Inside the Social Open Method of Coordination: The hard politics of ‘soft’ governance
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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

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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 complement 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 (HLWPS) 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 Haknoh 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.

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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
Retrospect and prospect

European Union, 1971⁴). 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 country⁵. 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 procedures⁶ 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 problems⁷, it constituted a unique source of information⁸ 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:

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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 Justice⁹, 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 1998¹⁰. 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

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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\(^\text{11}\), the Social Inclusion and Pensions strands of the Social OMC evolved from a blueprint to a detailed architecture (the 10\(^{\text{th}}\) 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.

### 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): *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

\(^{11}\) 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).
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>State</th>
<th>Internal</th>
<th>External</th>
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<tbody>
<tr>
<td>Obligation</td>
<td>Expressly</td>
<td>Non-legal norm</td>
<td>Binding rule</td>
</tr>
<tr>
<td>Precision</td>
<td>General principles</td>
<td>Precise, highly elaborate rules</td>
<td></td>
</tr>
<tr>
<td>Delegation</td>
<td>Diplomacy</td>
<td>International court, organization domestic application</td>
<td></td>
</tr>
<tr>
<td>Participation</td>
<td>State actors</td>
<td>Involvement of wide range of regional and non-state actors</td>
<td></td>
</tr>
<tr>
<td>Revision</td>
<td>Fixed rules, amended only at high costs</td>
<td>Regularly amended flexible rules</td>
<td></td>
</tr>
</tbody>
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Source: adapted from Abbott et al. (2000: 404)

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\(^\text{12}\).

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\(^\text{13}\) 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

\(^\text{12}\) 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).

\(^\text{13}\) 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\(^\text{14}\). 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\(^\text{15}\). 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.

\(^\text{14}\) Interview, Former Director General, Federal Public Service for Social Security, 14 December 2010.

\(^\text{15}\) 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 ‘Kafkian’ 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 OMCs 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

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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 OMCs adequacy). In other words: it seems that at least some 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).

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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. Dawson
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 experts19, 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

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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.

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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 Barroso 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 parachutage 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

25 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’.
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’ policymaking 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 Contra"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

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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 governance. 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 they 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 States30. 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 countries31, while providing additional evidence from five additional cases32 (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.
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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 others33.

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, rein OGoration 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 governance34 (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
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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.

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