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## New Forms of European Union Governance in the Education Sector? A Preliminary Analysis of the Open Method of Coordination

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**ABSTRACT** This article critically explores how a new form of European Union (EU) governance – the open method of coordination (OMC) – impinges on education policies. The first part discusses three key characteristics of the OMC, in particular its flexibility, reflexivity and reliance on the techniques of new public management. It also outlines briefly why the OMC is being applied to EU education policy. The second and main part of the article develops a critical analysis of the OMC in education by questioning to what extent it can be considered as a new form of EU governance and with what vision of Social Europe it is associated. Most importantly, the second part argues that there may be significant potential for the politicization of mutual policy learning in the context of OMC education measures.

### Introduction

There is lively debate about new forms of governance in the European Union (EU) and how they apply to various areas of economic and social life. Relatively little, however, has been written about new forms of EU governance for education policy (see Novoa & Lawn, 2002; Dale, 2003). In this article we discuss important developments in EU education policy in order to develop a better understanding of the nature of these new forms of governance and their implications for education. We are particularly interested in the open method of coordination (OMC) as a new tool of EU education policy making. In the first part of the article we outline three key characteristics of the OMC. In the second and main part of the article we critically examine key aspects of the OMC with a particular focus on the potential politicization of mutual policy learning in the context of OMC education measures. To begin with, however, we need to address the question of what the OMC actually is.

### What is the OMC?

There is no formal legal definition of the open method of coordination (OMC) in the European Community or EU Treaty.[1] There were calls by various EU institutional actors, such as the Committee of the Regions and the Economic and Social Committee, for a definition of the OMC in the draft EU constitution (Committee of the Regions, 2002, p. 4). This, however, never happened, perhaps in order to preserve the OMC's flexibility, one of its key characteristics. The closest we get to an official definition of the OMC are the statements in the conclusions to the Lisbon European Council, a meeting of the heads of EU member state governments:

[The OMC is] a means of spreading best practice and achieving greater convergence towards the main EU goals. This method, which is designed to help MS [member states] progressively develop *their own* policies, involves:

- fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;
  - establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different MS and sectors as a means of comparing good practice;
  - translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
  - periodic monitoring, evaluation and peer review organised as mutual learning processes.
- (European Council, 2000, para. 37)

The Lisbon European Council meeting talked in general terms about the OMC and, for the first time, explicitly referred to EU education policies as a key area in which the OMC should be applied. The OMC is a *governance* tool – and hence not merely an expression of supranational EU *government* – because it involves both public and private actors. It involves traditional public governmental actors, such as member states in the Council of the European Union, and supranational EU public institutions, such as the European Commission, the European Parliament (EP), the Committee of the Regions, and the Economic and Social Committee. However, it also involves private stakeholders in policy making. For instance, OMC policy making in the field of education involves national evaluation agencies, teachers, academics, civil servants working in the field of education, trades union representatives and private education businesses. The term ‘OMC’ is usually employed to refer to EU policy-making processes. Sometimes it is also used to describe substantive outcomes of these policy-making processes.

It is clear that there is not one single OMC, but a number of OMCs. The OMC varies according to the specific policy field and time in which it is employed (Armstrong & Kilpatrick, 2006, p. 11). Different types of OMCs are now employed in a wide range of EU policies, such as the European Employment Strategy, fiscal policies in connection with the Growth and Stability Pact, pensions, health care, social inclusion, youth policies, immigration and asylum, and, of course, education policy. OMCs can also vary over time. In some policy areas, such as social inclusion, there have been ambitions to move away from ‘soft’ and ‘light-touch’ regulation OMC towards ‘harder’ forms of regulation, though these ambitions have not necessarily been realized in practice. Revisions of EU social inclusion policies included clearer targets and more focused indicators. Coordination was directed at a clear goal of convergence, rather than leaving it open to member states which aspects of the policy they wanted to engage with (Armstrong & Kilpatrick, 2006, p. 13). In other policy fields, however, such as economic policy coordination under the Growth and Stability Pact, there has also been a ‘softening’ of OMC measures. In fact, soft law measures may be necessary in fiscal policy coordination in order to render hard law ‘acceptable’ and ‘enforceable’. Soft law measures can help to build consensus about the aims of the rules for policy coordination (Schelkle, 2006, pp. 16-17).

Even though there is variation in the OMC, it is nevertheless possible to identify some key aspects of this governance tool. As one can see from the Lisbon European Council conclusions referred to above, flexibility is the first key characteristic of the OMC. The OMC is flexible because it relies on soft law. The OMC is different from traditional EU policy making, which – as its final outcome – usually involves the creation of formal, legally binding legislation through the ‘classic Community method’. The latter involves the main EU institutional actors, such as the European Commission, the Council of Ministers and the EP, mostly in a co-decision process. While the European Commission initiates the legislative proposal, the Council and EP co-decide, with the EP having a power of veto since both the Council’s and EP’s assent to the legislative measure is necessary. In contrast to this ‘classic Community method’ of translating policy initiatives into law, the OMC does not involve the creation of formally binding secondary EU legislation, such as EU directives and regulations (European Commission, 2001a, pp. 21-22). Instead, it relies significantly on soft law.

#### *The OMC: a new flexible governance tool relying on soft law*

Soft law can be distinguished from hard law, the latter being the traditional form for exercising governmental powers. While hard law, such as EC and EU Treaty articles, directives and

regulations, creates legally binding obligations for member states and individuals, EU soft law, such as recommendations, opinions, reports, joint communications of the Commission and the Education Council, and action plans, is only persuasive. It does not create enforceable legal rights and obligations for EU institutions or citizens. An example of EU soft law in the field of education policies is the European Commission reports, which set out benchmarks and indicators for measuring the quality of secondary school provisions throughout the EU. These benchmarks and indicators do not create legally enforceable entitlements to a particular standard of service for pupils or parents, nor are they a legally binding standard that schools in the EU member states have to comply with.

Traditionally, soft law has been employed in EU policy making just as a preliminary measure, before hard law measures are adopted. For instance, the EU Charter of Fundamental Rights can be considered as a precursor to traditional 'hard' law civil rights in a formally ratified EU constitution. Soft law is also frequently used simply for interpreting existing hard law measures. The Commission issues 'soft' law, such as administrative circulars and Commission communications, in a number of policy fields in order to facilitate the interpretation of 'hard' law measures (Armstrong & Kilpatrick, 2006, p. 3). In contrast to this, the OMC commits itself to soft law as a key governance tool, not just as a preliminary option or an aide for the interpretation of hard law. This matters because significant reliance on soft law has consequences for the distribution of power in the EU. Where the European Commission particularly relies on traditional 'soft' law measures, for instance, for expressing its view on the interpretation of EU hard law, the role of the Commission and thus supranationalism in the EU are reinforced. In contrast to this, the OMC strikes a new note. Here, soft law measures – in place of hard law – are often derived from initiatives of the European Council and the Council of Ministers. This increases the role for member states in the EU policy-making process and hence strengthens intergovernmentalism in the EU (Armstrong & Kilpatrick, 2006, p. 3). The OMC's significant reliance on soft law also points to another key characteristic – its reflexivity.

*The OMC: a reflexive governance tool*

Reflexivity is a second key characteristic of the OMC (Armstrong & Kilpatrick, 2006, p. 11). By definition, soft law can be more easily revised than hard law in the light of new knowledge about a policy issue. As is clear from the Lisbon conclusions, 'peer review' [2] and policy learning are central elements of the OMC. Hence, as a reflexive governance tool, the OMC involves iterative policy-making processes that are fed by the ongoing reflection and revision of ideas. As new knowledge about policy issues develops, governance responses can be modified. For instance, the application of the OMC to EU education policies has generated new EU policy networks that exchange information about best practices in education. This exchange of information and perspectives between different member states also seeks to encourage each member state to reflect on its own education practices, to stimulate policy learning and to increase standards to the level of those member states which are considered to deliver 'best practices'. Also, in order to implement the Education and Training 2010 Work Programme, in 2006 the Commission set up 'clusters', which engage – amongst other activities – in 'peer learning activities' (PLAs). Clusters consist of groups of interested countries that discuss specific themes in education about which they have expressed a desire to learn from other interested countries. This can also involve sharing their successful or unsuccessful experiences with other countries (European Commission, 2006a, p. 1). Clusters and the PLA activities within them are seen as the most bottom-up activities within the education OMC. They are also voluntary. Member states can participate in any cluster they wish, and to the extent that they wish. There is no formal monitoring of the performance or participation of member states in clusters and PLAs.

But 'softness' and reflexivity must not be overemphasized as the key characteristics of the OMC. Exchanges of information and points of view in policy networks also provide the basis for the imposition of more specific forms of EU OMC governance, which have the potential to steer and shape education policies in the member states. In particular, exchanges of information can provide the basis for the development of objectives, benchmarks and indicators that are central to

the OMC, also in EU education policies. Reliance on these new public management (NPM) tools forms the third key characteristic of the OMC.

#### *Objectives, Indicators and Benchmarks*

In March 2001, the European Council adopted three strategic goals for education and training (ET) in the EU. These focus, firstly, on increasing the quality and effectiveness of ET systems in the EU. Secondly, they seek to facilitate the access of all to ET systems and, thirdly, they aspire to opening up ET systems to the world. In the same year, the European Commission (2001b) published a report on *The Concrete Future Objectives of Education Systems*, which specified 5 main [3] and 13 subsidiary objectives. A detailed work programme followed in order to plan for the changes needed to achieve these objectives. The progress of the member states in relation to each of these objectives is monitored through the creation of benchmarks. Benchmarks are not concrete targets for individual countries to meet – they are simply references for ‘average’ performance. Austria and the Netherlands, however, included these benchmarks as targets for their domestic education policy (Gornitzka, 2005). The Commission also published the *European Report on the Quality of School Education: sixteen quality indicators* (European Commission Directorate-General for Education and Culture, 2000). This report further entrenched the use of indicators and benchmarks for the evaluation and improvement of the quality of schooling. In May 2003, the Commission proposed, and the Council adopted, five European benchmarks for education. For example, by 2010 the Council wants to achieve, across the EU, an average rate of early school leavers of no more than 10% of all (secondary) school pupils.[4] Hence, benchmarks are an important element of the OMC in education. They are meant to be used in order to ‘identify best practices’, which should help to achieve agreed objectives.[5] Their use is justified also with reference to various governance values. They should promote transparency by making progress towards the objectives visible. They should also advance pragmatic aspects of ‘good governance’ by ‘breaking down the overall (Lisbon) ambition into achievable goals’ (European Commission, 2004, p. 10).

Finally, ‘indicators’ [6] are used to assess either quantitatively or qualitatively progress towards the benchmarks and the common objectives. Indicators should also help to stimulate exchange and discussion among member states about reasons for differences in performance. Hence, they are meant to facilitate policy learning (European Commission, 2004, p. 11). They have been endorsed by Commission working groups [7] and should also be endorsed by the Council. As part of the OMC on EU education policies, the European Commission has set up a Standing Group on Indicators and Benchmarks [8], which has developed 29 indicators in order to measure whether, and at what rate, the EU is progressing towards its common objectives and benchmarks in the field of ET.[9] In relation to a number of education activities, the EU is also seeking to develop further and refine its indicators. This seems necessary also because indicators are sometimes only tenuously linked with the benchmarks and objectives whose progress they are meant to measure. For instance, the indicators ‘ratio of pupils to teaching staff’ and ‘age of teacher’ are used for measuring improvements in the quality of teaching. But often there is no detailed social science evidence provided in support of the asserted links between indicators and benchmarks in the EU policy reports. Are the age of teachers and the number of teachers in relation to pupils really key factors which influence the quality of teaching? Moreover, some indicators do not seem to measure what the benchmark seeks to capture. For instance, the number of pupils registered in foreign languages is used as an indicator of improvements in foreign language learning. While this indicator measures the number of pupils formally involved in language instruction, it does not measure whether, and to what degree, competency in foreign languages is actually acquired. After having outlined three key characteristics of the OMC, it is now necessary to address the question of why the OMC is also applied in the field of EU education policies.

#### **Why Has the OMC Been Introduced in EU Education Policies?**

The OMC is usually employed where the formal EU institutions have limited power to develop policies under the EC and EU Treaties, or, where there is significant political resistance by member states to an expansion of EU activities. This clearly applies to the case of EU education policies.

Hence, the OMC can be perceived as a potentially new answer to the old problems of limited competencies and legitimacy for EU actors in policy making (Zeitlin & Pochet, 2005). According to Article 149 (1) of the EC Treaty, the European Community has only very limited powers for developing EU education policies:

The Community shall contribute to the development of quality education, particularly by encouraging cooperation between MS and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member State for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

This article was only added to the EC Treaty in 1992 through the Maastricht Treaty. Hence, the EU acquired only relatively late in its development express powers under the EC Treaty for developing an EU dimension to the education policies of member states.[10] But, while there is now the specific Article 149 of the EC Treaty giving powers to the EU institutions in the field of EU education policy making, it is also clear that these powers are very limited. The EU institutions can only encourage cooperation between member states and, if necessary, support and supplement member state actions. Any activities beyond the encouragement of cooperation between member states can only be secondary to activities initiated by member states themselves. It is also clear that the EU institutions do not have any formal law-making powers in relation to education under Article 149 of the EC Treaty. Moreover, the article ends with a requirement for the EU institutions not to interfere with the principle that the main responsibility for the content of teaching and the organization of education systems lies with member states. The idea of a unified EU education policy is further limited in the article through an express reference to the cultural and linguistic diversity of education systems in the EU.

In addition, EU policy-making powers in the field of education are also limited because they are subject to the general EC law principles of subsidiarity and proportionality. Article 5 of the EC Treaty refers to subsidiarity. It requires that, in areas which do not fall within the exclusive competence of the EC – which clearly applies to education policies – the European Community should only take action if the proposed objectives cannot be sufficiently achieved by member states themselves. Finally, EU action in the field of education is also limited by a potential legitimacy deficit. There is a strong link between education policies and the construction of national identities and sovereignties. Hence, member states question whether an EU dimension to education policies is really legitimate (Alexiadou, 2005a). National, regional and local actors, who hold significant powers in relation to education governance in various member states [11], can be expected to be critical and watchful of a potential erosion of their influence through an EU dimension to their education policies. To conclude, the OMC as a 'light touch' governance tool is the type of regulatory tool which is particularly appropriate for regulation in areas where the EU has only very limited competencies. Having outlined three key characteristics and a reason for its introduction in the field of EU education policies, we will now critically assess some key aspects of the OMC.

### **A Critical Assessment of Key Elements of the OMC**

#### *The Political Implications of Reliance on Soft Law in the OMC*

In this section, we develop further a critical analysis of the OMC in relation to three key issues. First, we will discuss reservations about the use of soft law in the OMC. Second, we will critically analyse whether the OMC can be really considered as a 'new' form of EU education governance. Third, we will examine the prospects for policy learning to take place through the OMC and the potential for politics to re-enter OMC learning processes.

To begin with, the OMC's reliance on soft law can be criticized as a potential withdrawal of EU actors from binding, formal commitments to specific policy goals. This raises questions from a technocratic angle about the potential effectiveness of 'soft' governance. More importantly, it also raises questions about the values promoted by the OMC. The OMC is applied in a range of EU social policies, such as education, youth policy, social inclusion and health care. Reliance on soft law here could be interpreted as a retreat from commitments to social justice ideals, which become arguably only meaningful for EU citizens when expressed as formal, enforceable hard law rights. Hence, from this perspective, the OMC is *a form of deregulation*. Employing soft law may also make

it less likely that hard law provisions are actually adopted (Trubek & Trubek, 2006). This criticism of the OMC feeds into debates about the appropriate social model for the EU. Some see the OMC as a further expression of a neo-liberal bias towards the building of the EU internal market. Here, the OMC is associated with a European social model that sees only a limited scope for an EU welfare state. Achieving equality of outcomes for its citizens through social, including education, policies, would not be a key aspiration of the EU. Instead, OMC measures in EU social policy may merely seek to equip individuals for competition in open labour markets. In the sphere of EU education policy, this criticism may be particularly pertinent because EU employment policy seems, to a significant extent, to provide the route for education policy (Alexiadou, 2005a). This link between OMC measures in the field of EU education policy and a limited vision of Social Europe seems to be well summed up in Wolfgang Streeck's (1999) address to the Society for the Advancement of Socio-Economics:

As redistributive social policies are increasingly perceived by Europe's political classes as excessively expensive, the emphasis of the political discourse is shifting towards *investment* in the ability of individuals and communities to survive in intensified international competition. Not just prosperity, but also equality and justice are increasingly expected, no longer from redistribution of individual means of consumption, but from investment in *collective means of production*, that is, in *infrastructures* of all sorts. Redress of inequality ... is sought through broad and equitable investment in *productive capacities*, especially in the 'human capital' of individuals which is considered a productive asset for the community as a whole and whose optimal development therefore becomes a public concern.

Hence, we need to examine further whether, and how, the OMC in education measures actually contributes to social justice goals. Various initiatives taken by the European Commission Directorate-General for Education and Culture may further strengthen a social justice agenda. For instance, the Directorate-General has recently introduced a 'network of experts' that includes academics who research the social functions of education. This network complements earlier work carried out by economists of education, who have also advised the Directorate-General on the economic impacts of education policies.[12] The involvement of these expert networks in the OMC in education also further supports the Directorate-General's pursuit of evidence-led policy making.

The OMC's reliance on 'soft' law has not just been criticized for potentially promoting a limited vision of Social Europe. It has also been criticized for subverting traditional legal doctrines and values underpinning legal regulation. The OMC relies on the exchange of best practices, benchmarking, indicators, reporting and peer review as governance tools. It is therefore an example of the managerialist approach of NPM for the delivery of public services. Traditional constitutional law doctrines, such as the separation of powers and the rule of law, do not easily fit with this new way of exercising governance and become potentially irrelevant for ensuring the legitimate exercise of powers by EU actors (Trubek & Trubek, 2006). For instance, the rule of law – which requires all executive powers to be exercised in accordance with the law – has limited applicability where soft law takes the place of formally binding hard law.

The OMC has also been criticized as potentially undermining constitutional values, such as transparency and accountability in the exercise of EU powers. The involvement of a wide range of stakeholders in the development of policy, frequent revision of rules, as well as experimentalist and iterative procedures for policy making – in contrast to clearly defined and settled policy-making procedures – all may undermine transparency in policy-making processes. In particular, representatives of the regions in the EU have expressed their concern about a lack of transparency in OMC policy making. They argue that OMC measures often bypass them because member states' central government ministries negotiate new EU policy initiatives directly with EU institutional actors (Committee of the Regions, 2002). Moreover, traditional mechanisms for holding national and EU actors to account, such as the review of legal measures before the European Court of Justice and the Court of First Instance, may be sidelined by the OMC. The OMC's reliance on not-enforceable 'soft' law provides limited opportunity for the European courts to review the exercise of powers in the EU.

But why do these criticisms of the OMC as potentially undermining traditional legal values and doctrines matter? They don't just matter for lawyers concerned to uphold the rule of law. They highlight more generally that the OMC is associated with what appears to be an *internally*

*contradictory EU polity-building project.* On the one hand, the OMC is a governance tool associated with the withdrawal of a traditional state–public sphere from social welfare activity. It thus fits with a neo-liberal vision of Social Europe. On the other hand, neo-liberalism’s preference for limited state intervention in the social sphere is usually bolstered by traditional constitutional doctrines and values, such as the rule of law, the separation of powers and great emphasis on accountability in the exercise of state powers and interference of the state in the private lives of its citizens. For instance, national welfare state activity often relies on wide discretionary powers for state actors, such as housing, health care and education bureaucracies. But such wide discretionary powers are potentially in conflict with traditional legal doctrines and values, such as the rule of law and the separation of powers. These traditional constitutional legal doctrines are, however, often considered as central to a liberal and neo-liberal vision of the state because justice and equality are here achieved through the equal, and thus fair, application of formal legal rules to all citizens and through a clear demarcation of executive, legislative and judicial powers. Liberalism’s promise of freedom relies on a belief in law’s ability to define and curtail the exercise of state power. Hence, in the case of the OMC in EU social policy, we seem to see, on the one hand, an affirmation of a neo-liberal vision of Europe. On the other hand, when we actually examine what techniques of governance the OMC draws on – such as ‘soft’ law and NPM tools – we see that the OMC undermines traditional constitutional doctrines and values, which are key to render legitimate the exercise of power in the liberal and neo-liberal state. Hence, there is a potential contradiction between criticisms of the OMC that perceive it as undermining traditional legal values and doctrines and criticisms that perceive it as supporting a neo-liberal vision of Social Europe. The fact that both criticisms are debated perhaps further illustrates that the OMC is not associated with a clear political project. Its departure from hard law, and hence the applicability of traditional liberal constitutional doctrines – while also embracing a limited vision of Social Europe – suggests that the OMC is an expression of an EU polity-building project which is internally contradictory. There are, however, also other claims about the OMC that need to be critically examined. It is often suggested that the OMC is a tool of new EU governance.

#### *The OMC as a Tool of New EU Governance?*

Some argue that the OMC is one example of new and innovative forms of EU governance that displace old forms of EU governance (see Sabel & Zeitlin, 2006; see also Sabel & Gerstenberg, 2002). Also, various EU policy documents suggest that the OMC in education policies is ‘a radically new process of co-operation in the education and training areas’ (see, for example, European Commission, 2004, p. 5). Here, new governance occurs because old hierarchies are displaced or – in the case of EU education policies – never existed. Others suggest that we are witnessing new forms of EU governance that simply supplement and compensate for some of the deficits of old forms of EU governance (Heritier, 2003). Hence, ‘new’ forms of EU governance are not completely new because they are generated ‘in the shadow’ of traditional hierarchical EU polity structures.

Whether the OMC is, however, a new form of EU governance is questionable for two reasons. First, whether the OMC can be considered as a ‘new’ tool of EU governance depends on how we conceptualize ‘old’ forms of EU governance and, in particular, ‘law’ as one element of governance. The idea that the ‘soft’ law employed in the OMC is radically different from traditional hard law can be questioned. When the OMC is contrasted with traditional hard law, hard law is often imagined as the ‘formal law’ found in books. While this is traditional ‘hard’ law, in that it lays down formally binding legal rules, it also presents an incomplete picture of ‘hard’ law. It neglects how implementation practices can change ‘hard’ law. For instance, law enforcers can ‘soften’ the law by adapting and subtly changing legal obligations when interpreting formal legal texts. Law enforcers usually exercise discretion – either given by formal legal texts or simply asserted – when implementing legal obligations (Lange, 1999). ‘Hard’ law can be ‘open to evasion, contestation and “irritation”’. Moreover, ‘softer’ forms of governance can also be used to exert both coercion and persuasion (Armstrong, 2006, p. 87). Hence, clear demarcations between ‘soft’ and ‘hard’ law that underpin some accounts of the OMC as a ‘new’ form of EU governance may be questionable.

Second, there is another way to question the idea of the OMC as a new form of EU governance. The OMC may well be a new form of policy making but it may be filled with old

contents. OMC policy-making processes seem to be flexible and thus open and unsettled. These policy-making processes can be filled with different contents. In the field of EU education policies, the OMC seems to draw on well-known ideas and techniques for the development and delivery of education services, in particular those of NPM. They involve objectives, benchmarks and indicators. OMC education policies in the EU also follow traditional NPM values by drawing the private sector into the development and implementation of education policies. There is a strong 'business' and economic agenda in the EU OMC for education (Dale & Robertson, 2006). This becomes clear in various ways. First, the OMC was initially developed in the context of economic policy coordination, which has been taking place since 1993 in preparation for economic and monetary union. Second, OMC education policies are closely linked to the European Employment Strategy (Hingel, 2001). EU education policies should help to achieve the Lisbon agenda for the EU to become, in the next decade, 'the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth, with more and better jobs and greater social cohesion'. Third, various EU reports in the field of education policies attribute an important role to private businesses as partners for schools in the planning and delivery of education, and promote a more general 'business discourse' within schooling. For instance, three of the indicators outlined in the 'Detailed Work Programme on the Follow-up of the Objectives of Education and Training Systems in Europe' are 'cooperation of ET institutions with business enterprises', 'promotion of self-employment' and 'the percentage of ET institutions providing counselling and guidance for setting up business' (European Council, 2002a). Fourth, and most importantly, the business agenda in the OMC education policies runs the danger of marginalizing rather than complementing social justice objectives in education (see also Alexiadou, 2005b).

In the summarized versions of the indicators presented in the EU official reports, only a few of the 29 indicators address social justice concerns in the design and delivery of education. For instance, the indicators 'percentage of pupils completing upper secondary education' or 'levels of public and private expenditure on educational institutions', as well as 'participation rates in education', could be about social justice goals, but are not clearly phrased to achieve this purpose. They lack, for example, any reference to the percentage of particular socio-economic groups which should be contributing towards the achievement of these overall goals. Similarly, gender in education receives limited attention. The EU is seeking to address a gender imbalance and, in particular, a lack of young women pursuing university-level education in mathematics, science and technology. But the benchmark of increasing the number of graduates in mathematics, science and technology by 15% by 2010 in the EU does not contain a percentage goal for women graduates. Hence, by limiting references to class and gender in the formulation of educational achievement indicators, a vision of a European society is projected in which 'individuals' – divorced from their social contexts – are to be made fit for competition in labour markets.

However, the data from the studies of the Organisation for Economic Co-operation and Development's Programme for International Student Assessment (PISA), which have helped the development of many of the indicators to a significant extent, do refer to the 'social' dimension of education measures across the EU. Hence, it will be interesting to see how this information from the PISA studies will feed into the ongoing work of the Directorate-General for Education and Culture in developing the current set of indicators, and how this information will contribute to the activities of clusters and their PLAs.

Finally, in order to understand the significance of a 'social justice' dimension in OMC education measures, it is important to analyse the values that underpin the implementation of the OMC. The content of these values could very well be drawing on concerns with social justice rather than narrow economic specifications, as key architects of the European social policy scene suggest:

The Open Method of Coordination is both a cognitive and a normative tool. It is a 'cognitive' tool, because it allows us to learn from each other. In my opinion, this learning process is not restricted to the practice of other Member States, but also extends to their underlying views and opinions, an area that is no less important. Open coordination is a 'normative' tool because, necessarily, common objectives embody substantive views on social justice. Thus open coordination gradually creates a European social policy paradigm. (Vandenbrouk, 2003, cited in Radaelli, 2004, p. 15)



To conclude, limits to drawing clear distinctions between 'soft' and 'hard' law, as well as the old content of NPM in the education OMC, raise the question of whether the OMC in education is really a new tool of EU governance. A critical analysis also needs to be further developed through questioning what 'mutual policy learning' in the OMC actually involves.

### **Mutual Learning in the OMC as a Political Process?**

'Mutual learning' is a basic coordinating force of the OMC (Radaelli, 2004). It has been considered as an expression of 'experimentalist democracy' (Sabel & Zeitlin, 2006). Mutual learning aims to create sites of knowledge diffusion and to raise awareness for the need to develop new knowledge. National policy decisions should then be better informed, drawing on others' experiences and practice. The assumption is that, across the EU, all parties are converging towards the same objectives – in this case, the ones set by the Lisbon process – and that problem solving is rational and collective. But it is questionable whether policy learning in the OMC involves rational and collective problem solving. 'Learning in a political context is not a truth-seeking exercise' – it is a political exercise (Radaelli, 2004, p. 3). So, there is nothing 'neutral' about the process, and the title of 'coordination' does not remove the political element of the process, in the sense of assertion of specific interests. Hence, whether the OMC can really avoid politicization when being applied in a sensitive policy area such as education is questionable. In addition, there is evidence of 'learning at the top EU level' and little evidence of 'learning from below' (Gornitzka, 2005)

This observation would suggest that the process of policy making in education is likely to develop more along the lines of 'travelling policy' emanating from 'the top' and inserted into local/regional educational contexts rather than as genuine mutual learning between member states (Alexiadou & Jones, 2001). Whether the OMC is a tool of new EU governance can also be questioned on the basis that 'mutual learning' may not be a new form of collective and rational problem solving, but may simply be a cloak for the assertion of established interests in EU policy making. Entrenched 'bureaucratic politics' and the influence of 'high-level' groups have been found to be influential in OMC measures in the field of social inclusion and the European Employment Strategy (Armstrong & Kilpatrick, 2006, p. 22). It therefore needs to be examined whether the OMC in education may also actually involve the assertion of 'old' entrenched political interest structures, albeit within the more flexible and new procedural framework of the OMC. Education policy making now occurs in a 'global education policy community' (Lawn & Lingard, 2002). Here, policy learning involves something more than simply 'borrowing', 'modelling', 'transfer', 'diffusion', 'appropriation' and 'copying', as Halpin (1994, in Lawn & Lingard, *ibid*, p. 293) described the mimetic process of cross-national education policy development over a decade ago. Hence, European education policy-making processes may be relatively fluid, 'only partially visible' and shaped by the interaction between various 'experts' (Lawn & Lingard, 2002, p. 292). Such fluidity could very well 'fit' the parameters of the OMC, but then 'experimentalist democracy', and mutual learning as one element of it, may also become more contestable. Opening up channels for contesting perspectives expressed in OMC policy making highlights that 'policy learning' may not be a neutral learning activity, but highly politicized.

Reliance on 'mutual learning' in the OMC is extensive. A number of EU reports in the field of education policy advocate changes in member state education policies that should be accomplished through reference to the OMC. Since 2000, there has been a consistent attempt by the European Commission to set the agenda for education policy making at the national level in accordance with the Lisbon objectives and using the OMC mechanisms. This is not only done in the form of 'communications' and 'recommendations', but also in the form of numerous 'reports' and 'working papers' that reaffirm the commitment of the Commission to the agreed targets, and offer lists of goals and targets to be agreed within certain time limits by member states. Some of these reports focus on 'lifelong' or 'informal learning', such as the 2001 communication *Making a European Area of Lifelong Learning a Reality* (European Commission, 2001c); others are about vocational education and the education of teachers. There are also reports that have direct implications for policies on compulsory and post-compulsory secondary schooling. For instance, the European Commission Directorate-General for Education and Culture's (2002) report *Education and Training in Europe*:

*diverse systems, shared goals for 2010* elaborates the ways in which OMC indicators and benchmarks try to give direction to national reforms of education systems 'while reducing the political risks involved' (p. 10). The published objectives and indicators represent a clear policy framework for member states and focus attention on specific areas of change. Even though one of the aims of the OMC is to help member states to develop their own policies progressively (European Council, 2002a), the direction and objectives of these policies seem to be tightly specified. In the report *Progress towards the Lisbon Objectives in Education and Training*, member states are urged to 'concentrate on common concerns and priorities' (European Commission, 2006b, p. 7). This report also reaffirms the significance and need for higher investment in ET than member states currently make (p. 8).

In order to achieve these changes, the OMC relies on 'mutual learning', as described earlier, and on a process of 'naming, shaming and faming' through comparisons of 'best practice' and continuing monitoring of performance by the member states. In the 2006 Commission progress report, member states are urged to 'learn from the good performers in the Union' (European Commission, 2006b, p. 11). For that purpose, a database of 'good practice' was set up in 2003. The aim of this database is to compare the progress of reforms against the particular objectives. This process aims to offer a context of 'meaningful comparisons' between practices across the EU and to avoid mere copying of activities that are likely to lead to unsuccessful changes.

These processes of 'mutual learning', however, may become politicized. This is illustrated through a closer analysis of various EU policy reports in the field, such as the progress report on improving the education of teachers and trainers (European Commission Directorate-General for Education and Culture, 2003). As part of the OMC comparative work, a number of expert groups have been set up to look at particular thematic areas. The education of teachers and trainers is one of these thematic areas. There is also the final report of the Information Society and Media Directorate-General (2005) on *How the eEurope OMC Worked: implications for the co-ordination of policy under i2010*. This is a very interesting study on the adoption of the OMC in the framework of 'eEurope'. The report is based on the participation of 10 member states: Denmark, Estonia, Finland, Greece, Ireland, Italy, the Netherlands, Slovakia, Spain and the United Kingdom. It describes how the OMC works in this particular area, identifies areas where the process has not been successful, and makes suggestions for improvement on the basis of its achievements and limitations.

Both reports seem to suggest that the first assumption that underpins the OMC 'mutual learning' element is not grounded in the political realities of education policy making. Member states do not seem to be really interested in policy learning:

The case studies revealed that the eEurope OMC made a limited contribution in practice to helping MS with exchanging good practice, learning and policy borrowing, posing questions and problem solving. (Information Society and Media Directorate-General, 2005, p. 8)

[O]nly the representatives of 8 countries and one stakeholder have manifested interest in hearing of good practices from other countries in the field of teacher/trainer competence. The other representatives have not manifested any interest in this field, but many have manifested interest in other matters ... No interest was shown by the countries' representatives in the areas of:

- new ways of working in the classroom,
- work 'beyond the classroom' related to school curriculum and organisation, promotion of citizenship education,
- integration of ICT [information and communication technology] in formal learning situations and in all professional practice. (European Commission Directorate-General for Education and Culture, 2003, p. 51)

Moreover, EU policy documents recognize that contexts play an important part in the mutual policy learning associated with the OMC:

in the case of social policies, as in education, the practices cannot be transferred wholesale as they are context-linked. That is, mutual learning is not imitation, and policy makers, whenever attracted by foreign practices, are supposed to rebuild them in their national / regional contexts. This rebuilding is impossible if they cannot identify the contextual dimension of these policies,

which is only possible after process and outcome evaluation. (European Commission Directorate-General for Education and Culture, 2003, pp. 50-51)

What is not explicitly recognized or discussed, however, is the danger of drawing the majority of examples of 'good practice' from the more wealthy and/or politically powerful member states. Some countries may be identified as in no need for reform, the reverse being true for politically 'weaker' and less well-resourced member states. Smaller or poorer member states may be required to adopt policies and practices from their richer counterparts. If this were the case, we would end up with old-fashioned 'policy transfers' or 'borrowing' with little real policy learning (Phillips & Ochs, 2003). According to 'liberal' approaches to policy making, member states are of 'equal status' in the process of policy learning. This is most clearly reflected in the equal voting power for member states in the EU. But some policy learning and transfer processes may depart from the ideal of equality of member states. Asymmetry in the resources and size of member states may be expressed as asymmetry in political power and influence policy formulation and exportation accordingly. The reports discussed above seem to confirm this in their discussion of 'sharing best practice' and 'mutual policy learning' as elements of the OMC:

In fact, national actors do not think first in terms of information society in Europe. The most economically advanced think globally etc. and look to their traditional 'policy borrowing' counterparts, with all looking to the Nordic countries. The less advanced MS look to the more advanced, though both groups think of this in terms of 'catching up'.

... by and large it is only the smaller MS which are open to policy borrowing in the field of education – the big countries tend to be uninterested. (Information Society and Media Directorate-General, 2005, pp. v, 8)

In conclusion, these reports highlight the intensely political nature of 'policy borrowing' and of the whole process of setting EU-wide policy goals.

### **Conclusion**

This article has outlined three key characteristics of the OMC, in particular its flexibility and also, through its reliance on 'soft' law, its reflexive nature as well as its preference for the NPM tools of objectives, benchmarks and indicators. Our critical assessment of the OMC has emphasized its potential for undermining traditional constitutional doctrines and values as well as offering a limited vision of Social Europe. This article has also critically analysed what mutual policy learning as a key element of the OMC may actually involve. It has suggested that policy learning in the field of education may become politicized.

Moreover, it seems that member states have an ambiguous response towards OMC education policies. National education ministries seem to 'intensely dislike common objectives' while 'within the Commission it is never clear how to respond to, or take advantage of, the OMC' (Information Society and Media Directorate-General, 2005, p. 8). At the same time, the OMC aims to impact on participatory structures of domestic policy making and to lead to a reconfiguration of policy networks (de la Porte & Pochet, 2004). Up to now, the 'raising awareness' nature of the OMC in education seems to be a weakness since it lacks any power of enforcement. But, on a more positive note, this may prove to be the OMC's strongest feature in the face of the resistance of member states to the imposition of performance targets that are country-specific. Empirical research is needed in order to explore whether member states will opt for a 'nominal' adoption of goals and benchmarks without any real change of domestic policy, or whether there will be a process of 'deep learning' – beyond the assertion of established interests – which will engender substantial reforms in education policies across the EU.

### **Notes**

- [1] In the EC Treaty, there is only reference to the OMC in the context of economic policy coordination through the broad economic policy guidelines introduced by the Maastricht Treaty in 1992 in preparation for economic and monetary union. Moreover, since the Amsterdam Treaty in 1997, the EC Treaty refers to the OMC in the context of its provisions for the European Employment Strategy.

For all other policy areas in which the OMC is employed, such as pensions, health care, social inclusion and education, the Lisbon conclusions are the only basis on which the application of the OMC to the particular policy rests.

- [2] Peer review, however, has not been practised yet in education.
- [3] These are (1) raising the standard of learning in Europe, (2) making access to learning easier and more widespread at all times of life, (3) updating the definition of basic skills for the knowledge society, (4) opening education and training to the local environment, to Europe and the world, (5) making the best use of resources.
- [4] The four other benchmarks are: (1) 'The total number of graduates in mathematics, science and technology in the EU should increase by at least 15% by 2010 while at the same time the level of gender imbalance should decrease'; (2) 'By 2010, at least 85% of 22-year-olds in the EU should have completed upper secondary education'; (3) 'By 2010, the percentage of low-achieving 15-year-olds in reading literacy in the EU should have decreased by at least 20% compared to the year 2000'; and (4) 'By 2010, the EU average level of participation in Lifelong Learning should be at least 12.5% of the adult working age population (25-64 age group)' (European Council, 2003).
- [5] The key documents here are *European Benchmarks in Education and Training: follow-up to the Lisbon European Council* (European Commission, 2002) and the 'Council Conclusions of 5 May 2003 on Reference Levels of European Average Performance in Education and Training (Benchmarks)' (European Council, 2003). See also Scheerens & Hendriks (2002).
- [6] The EU is also employing 'composite indicators', which 'attempt to capture the complex, multidimensional nature of the knowledge-based economy by aggregating a number of key variables, and expressing the result in the form of an overall index' (European Commission, 2004, p. 6). They are used, for instance, to measure whether there has been an increase in 'investment in the knowledge-based economy' (ibid).
- [7] Working groups, however, have now been replaced by the clusters described above.
- [8] This is 'an expert group which includes members from all participating countries giving advice to the Commission on the use of indicators as tools for measuring progress towards common objectives and benchmarks' (European Commission, 2004, p. 12).
- [9] 'An indicative list' of 33 indicators and indicator areas was identified in the 'Detailed Work Programme on the Implementation of European Common Objectives in the Field of Education and Training' (European Council, 2002).
- [10] The Europeanization of member state educational policies has also been promoted through the case law of the European Court of Justice – also well before 1992. The European Court of Justice interprets EU legislation on the rights of access of workers' dependants to education and the cross-border supply of education services in the EU under Article 49 of the EC Treaty.
- [11] In Germany, for instance, the *Bundesländer* have responsibility and powers for the development and implementation of education policies for the primary, secondary and tertiary sector. In the United Kingdom, primary and secondary school education governance in particular has been devolved to England, Scotland and Wales.
- [12] The European Expert Network on Economics of Education 'aims to contribute to the improvement of decision-making and policy development in education and training in Europe by advising and supporting the European Commission in the analysis of economic aspects of educational policies and reforms.' See <http://www.eenee.org>

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