

*The Open Method of Coordination and integration theory: are there lessons to be learned?*

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**ABSTRACT**

This paper seeks to contextualize the Open Method of Coordination (OMC) and enrich our understanding of it by submitting constructivist insights to its policy assessment with a focus on the Employment Strategy (EES). The most developed and longest-standing OMC policy area, employment provides fertile ground for the assessment of a rapidly expanding theoretical perspective in IR and European integration applied to a growing policy process. Normative considerations as to the essence of the EU and its future trajectory were highly influential in the process of launching the OMC.

The paper provides a framework of integration theory and highlights the particular contribution that the 'thin' variant of constructivism has made in understanding different aspects of EU policy and politics. In the next section, the OMC is discussed and its core characteristics identified. I claim that most of the OMC's core elements are directly linked to constructivist assumptions about policy change. The paper identifies three of those, namely policy discourse, learning and participation in policy-making. I subject those to an empirical and theoretical assessment by use of the relevant literature. Concluding that the record shows such mechanisms to be hardly present in the Employment Policy OMC, I argue that an institutionalist reading of OMC provides a credible alternative by focusing on power resources, preferences and strategies available to core OMC actors, namely member states and the Commission. The paper concludes with a twofold argument: firstly, constructivist hopes on OMC are, at least in the current context, ill-founded. Secondly, while the OMC retains a number of advantages, practical policy suggestions that will enhance its appeal to policy-makers and the public alike are due before it becomes a credible policy option.

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## **Introduction**

During the 1990s, the theoretical debate on European integration was transformed. The previous duopoly accorded to IR-based approaches and comparativist readings saw a newcomer enter the fray. Governance approaches, multi-level or otherwise, now occupy hefty academic space and proclaim the need to understand the EU in terms that go beyond both a standard international organization and the projection of domestic politics in the supranational arena (Pollack 2005). In some respects, the growth of this governance perspective has been inevitable. Ever since the process of integration gathered pace in the 1980s, the Union has extended its policy reach into fields that were previously under the exclusive jurisdiction of member states. At the same time and in recognition of the issues of legitimacy that this expansion of competences would bring about, the EU has sought to bolster its credentials through institutional reform to appease an increasingly skeptical public as to the appropriateness of its decision-making structures (Eberlein and Kerwer, 2004: 122).

The competence levels of member states, supranational institutions and a whole variety of regulatory authorities and agencies that span a large spectrum of policy issues makes clear delineation of authority much more complicated than in the past, and raises new issues as to the exact nature of the European 'beast'. Imperfect as the governance approach may be, it accurately captures the complexity of policy-making in the EU as well as the hybrid nature of a large number of its institutional arrangements. Implicitly or explicitly, a large body of governance advocates suggests that contemporary socio-economic and political constellations require the adoption of flexible policies by the EU as the overriding framework of its legitimacy as well as the augmentation of its effectiveness in policy-making.

It is in the context set by the above considerations that the Open Method of Coordination (OMC) acquires particular significance. Most frequently perceived as the prototype example of new governance methods, the OMC is meant to combine the best of all possible worlds. Its open-ended nature assuages intergovernmentalist fears as to the nature of the European project while its emphasis on cognitive processes of learning and iterative communication allows for potential improvements in policy effectiveness. What is more, its inclusive nature can be seen as an answer to 'input legitimacy' issues (Scharpf 1999).

This paper seeks to contextualize the OMC and enrich our understanding of it by submitting constructivist insights to a policy assessment of OMC with a focus on the Employment Strategy (EES) and its policy impact. The most developed and longest-standing OMC policy area, employment provides fertile ground for the assessment of a rapidly expanding theoretical

perspective in IR and European integration applied to a growing policy process. Normative considerations as to the essence of the EU and its future trajectory were highly influential in the process of launching the OMC (Radulova, 2007: 8).

The paper begins by placing the discussion in context. It provides an overall framework of integration theory and highlights the particular contribution that the 'thin' variant of constructivism has made in understanding different aspects of EU policy and politics. In the next section, the OMC is discussed and its core characteristics identified. I claim that most of the OMC's core elements are directly linked to constructivist assumptions about policy change. The paper thus proceeds by explicitly identifying three of those, namely policy discourse, learning and participation in policy-making. I subject those to an empirical and theoretical assessment by use of the relevant literature. Concluding that the record shows such mechanisms to be hardly present in the Employment Policy OMC, I argue that an institutionalist reading of OMC provides a credible alternative by focusing on power resources, preferences and strategies available to core OMC actors, namely member states and the Commission. The paper concludes with a twofold argument: firstly, constructivist hopes on OMC are, at least in the current context, ill-founded. Secondly, while the OMC retains a number of advantages, practical policy suggestions that will enhance its appeal to policy-makers and the public alike are due before it becomes a credible policy option.

### **Integration Theory in Context**

European integration theory originates in the period prior to the formation of the European Community. Derived mainly from IR, it served a didactic function in that it sought to identify the conditions allowing for the peaceful co-existence of states and the reduction of inter-state animosity. David Mitrany (1943) and his functionalist thesis sought to derive optimistic lessons from the existence of transnational organizations linked up in a network-like fashion. These would play a decisive role in averting state aggression.

Functionalism proved normatively useful in preparing the ground for its successor, neofunctionalism. The latter, along with its great intergovernmentalist rival, sought to explain the process of European unification as experienced after the Rome Treaty. For some neofunctionalists integration could be ascribed to processes of enhanced communication facilitating mutual understanding across borders (Deutsch 1957). For others, the liberal institutionalist distinction between 'high' and 'low' politics served an instructive function in that it pointed to the potential mechanisms through which shared interests in some policy areas could

then spill over into others, magnifying the scope and pace of integration (Haas 1970). Neofunctionalists were also mindful of the need to go beyond the normative prescriptions of functionalism and integrated into their approach an account of institutional salience concentrated in organs such as the Commission (see Diez and Wiener, 2004: 8).

By the late 1990s, neofunctionalism was making a comeback in the integration debate. In its refined version, the neofunctionalist argument claimed that the surrender of sovereignty to supranational authorities is the result of increasing pressure for uniform rules across the Union following high cross-border transaction volumes. Eventually, governments will accede to the demands of domestic groups; as supranational authorities get on with the task of rule enforcement they contribute to the generation of new demands for further supranational activity and centralization in the decision-making process (Stone Sweet and Sandholtz 1997; Fligstein and Stone Sweet 2002). Seen in this light, neofunctionalism does not only suffer from the difficulties of explaining policy outcomes as developed since the latest round of EU crisis hit EU capitals, that is, its distance from empirical reality. It also appears reliant on a mechanistic reading of integration that can hardly account for processes such as the OMC, as the latter has not come to rely on uniform rules (Schäfer, 2006: 196).

Intergovernmentalists benefited from the political and institutional crisis of the 1960s in that they centered their argument on the supremacy of rationally defined state interests setting the pace of cooperation (Hoffman 1966). Moravcsik's liberal intergovernmentalism (LI) conceded some ground to neofunctionalists on the salience of supranational actors, but asserted the need to emphasize state actors and their preference formation sets. Briefly, Moravcsik argued on the basis of a two-step process, whereby the first step relates to the formation of preferences at the domestic level and the second draws from bargaining theory. In the first step, member state governments articulate 'national preferences' towards the EU having synthesized their own position and those of powerful domestic groups, whilst in the second stage they reflect these preferences at the intergovernmental level. The outcome of the bargaining process at EU level is hardly affected by supranational institutions, which are deemed irrelevant. Moreover, bargaining outcomes reflect the relative distribution of power in the Council and can thus hardly result in outcomes detrimental to the preferences formed domestically by the larger and more influential Member States (Moravcsik 1991; 1993; 1998).

The dominance of these approaches was challenged in the 1980s. The Single European Act and its aftermath signaled that grand theorizing may be ill-suited in explaining the emergence of a complex European polity, in which the degree and scope of authority in decision-making was increasingly ill-suited to the rather simplistic understanding underpinned by a state-centered

logic.<sup>1</sup> Two different strands emerged in this second phase, following each other closely but overlapping in terms of empirical application to this day. The first strand was dominated by an attempt to explain the nature of the European 'beast' and detect the origins and consequences of its new mode of functioning. A large part of this theoretical strand sought to apply the tools of comparative politics to the study of Europe, seeking to overcome the dominance of US-stemming IR to the study of integration (Diez and Winer 2004). Chief among the new terms that accompanied this strand, and reflective of developments in political science (Rhodes 1996) and IR (Keohane 2001) were governance.

Governance has been used to depict different processes that apply to different domains. It is an ambiguous term whose validity needs to be verified with respect to the precise object of study. In the IR literature, governance emerged with the end of the Cold War. The momentous events that accompanied the transition to the post-Cold War international system were distinguished by the acceleration of de-nationalization and the loss of sovereign state power over multiple actors (Kohler-Koch and Ritterberger, 2006: 30). Governance was in this sense a response to the search for enhanced 'problem-solving' capacities in an era of complexity. In comparative politics, Ron Rhodes has pointed to the need to understand governance as a process distinct from government and comprising interrelated networks of service providers of the public and private sector (Rhodes 1996).

In European Union studies, multi-level governance has been a prominent theme in EU studies over the last fifteen years. It draws from network theory to the extent it defines EU policy-making as the result of interdependence between governments at national and sub-national level on the one hand, and the complex interaction of state and non-state actors on the other (Bache and Flinders 2004). The multi-level governance literature asserts that a very significant shift of authority has occurred, one in which sub-state authorities (especially regions), in combination with regulatory agencies and private corporations, undertake increasingly important roles in EU policy-making, thus undermining the role and scope of national governments (Hooghe and Marks 2001).

The relationship between different levels of authority has led to the formation of various approaches to European integration. One of the most important ones is the 'new modes of governance' literature. Whereas both IR-derived readings of integration that emphasize the top-down character of the EU and governance-derived insights (such as the burgeoning

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<sup>1</sup> State-centred here means that both neofunctionalism and intergovernmentalism have as an implicit or explicit point of departure the role of member states in explaining policy outcomes. State-centrism in the IR sense of the term is hardly applicable to Moravcsik's style of intergovernmentalism, as his first-level process of preference formation not only accepts the importance of domestic groups in a state's policy position but assigns a crucial role to their influence before arriving at the national position.

Europeanization literature) that focus on bottom-up processes concentrate on legally binding processes of integration, 'new governance' suggests that integration can occur even without the force of sanctions enforced by formal legal proceedings (López Santana 2006). New governance can be sub-divided into different categories, but all of its different types share common practices that distinguish it from traditional governance as understood in the Rhodes definition. First, new governance has a *coordinating function* of bringing together various levels of government to accomplish common goals. Secondly, it has a *deliberative function* where the goals themselves are subject to negotiation and reflection by a high number of invited stakeholders. Finally, it leaves ample space for *informal practices* as it tends to rely on cognitive agreements as opposed to the officially sanctioned way forward that older types of governance prefer. This discussion will be picked up in greater detail below when analyzing the OMC.

Interacting with governance-based accounts but also building on the work of scholars such as Moravcsik is what can be generally termed the institutionalist approach. New institutionalism was based on the assumption that 'institutions matter' to explain policy outcomes. The shortcomings of a behavioralist approach met with criticism that led to the rise of 'new institutionalism', a 'general banner under which all...concerns with institutional features have been elaborated' (Shepsle, 1989: 135). Rational choice, sociological and historical institutionalism all agree on the salience of institutions in structuring expectations of behavior (Hall and Taylor, 1996: 955). In its EU colors, institutionalist work of both historical and rational choice perspectives has revealed some of the shortcomings inherent in LI. From a historical institutionalist perspective, Pierson (1996) developed the concept of 'unintended consequences' to show how member states can lose control of integration. Certain policies can become 'locked in' in a way that reshapes the logic of integration and takes agenda-setting powers away from member states. At the same time, rational choice institutionalists have challenged both neofunctionalist and intergovernmentalist approaches, asserting the salience of EU institutions while critical of neofunctionalists' 'lack of microfoundations' (Pollack, 2001: 228). Scharpf (1988) applied rational choice to the study of European integration as early as the late 1980s through the 'joint decision trap' argument. Later studies looked at the role of supranational institutions, such as the ECJ (Garrett 1992) and the Parliament (Tsebelis 1996). The role of EU institutions can under certain conditions (for instance when preference formation is unclear) become crucial in policy outcomes (Pollack 2003).

Before turning to the constructivist school, it is important to refer to Europeanization as a new, exciting sub-theory of research largely accompanied by the turn to governance. Europeanization has often been understood as the change or reform of national institutions, policies or indeed

polities and their interaction with developments at the EU level. Of relevance here is the 'goodness of fit' argument (Cowles et al. 2003), which argues that the ease of national policy adjustment to changes introduced from above (the EU level) will hinge on the extent to which national political, economic, administrative and legal structures are compatible with the EU pattern adopted. Such 'top-down' approaches have been complemented by 'bottom-up' readings of Europeanization that tend to see a reciprocal relationship in that member-states themselves can on occasion 'upload' their own set of preferences/policy styles to the EU level. In a definition that captures the essence of its multidimensional character, Radaelli sees it as consisting of processes of construction, diffusion and institutionalization. These include paradigms, beliefs and 'ways of doing things' that have been first defined at EU level and subsequently absorbed by governments and regions on the level of public discourse and policy (Radaelli, 2004: 3). Radaelli's references to discourse and policy paradigms is instructive as to the influence that the constructivist argument has made, *inter alia*, in trying to understand the process of integration in the contemporary European Union. In fact, it would hardly be an exaggeration to state that normative understandings of the European Union have come to occupy a large part of the contemporary debate on integration.

The second strand of European integration theory that emerged by the late 1990s and continues to grow in terms of academic influence is the constructivist school. Because of its salience in OMC processes<sup>2</sup>, the remainder of this paper will discuss the various strands of constructivism and relate them to OMC, before assessing potential lessons for integration theory more generally.

### **The Constructivist School and OMC**

The emergence of constructivism was part of European studies 'catching up' with the corresponding IR literature, and the surfacing of critical, feminist and other meso-theoretical approaches after the end of the Cold War. Distinct from both previous strands, constructivists have sought to argue not on the basis of the institutional foundations of the European polity but about its social construction (Christiansen et al. 2001). In particular, the focus of attention here lies less with the problem-solving capacities of the EU, but the normative and social principles that have given shape to particular dimensions of the Euro-polity. The salience of constructivism

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<sup>2</sup> Falling under the rubric of 'new governance', OMC is not meant to 'fit' particular theoretical approaches better than others. The examination of OMC that follows will hopefully illustrate that a lot of constructivist work provides the undertone for the spread of OMC in ever more policy fields.

has been pronounced so large that it has become, along with rational choice approaches, the second major academic pole of attraction in IR scholarship (see Katzenstein et al. 1998).

Normative considerations have made a major contribution to the EU debate insofar as they have highlighted the importance of legitimacy in contemporary policy-making. This debate began in earnest after the adoption of the Maastricht Treaty and continues unabated. Constructivist readings tend to differentiate themselves from institutionalist accounts in that they emphasize the subjective nature of preference formation resulting from the complex pattern of interaction that agents are subjected to. This is in sharp contrast to the fundamental premises of methodological individualism prevalent in rational choice analyses (Risse, 2004: 160). Institutions for constructivists are not merely sets of rules and expectations that structure expectations of rational actors. Institutions are constitutive of actors, their beliefs, their preferences and their interests (Checkel 1998).

This element of constructivist thinking shares a lot of common ground with sociological institutionalism. Institutions and culture are somehow blurred as the former also includes norms, symbols, and moral templates (Hall & Taylor, 1996: 947). The danger of socio-economic determinism is acknowledged and the limitations of human rationality recognized. Actors are not deemed capable of retaining complete rationality in all their actions. Instead, this cultural interpretation of the role of institutions adopts the 'logic of appropriateness' to explain individual behavior. Institutions are here deemed to be of utmost importance as they not only determine the preferences of actors but also contribute significantly to the shaping of these preferences. They provide people with a cognitive chart through which they construct their identities and thus decide on a course of action. In a given situation, the argument goes, the individual both responds and recognizes the environment around him or her based on the templates offered to him/her through the institutional world.

From a constructivist point of view, membership in the EU is not simply a process of institutional and 'hard' political consequences, but constitutes a new social reality that affects member states' identification and enhances their socialization (Checkel 2000). Communication and mechanism matter greatly to constructivists.<sup>3</sup> By employing *argumentative rationality*, constructivists assert that the relative power relations of policy actors and strategically-guided behavior recede to the background. Instead, agents interact based on an open-ended script with

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<sup>3</sup> Like all broad schools of thought, constructivism entails different strands of thought. The more radical versions of this school reject the possibility of objectivity in social sciences and are questioning the importance of all epistemological enquiries and validity of quantitative or qualitative research methods. Though important in their own right, the nihilistic assumptions prevalent within this faction are not the focus of the present study. Moreover, there are increasing signs that 'moderate' constructivists are willing to engage in a fruitful intellectual dialogue with their institutionalist counterparts.



no pre-determined outcomes, and maintain a flexible approach to the outcome of interaction. This is not to be confused with the absence of goals: the latter exist, but are shaped and reshaped through an attempt to reach a consensual point and build on that, rather than make sure that the original set of preferences withheld by agents becomes the norm. This approach is very relevant to EU studies in general and the OMC in particular. Constructivists have highlighted the deliberative/argumentative quality inherent in EU proceedings. Through argumentative rationality preferences and strategies by actors become subject to an iterated process of persuasion and become unstuck from nationally pre-defined calculus sets. Portraying the EU as a large forum of deliberation and persuasion through communication thus becomes possible (Risse, 2004: 165). The OMC will be seen below to operate largely under the framework of deliberation as understood by constructivist scholars.

The OMC based on soft law is almost universally identified with new governance methods. Its spread into a vast array of policy fields and the central role attributed to it by the Commission and the Council makes it a particularly exciting field of research. In what follows, I provide a brief description of the process and its background, before evaluating its legitimacy and effectiveness against the background of integration theory. An assessment of OMC prospects and its consequences for integration follows.

### **OMC and EES: new and innovative?**

In a way similar to governance, soft law has been used in the IR literature as part of an attempt to identify the constraints and opportunities inherent in international law. While Realist-based approaches see nothing more than a *façade* in the use of legal proceedings in the international system, institutionalist accounts recognize benefits in the use of soft law and identify it with the pattern of decision-making that emerges once a deviation from standard, hard law procedures emerges. The benefits of a soft law framework are multiple. It helps reduce costs, leads to a decline of uncertainty and offers flexibility and speed. Furthermore, it is inclusive in the sense that it permits the incorporation of all relevant actors in policy-making, and can potentially provide the first significant step towards the adoption of hard law instruments (Trubek et al. 2005). In the European Union sense of the term, the classic definition of soft law is the one offered by Snyder, who understood it to mean 'rules of conduct which in principle have no legally binding force but which nevertheless may have practical effects ' (Snyder cited in Trubek et al. 2005: 1). The OMC is in many ways the archetypal policy process that uses soft law instruments to achieve policy objectives.

As a term, the Open Method originates from the Lisbon Summit of 2000 and the goal set there to make the Union the world's most dynamic, knowledge-based economy in the world by 2010 'capable of sustainable growth with more and better jobs and greater social cohesion' (Lisbon European Council point 5, 23-24 March 2000, [http://www.europarl.europa.eu/summits/lis1\\_en.htm](http://www.europarl.europa.eu/summits/lis1_en.htm) ). To achieve this, the Union sought to rely on a soft method of policy coordination respectful of member state sensitivities on socio-economic policy prerogatives but also mindful of the impossibility of the task in the absence of greater coordination. Even before the Lisbon Summit, however, the Open Method had been practiced in the economic and employment field and had become identified with the European Employment Strategy (EES) adopted in 1997. What is important is to stress that the adoption of OMC was accompanied by an acceptance of the principle that binding legal rules may not be the best way forward any longer. The Classic Community Method (CCM) in particular, reliant as it is on harmonization through hard law instruments, was in conflict with the unwillingness by member states to devolve decision-making on employment to the Union.

The OMC comprises a core number of characteristics that apply to all policy domains in which it is practiced. First, general goals and objectives are defined at member state level, occasionally accompanied by guidelines. Member states are expected to follow policies leading to the fulfillment of the set objectives. Second, member states need to respond to those objectives through Action Plans, Reform Programmes and the like showing how the general can be made particular. Third, the evaluation process of OMC entails peer review, in which member states are supposed to learn from each other, share beneficial experiences and reinforce the cycle through a continuous search for higher standards and the readjustment of objectives in light of new evidence (Zeitlin and Trubek 2003).

A few key remarks on OMC are in order. First, it would be mistaken to talk of one OMC. OMC processes are now followed in as many as 13 policy fields (Szyszczak, 2006: 494). Secondly, its proliferation has led to its differentiated application depending on the policy field examined, and the operationalization of very different instruments beyond the core identified above. For instance, guidelines vary from being very concrete (employment) to very general (social inclusion). The European Parliament is generally not an actor in OMC processes, with some exceptions (employment). Finally, while some OMCs identify indicators that are meant to guide policy practice quite explicitly (again employment), in other domains hardly any indicators exist at all (pensions) (Heidenreich and Bischoff, 2008: 508). A final important point is that the principles behind the OMC are not unique to the European Union. The OECD and the IMF have

also practiced aspects of ‘multilateral surveillance’ (Schäfer 2006). The innovative character of the process can thus be doubted.

The European Employment Strategy<sup>4</sup> took shape in the mid-1990s in the context of high unemployment and rising pressures on social expenditure budgets. It was elaborated at the 1997 Amsterdam Summit as to the content of an Employment Strategy. An Employment Committee was set up to draft Guidelines and monitor progress. Every member state draws up a NAP explaining how it intends to implement these Guidelines. The Council, the Commission and the Member States scrutinize the success of the strategy, while the Commission and the Labour and Social Affairs Council synthesize the National Reports and assess both nation-specific and EU-wide performance. This results in a Joint Employment Report by the Commission and the Council, alongside the Commission’s own Annual Report on employment performance. Employment Guidelines have been revised annually and extended in scope. After the 2001 Stockholm Summit, the EES has also encompassed horizontal objectives on achieving full employment, promoting quality of work and lifelong learning, further incorporating the social partners in the process and targeting particular employment rates for different occupational categories. Major changes to the Guidelines were implemented in 2003; following a radical reform in 2005, they are now presented in conjunction with macroeconomic and microeconomic policy guidelines for a three-year period. The so-called ‘Integrated Guidelines for Jobs and Growth’ form the basis for the successors of the NAPs, the National Reform Programmes.

### **Constructivism and OMC I: Discourse**

Discourse plays a central role in the implementation of OMC. Considering that soft law practices are based on non-coercion to achieve policy objectives, the communicative and persuasive functions that result from discursive practices come to occupy centre ground in fulfilling the policy objectives set out by policy actors.

In that respect, constructivism’s emphasis on discourse as a framework of operation that has the potential of fundamentally altering actors’ preferences and beliefs makes it crucial in understanding OMC. Vivien Schmidt’s discursive institutionalism is an analytical framework based on constructivist insights, offering the chance of assessing constructivism in relation to OMC. For Schmidt (2002), policy discourse should be understood through its procedural and ideational dimensions (Schmidt 2002:10), which serve linked but distinct purposes. In the ideational sphere, discourse aims at the legitimization of particular policies through an appeal to

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<sup>4</sup> The description and assessment of the EES is based on Tsarouhas, 2008: 348-350.

long-standing values, norms and ideas (Paster, 2005: 154). Hence, the ideational dimension entails an element of persuasion through cognitive functions and a normative agenda on the appropriateness of choosing particular course of action. On the other hand, the procedural dimension entails *communicating* the chosen discourse to the public and coordinating a certain policy programme by coming to agreement as to its overall objectives.

Clearly, the OMC on employment entails a strong discursive element. Based on the analytical categorizations made by Schmidt, current empirical evidence points to meager results. Ideationally, the EES is not a contributor to, but a reflection of, the 1990s consensus on the alleged need to prioritize supply-side employment measures to boost European competitiveness. The Employment Strategy was successful in bringing together disparate ideas on the appropriateness of a new type of employment policy, as it combined a Third Way disciplinary approach to employment with the Scandinavian focus on active labour market policies. There is some evidence to suggest that in some member states the discursive operations of the social partners have changed as a result (Tsarouhas 2008). Procedurally, the OMC on employment has had very little practical effects on the discourse followed by Member-States. Discursive coordination has taken place only to the extent that generalities about the desirability of 'more good quality jobs' became a policy mantra espoused by social democrats and conservatives alike in non-integrated, nationally-defined, segregated terms of communication. Also, empirical evidence points to the limited knowledge (and interest) of the European public to the process, surely a function of negligible media interest in the process (see de la Porte and Nanz, 2004: 278-279).

### **Constructivism and OMC II: Policy Learning**

Constructivism assigns primary importance to policy learning insofar as it rejects fixed preference formation and asserts that actors are open to the process of learning from others. The OMC on Employment is certainly built around this principle – in fact it could be argued that its *raison d'être* is to utilize policy learning in order to overcome the disadvantages related to the absence of hard law convergence. In the words of the Council, OMC is expected to lead to a culture of 'strategic management and of learning from experience...' (Council of the European Union, 2000: 7). Policy learning has been observed in some cases WITH REGARD TO THE Employment Committee, albeit in conditions that do not jeopardize 'vital' national positions (Jacobsson and Vifell 2003). Political elites have imitated aspects of learning in that they have sought to bring to popular attention the successes of other member states in boosting

employment rates. However, this aspect of a constructivist reading of OMC is also filled with problems. Firstly, constructivist readings suggest that paradigmatic rather than procedural change is what can be achieved through OMC and the evidence for that is very thin. Secondly, whether policy change introduced in some member states can be directly attributed to OMC rather than more endogenous factors remains uncertain. Thirdly, policy learning has been shown to be more likely in those areas of employment policy where an overwhelming consensus has been established as to their desirability (ibid). Substantive policy learning that translates into a systemic shift in central parameters of policy formulation has yet to emerge as a result of OMC.

### **Constructivism and OMC III: Participation**

A final variable of immediate importance for the OMC is the constructivist emphasis on deliberation and participation by a wide community of policy actors that interact on the basis of relative equality. The Union has underlined that it conceived of the OMC as a forum ideal for stakeholder participation involving NGOs, social partners and civil society more generally. This feature has been identified as one of the clear advantages (Radaelli 2003), adding to its aura of innovation and relevance to the needs of modern complex polities. In fact, the same line of argument has allowed for the articulation of a bigger argument stressing the need to overcome old hierarchical patterns of accountability and instead promote 'direct deliberative polyarchy' (DDP) (see Sable and Zeitlin 2007; Büchs 2008). This is a type of participatory politics that refreshes democracy in that it rejects the unfashionable parliamentary modes of accountability and encourages a stakeholder model of input legitimacy.<sup>5</sup> Peer review in OMC is clearly relevant here, as it is meant to function as a form of horizontal accountability mechanism and at the same time illustrate how in a multi-actor setting based on participatory principles, there are no fixed external preferences and 'ideal' policy solutions are discussed and researched.

Once again, however, available data is hardly consistent with the theoretical picture painted above. The participatory nature of OMC has hardly been proven in practice. De la Porte and Pochet (2005) have argued that social partners remain outside the OMC structures and their participation levels in the policy-making process have hardly been affected by it. Tsakatika (2007) has found that national parliaments are also excluded. Though this is more understandable considering the DDP-related ambitions of aspects of the OMC, the reported increase in some stakeholders' activities (especially NGOs, Zeitlin 2005) remains uneven and

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<sup>5</sup> On legitimacy, see the rationalist/institutionalist section below.

varied to an extent that undermines coherence in an argument supportive of higher levels of participation. If the ability of the Open Method to induce policy change is to go through consent-based widening of the relevant policy circle is to occur, the current record leaves little room for optimism.

### **A Rationalist/Institutionalist Explanation of OMC**

If constructivist arguments on the salience of OMC are weak, the conceptualization and implementation of the open method in the field of employment can be better understood by employing a rationalist account. In what follows, I will argue that a Moravcsik-type reading of the OMC comes close to reflecting the formation of preferences by member states at the domestic level prior to its execution. However, it is necessary to combine this insight with an institutionalist account that treats the Commission as a serious policy actor involved in both the conceptualization and implementation phases. Also, ideational factors have not been entirely irrelevant to the OMC in employment – though they have strengthened the role of powerful domestic groups in that they boosted the prevalence of a supply-side orientation in labour market policy.

To start with conceptualization, the OMC was in effect inaugurated in 1997. Throughout the Union, ‘structural economic reform’ had become a policy mantra that united (most) social democrats, liberals and conservatives. The understanding of structural reform was premised on the core theme of replacing ‘old-fashioned’, sticky and inflexible modes of employment policy-making (most prominently with regard to employment protection) with policies emphasizing the employability of the workforce and the need for a constant upgrading of skills to fit the narrower labor market straightjacket that cut for Europe’s workforce in the 1990s. The Third Way was an embodiment of this attitude and it is little coincidence that the main themes of the EES borrowed heavily from the policies and proposals floating around the ‘New’ Labour Party at the time. What is important to emphasize here is that the conceptualization stage in the domestic national arena was far from neutral with regard to its consequences. An attempt has been made to brush over the essentially political nature of the EES that relates to a strategy of labour commodification (Hyman 2005), but its essential characteristics have not been disguised very successfully. Domestic coalition groups that have long argued in favor of radical reform towards a supply-side, welfare-to-work orientation were by that time structurally advantaged over alternative proposals or ideas (Ashiagbor 2005). Disagreement as to the content of EES policy is not what explains the emergence of soft law in EES; just the contrary. While on the one hand

the EU has promoted negative integration through the articulation of policies and policy initiatives that paved the way for market liberalization and deregulation, it has failed to counter-balance those processes with positive integration aiming at market-correcting initiatives (Scharpf, 2006: 854). The author's diagnosis for this asymmetry has given shape to an argument whereby institutional barriers (the heterogeneous nature of preferences in an enlarged Union and high QMV requirements) render the political dimension inherent in positive integration a prohibitive task.

Whilst supply-side reformers have therefore had the upper hand in formulating the policy agenda with which member states could argue the case for EES, this in itself is inadequate in explaining the convergence of preferences towards the particular strategy adopted. What need to be added to this account are the particular type of policy harmonization chosen, soft law and non-coercion, as well as the role of the European Commission in that process.

To start with, soft law and learning-induced policy harmonization was and remains a risk-free strategy for national governments. Sure enough, some of the criticism exerted against soft law integration methods is beside the point. The argument that hard law sanctioning does not take place in OMC is tautological, since OMC was created precisely because it was made clear that hard law harmonization in those policy fields was not forthcoming. Also, a rigid separation between the two types is probably unnecessary, as there are complementarities between the two forms that allow for their fruitful co-existence (Trubek and Trubek 2005). Still, this does not alter the fact that soft law provides a win-win framework for governments to work in. Should policy results improve, governments can (and do) reap the electoral and political benefits. Should there be no tangible results, they can shift the blame to 'Brussels' and seek to explain meager results on account of vague 'policy disagreements'. Furthermore, the absence of sanctioning mechanisms makes compliance with potentially identified 'best practice' a policy option to be considered in combination with domestic political priorities, ideological preferences and so on. It is not, and cannot be, a path to be followed with no alternatives open for consideration. Rather, the functioning of OMC can become enmeshed in the domestic political game through the politicization of targets, standards or indicators (Benz, 2007: 519). Apart from making the discerning of OMC effects even more difficult, such a process reduces the potential for policy learning as originally envisaged by the OMC creators.

Secondly, the conceptualization of the EES needs to consider the role of the Commission. Far from being an irrelevant actor, the Commission was from the outset the other major policy player, next to the Council, in managing the OMC and employment policy in particular. The historical and institutional context of its operation acquires added significance here. First, the

timing of the EES inception coincides with the decline of the Commission as an agenda-setter in EU politics. The Delors era, characterized by the Commission's interventionist instincts and the upgrade of its institutional profile, was accompanied by a decline in its power and influence. What is more, member states sought to downplay its importance and attempted to claim back part of its agenda-setting role. Recognizing the impossibility of hard law harmonization in the field of employment, the Commission assented to OMC in recognition of the fact that its policy role would be enhanced as a result. In addition, the EES and OMC more generally was (and possibly remains) an avenue that the Commission wishes to explore so as to boost its reduced credibility and legitimacy credentials (Büchs 2008). Scharpf (1999) has argued that legitimacy and effectiveness can be captured by 'input' and 'output' legitimacy processes. 'Input legitimacy' refers to the degree of inclusiveness and participation that EU decision-making processes permit for the various stakeholders involved. The Open Method sought to combine both in an attempt to bridge the gap between, *inter alia*, Europe with the public (European Commission 2001: 3).

While a convergence of preferences explanation does well to account for the emergence of a consensus on the EES, institutionalist readings are essential to understand the role of the Commission. This is all the more apparent when one looks at the relaunching of the OMC (as well as the EES) after Lisbon's mid-point in 2005. The assumption of overall coordination functions by the Commission and the attempt to streamline procedures relates to the Commission's insecurity as to its future role. By 2005, it had become clear that member states were unwilling to delegate authority on employment and social issues. To retain resources, the Commission was willing to accept the disadvantageous trade-off of procedural for substantial influence in the OMC. The implementation of the EES, to the extent that it is representative of the OMC, shows that a rationalist/institutionalist reading accounts better than constructivist approaches for this type of attempted integration.

### **Conclusion: The limits of Constructivism and OMC suggestions**

High expectations were occasionally cultivated as to the effectiveness of the OMC. Though not all, a large number of analysts invested those expectations in constructivist mechanism of policy change based on discourse, deliberation and learning. De la Porte and Nanz (2004) argued that the legitimacy basis of the EU could be strengthened through the implementation of the open method, while Zeitlin (2005) argued in favor of the OMC on account of its potential to enact



policy change through communicative interaction (information exchange) and systematic comparisons.

Empirical evidence points to negligible effects along those lines with regard to the OMC's most developed policy network, employment. Radulova (2007) has shown that deliberation and policy learning are largely absent from the (powerful) Employment Committee. In line with rationalist models, the Employment Committee has functioned more along the lines of a bargaining forum whereby the preferences adopted by policy actors were hardly subject to modification through deliberative interaction (Radulova, 2007: 376). Moreover and following the relevant review of the literature, Büchs points out that the OMC has failed to live up to its alleged potential with regard to the Union's social dimension in reducing socio-economic disparities and boosting the life chances of its citizens (Büchs, 2008: 770).

This paper has argued that the Open Method relies to a disproportionate extent on constructivist understandings of policy change. Though its remit does not include passing judgment on the possibility of this occurring in other settings, policy change in the EU context under the influence of the OMC has not occurred – and is very unlikely to occur at any point in the future. Discourse, policy learning and participation retain their theoretical and empirical value in contexts where the engagement of policy actors is less informed by strategic calculations and where the issue of sovereignty as a guiding principle in the formulation of formal policy positions has acquired less salience than it currently does on matters of employment policy.

The current economic crisis has had a visible effect on employment. At the beginning of 2009, the unemployment rate in the Eurozone area was 8.2%. The latest monitoring report on the employment situation across the Union reveals that the effects of the crisis will become more visible over 2009 and unemployment will increase further (European Commission 2009). In a context of falling GDP rates, massive layoffs are feared throughout Europe and have led to nationwide strikes (France, Italy, Slovenia, and Greece). The fear of unemployment now dominates the policy agenda. The divergence in employment policy performance that had been observed prior to the crisis persists. While Holland has an unemployment rate of 2.7%, the Spanish equivalent has reached 14.5% and is projected to climb much higher by the end of 2010.

What the above suggests is that the Open Method has failed to live up to a constructivist-inspired potential. Steps taken to reform its functions can, however, prove useful<sup>6</sup> provided that a more rationalist/institutionalist understanding of its purpose and effectiveness dominates such reform. Two such proposals are proposed here. First, the OMC can and should become

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<sup>6</sup> For a sample of proposals aiming at boosting the OMC see Metz (2005).

internally flexible by setting differentiated quantitative goals for different member-states. Current employment and unemployment level discrepancies should be approached realistically and short-, medium- and long –term quantitative goals be set for each member state. This could over time lead to convergence of policy outcomes. Secondly, the effectiveness of OMC could be boosted through the use of EU financial carrots in compliance with OMC employment policy goals. This proposal, which has been made in a different form before, would entail intra-Union redistribution of funds with an emphasis to Central and East European states that perform particularly well on the employment OMC, and potentially the social exclusion OMC as well. The logic behind financial rewards is to pragmatically address the current gap in social provisions dividing old from new member states and try to make the notion of ‘Social Europe’ a unifying feature of the Community rather than a divisive policy item centered on its implications for economic competitiveness. Such proposals could enhance the one aspect of the Open Method that is truly crucial to its legitimacy: its policy effectiveness. Amidst the current economic gloom, actions speak louder than words.

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