, inzake sociale bescherming en sociale bijstand, goedgekeurd in 1992; (3) het activisme van de Europese Commissie in de jaren 1990. Verder waren er (4) de ‘technische’ samenwerking in de context van de Administratieve Commissie voor de sociale zekerheid van migrerende werknemers, alsook het panelonderzoek ‘European Community Household Panel’ (ECHP); (5) het Europees Hof vanJustitie dat het mededingingsrecht toepaste op sociale bescherming en uitspraken deed over het voorgestelde Armoede IV-programma; (6) de toegenomen legitimiteit voor ‘sociale’ initiatieven na het Verdrag van Amsterdam en (7) een voorstel voor een gezamenlijke strategie inzake sociale bescherming, afkomstig van een ontslagnemende Europese Commissie in 1999. Ten slotte was er (8) het creëren van een gevoel van hoogdringendheid (sense of urgency) in een nieuw sociaaldemocratisch landschap; (9) de politieke goedkeuring van de Europese Raad in Lissabon; en (10) de snelle ontwikkeling van de basisarchitectuur van de OMC (2001-2002). Het verhaal van de totstandkoming van de Sociale OMC toont aan hoe belangrijk het is om ideeën op een overtuigende manier te kunnen brengen en de politieke kansen (windows of opportunity) op een bepaald ogenblik te benutten.

2.3 Gradaties in de institutionalisering van de Sociale OMC: het ‘legalisatie’-perspectief herbekeken

De tweede onderzoeksvraag van deze doctoraatsstudie luidt als volgt: Hoe verliep de institutionele ontwikkeling van de OMC’s op het gebied van sociale insluiting, pensioenen en gezondheidszorg tussen hun ontstaan en de stroomlijning ervan in één overkoepelend proces in 2006? Uit een gedetailleerde procestracing van de ontwikkeling van de drie deel-OMC’s tussen 2000 en 2006 blijkt dat zij elk hun
Samenvatting

eigen, apart institutionaliseringsproces doorliepen. De analyse toont met name aan dat deze OMC’s significant van elkaar verschillen in ten minste drie opzichten: (1) de subjectieve verplichtingen die zij creëren voor de lidstaten ('obligation'); (2) de mate van precisie van het gedrag dat wordt vereist van de lidstaten; en (3) de mate waarin het aansturen van de processen - inclusief het formuleren van ‘zachte’ aanbevelingen - wordt gedelegeerd naar de Europese Commissie.

Gelijkwaardige verschillen tussen de drie deel-OMC’s werden gevonden bij de twee dimensies die ik toevoegde aan het bekende ‘legalisatie’-perspectief, dat ik hanteerde om de overeenkomsten en verschillen beter te begrijpen. De OMC’s inzake sociale insluiting, pensioenen en gezondheidszorg verschillen inderdaad aanzienlijk voor wat betreft de (formele en informele) participatie van een brede waaier van nationale en Europese actoren. En ze verschillen van elkaar inzake de vrijheidsgraden die de betrokken actoren hebben om de institutionele spelregels te herzien.

2.4 Adequaatheid en impact: doet de OMC wat het moet doen?

De derde onderzoeksvraag waarop deze doctoraatsstudie een antwoord formuleert, luidt: In welke mate kan de Sociale OMC beschouwd worden als een geschikt ('adequaat') beleidsinstrument, m.a.w. heeft het operationele kader ervan minstens theoretisch het potentieel om bij te dragen tot beleidsverandering? Deze doctoraatsthesis schetst een vrij pessimistisch beeld van de theoretische capaciteit van de OMC-gereedschapskist (rapportering, indicatoren, gekwantificeerde doelstellingen, peer reviews) om concrete resultaten te boeken. De analyse brengt inderdaad belangrijke tekortkomingen aan het licht in de institutionele structuur van de Sociale OMC. Impliceren deze tekortkomingen dan automatisch dat de Sociale OMC niet heeft gedaan wat ze moest doen, en dus geen tastbare impact heeft opgeleverd? Deze doctoraatsstudie besluit overduidelijk dat dit een overhaaste conclusie zou zijn.

De empirische hoofdstukken van deze doctoraatsthesis proberen inderdaad een antwoord te geven op onderzoeksvraag 4: Heeft de Sociale OMC enige impact - d.w.z. feitelijke, empirisch vastgestelde effecten - op het beleid en de beleidsprocessen, zowel op Europees als op nationaal niveau? In een notendop is dit de voornaamste bevinding van deze empirische hoofdstukken: hoewel - zoals verwacht - geen van de (ongeveer 80) nationale actoren die ik heb geïnterviewd beweerde dat de OMC een ‘revolutie’ heeft teweeggebracht in het sociaal beleid, beschouwt het merendeel van de respondenten die actief zijn op het gebied van sociale insluiting en pensioenen in België de OMC als een nuttig instrument. Dit geldt zowel voor het federale, regionale als lokale beleid, voornamelijk met het oog op het coördineren van complexe vraagstukken op horizontale beleidsdomeinen.

Experts die zich bezighouden met gezondheidszorg delen deze positieve appreciatie niet. De OMC op dit domein is vrijwel onzichtbaar in de nationale context. Anderzijds heeft het gebruik van OMC-instrumenten zich wel verspreid naar aanverwante beleidsdomeinen (zie sectie 2.6). Deze algemene beoordeling van de impact van de Sociale OMC verdient enkele belangrijke nuances, aangezien de werking en impact van de OMC enerzijds moeilijk vast te stellen is: er is nooit een ‘smoking gun’ of een
Heilige Graal die het ultieme bewijs levert van de impact van de OMC. Anderzijds varieert de impact ook in belangrijke mate tussen landen, beleidsdomeinen en de bestudeerde tijdspannes.

2.5 Verklaring van tegenstrijdigheden in het OMC-onderzoek: adequaatheid versus impact

De gedetailleerde analyse van de feitelijke impact van de Sociale OMC levert het antwoord op onderzoeks vraag 6 van deze doctoraatsstudie: *Hoe vallen de tegenstrijdigheden in de bestaande academische beoordelingen van de Sociale OMC te verklaren?* Een eerste, vrij evidente verklaring is dat veel onderzoek zich in de praktijk beperkt tot de *potentiële of theoretisch te verwachten* effecten ('adequaatheid') van de OMC en dus voorbijgaat aan de *feitelijke* impact ervan op beleidsinhoud en -processen. De tweede, allicht belangrijkste verklaring is het feit dat de Sociale OMC creatief (en selectief) wordt gebruikt door nationale en EU-actoren met het ook op het realiseren van bepaalde doelstellingen. Deze doctoraatsstudie toont aan dat dergelijk creatief gebruik het belangrijkste mechanisme is van beïnvloeding van nationaal beleid.

Een derde verklaring voor de discrepantie tussen potentiële en feitelijke impact van de Sociale OMC is het feit dat de meeste studies geen aandacht hebben voor de ‘capillaire effecten’ van de Sociale OMC. Door de betrokkenheid van een ruime waaier aan actoren worden de instrumenten van de OMC inderdaad gebruikt *buiten* de kleine ‘inner circle’ van nationale overheden en Commissie-ambtenaren. De vierde verklaring is dat onderzoek vaak geen aandacht besteedt aan de *cumulatieve* effecten van de OMC-instrumenten, in het bijzonder via peer reviews, onafhankelijke expertnetwerken, indicatoren, gekwantificeerde doelstellingen, landenspecifieke aanbevelingen, de financiering van Europese studies en -conferenties. In een aantal gevallen worden deze verschillende instrumenten cumulatief ingezet rond een bepaald thema, zodat er flink druk wordt uitgeoefend op de lidstaten. De vijfde en laatste verklaring is meer van methodologische aard en heeft te maken met de eigen dynamiek van de OMC. Weinig studies die de adequaatheid van de Sociale OMC onderzoeken, houden rekening met de vele wijzigingen in het OMC-proces: bijvoorbeeld de continue bijsturing van de portfolio van indicatoren, het toenemende gebruik van gekwantificeerde doelstellingen (*targets*), de verbetering van de leerinstrumenten (*mutual learning*) en de gedeeltelijke integratie van de Sociale OMC in de Europa 2020-strategie en meest recent het Europees Semester.

2.6 Veranderingsmechanismen: hefboomwerking, leren, socialiseren en peer pressure

De bevinding dat de Sociale OMC een reële impact heeft op het nationaal sociaal beleid, ten minste in België, leidt tot de vijfde onderzoeks vraag van deze doctoraatsstudie: *via welke mechanismen kan een ‘zacht’ (niet-bindend) instrument als de OMC inhoudelijke of procedurele effecten hebben op het ‘harde’ beleid van een land?* In deze studie leg ik uit hoe de OMC’s – op een geloofwaardige manier - het beleid beïnvloeden. Dit gebeurt door vier onderling verbonden, maar empirisch van elkaar te onderscheiden mechanismen: creatieve toe-eigening (hefboomwerking), leren, socialiseren en druk onder gelijken (*peer pressure*).
Hefboomwerking is veruit het krachtigste mechanisme waarlangs de OMC invloed uitoefent: nationale, regionale en lokale beleidsmakers eigenen zich de verschillende instrumenten uit de ‘gereedschapskist’ van de OMC toe en gebruiken ze – samen met andere instrumenten waarover zij beschikken - om hun eigen voorkeuren te legitimeren. Een belangrijke nuance is dat deze hefboomwerking niet eenvoudigweg de vaststaande voorkeuren van de actoren versterkt. In sommige gevallen leidt de toe-eigening immers tot een verandering van die voorkeuren. Dit is bijvoorbeeld het geval wanneer het gebruik van indicatoren leidt tot verhoogde aandacht voor politieke uitdagingen die voordien onopgemerkt bleven.

Een tweede mechanisme dat helpt verklaren hoe de ‘zachte’ OMC effectief het beleid beïnvloedt, is ('oppervlakkig' en 'diepgaand') leren. Oppervlakkig (thin) leren vindt plaats als actoren leren hoe ze de OMC kunnen gebruiken: ze passen hun woordgebruik en financieringsstrategieën aan, zodat ze dezelfde doelstellingen kunnen blijven nastreven, maar dan in een nieuwe, Europese context. Zoals aangegeven in de vorige sectie, zijn dergelijke pogingen tot ‘oppervlakkig’ leren geen volledig vrijblijvende keuze: in verscheidene gevallen leidt het aanpassen van het doelbewustwording over het bestaan van beleidsmaatregelen, praktijken en resultaten in andere landen geïnstitutionaliseerd. Dit is zowel het geval bij overheden als bij sociale partners en NGO’s. De empirische hoofdstukken van deze doctoraatsstudie verschaffen ook voorbeelden van ‘diepgaand’ leren door zogenaamde spiegeleffecten (mirror effects) in de context van de Sociale OMC. In sommige gevallen houden deze spiegeleffecten een bevestiging in van reeds bestaande opvattingen, in andere gevallen leerden de beleidsmakers dat hun beleid er op papier veel beter uitzag dan in de praktijk, en dat ze bepaalde problemen over het hoofd hadden gezien.

Misschien nog de meest onverwachte bevinding is dat, ten gevolge van de OMC-verplichting om regelmatig te rapporteren, de Gewesten in België van elkaar beginnen te leren. Een belangrijke vaststelling is ook dat sociaal leren in de echte wereld niet noodzakelijkerwijze de volgorde van het vaak gebruikte model van Peter Hall volgt: betrokkenheid bij Europese samenwerking heeft ongetwijfeld bijgedragen tot een paradigmaverschuiving (een ‘wijziging niveau drie’ in de termen van Hall) in het pensioenbeleid, maar dit ging niet gepaard met significante wijzigingen in de beleidsinstrumenten, of de fijnregeling daarvan (respectievelijk wijzigingen van het eerste en tweede ‘niveau’). Een minstens even belangrijke bevinding met betrekking tot leren is dat in sommige gevallen de rollen van ‘leraar’ en ‘leerling’ wisselen (bijvoorbeeld tijdens een meerdaagse Europese peer review). Dit lijkt erop te wijzen dat, tenminste in sommige gevallen, reflexief leren plaatsvindt. Met andere woorden: homines dum docent, discunt: mensen leren door te onderwijzen.

Een derde veranderingsmechanisme is socialisatie door diffusie: in dat geval zijn de beleidsveranderingen niet het gevolg van een systematische evaluatie of het doelbewust op zoek gaan naar ideeën of oplossingen voor problemen: de verandering vindt de facto plaats - actoren zijn er zich
dus niet noodzakelijkerwijs van bewust - ten gevolge van de dagelijkse gebeurtenissen, mislukkingen of druk die beleidsmakers ondervinden. Eén specifiek mechanisme van diffusie is de uitbreiding van de OMC-gereedschapsskit zelf - rapportering, indicatoren, gekwantificeerde doelstellingen en peer reviews - naar verschillende besluitvormingsniveaus (federaal, regionaal en lokaal) in België. Misschien nog belangrijker is het feit dat de OMC-instrumenten ook worden gebruikt op beleidsdomeinen die niet tot het onmiddellijke werkerterrein van de Sociale OMC behoren, bijvoorbeeld inzake gelijke kansen. Op dit laatste domein werd niet alleen een OMC gelanceerd, maar het gebruik ervan werd in 2008 zelfs in regionale wetgeving opgenomen (Vlaams decreet).

Ten slotte kunnen ook het geven van feedback tussen gelijken (peer review) en bijbehorende praktijken, zoals het geven van Aanbevelingen en het opstellen van ranglijsten, helpen om wijzigingen in nationaal beleid te verklaren. De empirische hoofdstukken van deze doctoraatsstudie tonen inderdaad aan dat externe druk in de Sociale OMC over het algemeen helemaal niet als ‘zacht’ wordt ervaren. Vele actoren ondervonden bijvoorbeeld sterke druk vanwege de EU om (1) kinderarmoede als een beleidsprioriteit te beschouwen, (2) geleidelijk aan het beleid inzake sociale insluiting te gaan monitoren en te evalueren, (3) een grote waaier aan actoren bij de beleidsvorming te betrekken, (4) Europese indicatoren te gebruiken en (5) gekwantificeerde doelstellingen te hanteren in het sociaal beleid. Inzake pensioenen creëerde de OMC sterke druk om hervormingen door te voeren; dat laatste wordt overigens niet door alle actoren op gijzeling onthaald.

Bovenop de vier beschreven mechanismen is ook de voorwaardelijke toekenning van financiële steun via het Europees Sociaal Fonds een krachtig hefboom voor OMC-impact. Dit gebeurt meer specifiek via het richten van middelen op bepaalde doelgroepen (targeting), gezond financieel beheer en vooraladditionaliteit (het tegenovergestelde van substitutie). Belangrijk hierbij is de bevinding dat de impact van de OMC samenhangt met de mate waarin actoren in een bepaald land betrokken zijn geweest bij het EU-besluitvormingsproces. Dit wijst er op dat de doeltreffendheid van de OMC moet worden bekeken als wederzijdse beïnvloeding, in plaats van eenrichtingsverkeer (of oorzaak-gevolg).

3. Theoretische implicaties en bredere relevantie

3.1 Het sociale Europa, europeanisering en new governance

Deze doctoraatsstudie levert ook een dubbele bijdrage tot het academisch debat over de europeanisering van sociaal beleid. Zo vult ze de literatuur aan over de interactie (wederzijdse beïnvloeding) tussen de EU en de lidstaten. Een duidelijke conclusie is dat de studies over europeanisering meer zouden moeten doen dan alleen lippendienst bewijzen aan de zogenaamde uploading-dimensie: de rol van de lidstaten in de totstandkoming van Europese beslissingen moet een centrale plaats krijgen in de analyse. Het bestaan van een kloof (misfit) tussen Europees en nationaal beleid is noch een noodzakelijke, noch een voldoende voorwaarde voor europeanisering: actoren creëren deze kloof soms zelf, als hen dat goed uitkomt, met oog op het doorvoeren van beleidsveranderingen.

Ten slotte levert deze doctoraatsstudie ook een bijdrage tot de discussie over nieuwe methodes van beleid voeren (new modes of governance). Ze toont aan dat de OMC ook functioneert als er geen ‘schaduw van hiërarchie’ aanwezig is, maar tegelijk wordt geholpen door het vermeende bestaan van een ‘bestraffing’ (penalty default). Dat wil zeggen: wanneer actoren geloven dat als de OMC mislukt, er iets erger gebeurt, zoals terrein afstaan aan concurrerende actoren.

Ten onzicht naar de OMC zou (1) de feitelijke impact van de OMC in de praktijk moeten beoordelen, (2) de mogelijkheid moeten onderkennen dat de Sociale OMC in sommige landen wordt gebruikt door een waaier van nationale en Europese actoren, (3) zowel de capillaire als de cumulatieve effecten van OMC-instrumenten moeten doorgronden en (4) rekening moeten houden met de talrijke wijzigingen in de OMC-architectuur.

### 3.2 Bredere relevantie en volgende stappen

Deze doctoraatsstudie behandelt één ‘zacht’ Europees beleidsinstrument oftewel soft governance: dat concept definieer ik als (a) een verzameling processen die erop gericht zijn om de normen, doelstellingen en het beleid van de EU doeltreffender te maken, die (b) niet in de eerste plaats functioneren via formele mechanismen van ‘bevelen en controleren’ - zelfs al is soft governance steeds meer verweven met andere beleidsinstrumenten - maar eerder door middel van rapportering, monitoring en beoordeling en die (c) het beleid van de EU en de lidstaten kunnen beïnvloeden door creatieve toe-eigening (hefboomwerking), leren, socialiseren en peer pressure.

De vaststelling dat de Sociale OMC in België een aanzienlijke impact heeft zal allicht een verrassing zijn voor vele beleidsmakers, academici en stakeholders. Toch is ze aannemelijk vanuit de wetenschap dat België kan beschouwd worden als een van de landen waar het gebruik van de OMC het meest verspreid is: het is in die zin een ‘most likely case’. ‘Zachte’ instrumenten zoals de Europese OMC sluiten goed aan bij het geleidelijke hervormingsproces van de instellingen en het sociaal beleid van het land. De OMC past ook goed bij de Belgische informele besluitvormingscultuur en spoort met de positieve houding ten opzichte van de EU, zowel in het algemeen (d.w.z. vertrouwen van de bevolking in de Europese instellingen) en bij de politieke elite meer in het bijzonder (waarvan getuigen de herhaalde oproepen voor een sterkere Europese rol inzake sociaal beleid).
De vraag luidt dan echter: hoe relevant zijn deze bevindingen in een vergelijkend perspectief? Hoewel deze doctoraatsstudie zich hoofdzakelijk richtte op de Belgische context, onderneemt hoofdstuk 6 een systematische vergelijking van de werking van de OMC Sociale Insinuiting in België en Frankrijk. Het bepalen van gekwantificeerde doelstellingen bleek een nieuw kenmerk in het armoedebeleid: het werd in beide landen geïntroduceerd via de OMC (hoewel dit proces in Frankrijk trager verliep, en grotendeels 'onder de radar'). Deelname aan de OMC plaatste het thema 'armoede' in beide landen hoger op de politieke agenda en versterkte de aandacht voor activering in het Franse armoedebeleid. De belangrijkste bevinding is allicht dat de Sociale OMC zowel in Frankrijk als in België kinderarmoede als een nieuw thema op de politieke agenda plaatste, en dit ondanks aanvankelijke sterke weerstand in beide landen. Ten slotte diende de OMC inzake sociale insinuiting ook als bron van inspiratie voor de Franse nationale administratie om haar nieuwe, coördinerende rol in de context van decentralisatie te herdefiniëren.

Er is, op het eerste gezicht althans, bijgevolg geen reden om aan te nemen dat België een uitzonderlijk geval zou zijn (m.a.w. dat de impact van de OMC in andere lidstaten heel verschillend zou verlopen). Dit wordt bevestigd door een recent vergelijkend onderzoek door het Public Policy and Management Institute (PPMI), dat vier diepgaande landenstudies omvatte, alsook bijkomende analyse voor vijf andere landen (PPMI 2011). Het comparatieve hoofdstuk van de studie komt tot de bevinding dat de OMC Sociale Insinuiting, de oudste en meest geïnstitutionaliseerde van de drie Sociale OMC’s, invloed uitoefende op het sociaal beleid in de tien lidstaten die in de studie werden onderzocht. Essentieel daarbij is dat zowel dit vergelijkende OMC-onderzoek als de bredere literatuurstudie in deze doctoraatsstudie duidelijk wijzen op grote verschillen in de impact van de OMC tussen de lidstaten. In sommige landen gaat het louter om een bureaucratische oefening (een ‘verplicht nummer’): dit is met name het geval wanneer nationale actoren de OMC-instrumenten niet oppikken om selectief de nationale hervormingsstrategieën te versterken. De OMC kan dus nooit als een wondermiddel worden beschouwd: of ze effect heeft (en dus nuttig is), hangt altijd af van wie de handschoen opneemt.

**Conclusie**

Deze doctoraatsstudie illustreerde dat de Open Coördinatiemethode een grote mate van veerkracht (sommigen zouden zeggen *instabiliteit*) vertoont sinds de officiële lancering ervan in 2000: tijdens de verschillende levensfasen van de OMC tot nu toe - *experimenteren, stroomlijning, maturiteit, versterking en integratie* - hebben de betrokken actoren de procedurele routines creatief aangepast aan de veranderende politieke omstandigheden, en soms zelfs heruitgevonden. De Europese instellingen kozen er niet voor om de Europese wetgevende procedure de rug toe te keren: deze meer klassieke manier om beleid aan te sturen en af te dwingen wordt verder gehanteerd, maar samen met nieuwe methodes van beleid voeren (*new modes of governance*), waaronder de OMC. Een van de meest recente en vernieuwende ontwikkelingen inzake wederzijdse leren (in het kader van de Europa 2020-strategie) geeft aan dat de actoren die betrokken zijn bij de Sociale OMC, het proces onverminderd blijven heruitvinden, opdat het voor hen relevant zou blijven. Deze vernieuwing
Samenvatting

bestaat uit zogeheten ‘ex ante reviews’ – het bespreken van mogelijk hervormingen vóór ze nationaal worden goedgekeurd - die nu plaatsvinden in verschillende Europese Comités.

Het ziet ernaar uit dat de OMC zich een blijvende plaats heeft verworven in het Europese institutionele landschap, omdat ze nuttig blijkt voor het realiseren van de uiteenlopende doelstellingen van de vele betrokken actoren. Dat de OMC er voortdurend anders uitziet, haar gereedschapskist aanpast en soms zelfs van naam verandert, lijkt niet erg relevant. Zo kwam de term 'OMC' na de 'streamlining' van het proces in 2005 nog zelden voor in Europese documenten, maar is hij sinds 2011 wel geleidelijk aan een comeback bezig. De Sociale OMC is er nog steeds, zowel als onderdeel van de Europa 2020-strategie én als parallel proces. De toekomst ervan lijkt gegarandeerd in België, met name in de zesde statuutshervorming in dit land (het Vlinderakkoord van 11 oktober 2011). Door deze statuutshervorming, die momenteel wordt uitgevoerd, hebben de Gewesten in België aanzienlijk meer bevoegdheden gekregen voor sociale materies. Met andere woorden: de behoefte aan beleidscoördinatie - zowel intern als ten opzichte van de EU - zal verder toenemen. Als de uitgebreide bevoegdheden van de Gewesten in België blijven samengaan met een hoge mate van bereidheid tot samenwerking, dan is het zelfs denkbaar dat de nieuwe statuutshervorming zal leiden tot een meer omvattende ‘nationale’ OMC, dus niet alleen inzake sociaal beleid.

Of dit gebeurt, zal uiteindelijk afhangen van de blijvende aantrekkelijkheid van het instrument voor beleidsmakers. In tegenstelling tot vroegere beschrijvingen van de OMC als een grotendeels bureaucratische oefening, vestigt deze doctoraatsstudie de aandacht op haar politieke karakter: de Sociale OMC leidde in elke fase van haar geschiedenis - opkomst, institutionalisering en eigenlijke werking - tot hevig verzet, geanimeerde discussies en langdurige onderhandelingen. Verder blijkt uit deze studie dat de OMC op verscheidene beleidsdomeinen als veel 'harder' wordt ervaren dan men zou verwachten. Niet-bindende maatregelen worden helemaal niet als irrelevant beschouwd door de lidstaten, en het besluitvormingsproces ernaartoe wordt gekenmerkt door 'harde' politieke onderhandelingen. Maar dit maakt de OMC ook heel kwetsbaar voor politieke voorkeuren, zowel in de Raad als op het niveau van de lidstaten. Omdat creatieve toe-eigening zo belangrijk is in de werking van de OMC, zal dit instrument alleen relevant blijven als door de Europese Commissie en de nationale beleidsmakers blijvend wordt geïnvesteerd in reële betrokkenheid van de stakeholders, die steeds meer naar de marge van het proces worden gedrongen. Een grotere betrokkenheid van actoren zal in grote mate bepalen of en hoe zij de OMC gebruiken om de politieke agenda te beïnvloeden, conflicten te beheersen, beleidskwasties centraal te stellen en een beleidsdiaalooog te ontwikkelen. Met andere woorden: of ze 'hard' beleid willen beïnvloeden met 'zachte' instrumenten.
Bart Vanhercke, Master of Science in Sociology, is Director at the Brussels-based European Social Observatory and therefore in charge of the broad research strategy, the internal organization of the team, managing the budget, and overseeing the OSE communication strategy. He was appointed as Policy Fellow at the Institute for the Study of Labour (IZA Berlin) in November 2015. His current research focuses on the social dimension of the new European economic governance, a topic on which he also works as associate academic staff at the Centre for Sociological Research (CESO), the University of Leuven. Earlier research experience dealt with the Europeanization of domestic social inclusion, health care and pensions policies through different EU policy instruments (law, governance and financial instruments) and the social challenges of EMU and EU enlargement. Bart Vanhercke was appointed, for the academic year 2013-2014, Associate Professor at the Institute for European Studies of the Saint-Louis University (FUSL). During the past decade, he has been writing a PhD at the University of Amsterdam (Amsterdam Institute for Social Science Research - AISSR) on “Inside the Social Open Method of Coordination: the Hard Politics of ‘Soft’ Governance”.

The process of European integration has gradually but irreversibly altered the configuration of national welfare states. In spite of formidable institutional and political hurdles, over the last decades incremental European social regulation led to the development of a genuine EU social policy. This PhD is mainly concerned with one particular ‘soft’ EU social policy instrument: the Open Method of Coordination on Social Protection and Social Inclusion (‘Social OMC’). The ambition is to understand whether and how the Social OMC has become a significant element in the shaping of national and EU policies over the last decade, alongside and in interaction with other policy instruments such as EU law, structural funds and European social dialogue. This PhD is situated in and contributes to three ongoing academic debates: these are concerned with social Europe, Europeanisation and new modes of governance, respectively.

The main thesis put forward is that the Social OMC – in spite of overwhelmingly skeptical academic accounts and repeated attempts to weaken the process – 15 years after its formal launch continues to appeal to EU and domestic actors because it is seen as a tool with an added value in at least two respects. First, the OMC’s so called ‘soft’ tools – reporting, indicators, targets, peer reviews etc. – are being used by policymakers and stakeholders alike to shape key phases of the ‘hard’ policy development process. Second, under certain conditions, the OMC operates as a catalyst or selective amplifier for reform strategies, and as a consequence has both substantive and procedural effects on domestic and EU policymaking.

Cover illustration ‘Amazonite-Morganite’ © by Karina Eibatova