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THE OPERATION OF THE SOCIAL PROTECTION AND SOCIAL INCLUSION OMC IN BELGIUM:
A HYBRID POLICY INSTRUMENT BETWEEN HARD AND SOFT LAW

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INTRODUCTION: THE SCIENTIFIC MOOD SWING WITH REGARD TO THE OPEN METHOD OF COORDINATION

The proliferation of Open Methods of Coordination (OMCs) at the turn of the century went hand in hand with a steady stream of scientific production on this topic. Initially many of the writings were quite supportive of this new mode of soft governance, which was at some point even attributed “revolutionary potential” (Tucker, 2003). However, “The initial praise for the Open Method of Coordination (OMC) - both by politicians and scientists - has recently turned into scepticism” (Schäfer, 2006: 2).

The academic community has indeed taken a far more critical stance towards open coordination, which is now found to be ‘weak and ineffective’ and thus a ‘paper tiger’, since according to a majority of scholars its value added has not been demonstrated sufficiently. The ‘delivery gap’ of the OMC to which is often referred would be predictable in view of the “weakness of the peer pressure system” (Collignon *et al.*, 2005) and, more generally, the ‘design flaws’ of the process. Coordination processes are therefore dismissed as ‘rhetoric and cheap talk’ which appear ‘remote and irrelevant’. Or worse: the OMC may even be a ‘fashionable red herring’ which distracts the attention from other, more relevant issues. Some scholars have noticed the irony of the term ‘open’ method of coordination, which is perceived as being much more closed than the Community method (Jacobsson and Vifell, 2003:23). Thus, due to its ‘lack of transparency and pluralism’, the OMC should instead be labelled a ‘closed method of coordination’ or even an “open method of centralisation” (Smismans, 2004:15) which is supposed to be “exiting to a small group of experts, yet ignored by the rest of the world” (Tsoukalis, 2006). Quite recently “hot air” and “Christmas tree” were added to the list of nicknames (Dehousse, 2007).

Many more examples could be given, but the general picture is clear: the OMCs have been weighed on the scales and found wanting by mainstream academic literature. These sceptical views seems to be in sharp contrast with the views expressed by many actors involved in the Open method of Coordination on Social Protection and Social Inclusion. Indeed, the general picture emerging from a (formal) large-scale evaluation

by the Commission¹ is that most of the actors involved in the social protection OMCs are critical, but at the same time they (strongly) support these processes (European Commission, 2005). This conclusion is corroborated by (informal) interviews with individual civil servants and social partner representatives from the 10 new Member States (CEEC) (Vanhercke, 2007). In other words, those involved in the OMC have also weighed it on the scales, but have not at all found it wanting. Finally, the abovementioned academic views seem to contrast with a recent Report from the European Parliament, in which the Committee on Legal Affairs warns against the “indirect legal effects” of soft law which is “liable to circumvent the influence of the other (democratic) instruments” and would “allow the executive effectively to legislate by means of soft-law instruments, thereby potentially undermining the Community legal order” (European Parliament, 2007:4-5).

The remainder of this paper will be devoted to piecing the empirical puzzle that emerges from the previous paragraphs: on the hand, the outright sceptical views with regard to the OMC held by recent mainstream academic literature; on the other hand continued (and potentially increasing) support for this method from many of the actors who are involved in it. More particularly, we will develop one possible explanation for the continuing support of many actors, namely the hypotheses that the actors experience that this ‘soft’ mode of governance is quite a bit harder, and much more useful, in practice than they had thought, or than most academics seem to grasp so far.

We try to provide empirical evidence to solve this puzzle, by looking at the actual operation in a Belgian context of one of the OMC’s, namely the Social Protection and Social Inclusion OMC (SPSI OMC), and more particularly its Social Inclusion strand. In the next section, we will begin by briefly developing a theoretical perspective which we see as fit to assess the OMC effectiveness at the national level. In section 2 we will describe, for each of the dimensions of the theoretical framework, whether there is any evidence of ‘real’ impact in Belgium.

1. ASSESSING THE OMC EFFECTIVENESS AT NATIONAL LEVEL: THE ‘LEGALIZATION’ AND ‘NEWGOVERNMENTALIST’ PATHWAYS

We will try to capture the different kinds of potential impact of the OMC by integrating them, as far as possible, in a theoretical framework which will be explained in this section. This seems essential since our key hypothesis to explain the remarkable variation in the support for this OMC between academics and the actors involved, is that the OMC Social Protections and Social Inclusion is more ‘effective’ than is normally assumed. We will start from the concept of “legalization” as developed by Abbott *et al.* (2000). While proving a useful perspective, we consider that this “rationalist” theoretical framework only allows capturing one dynamic along which the OMC may impact at national level. Therefore, we will complement the legalization framework

¹ Which included all member States, but also European-level social partner bodies, and a large number of European-level NGO’s and representatives of other actors (European Commission, 2005).

with an alternative, new governmentalist (“constructivist”) account of OMC effectiveness. Taken together, these dynamics seem to capture the reality of institutionalization more fully².

Abbott and colleagues delineate three dimensions of legalization: obligation, precision and delegation. Any institution can, according to the authors, be described in terms of these three dimensions of legalization.

How are these dimensions defined then?

Obligation, first of all, refers to the degree in which states or other actors are bound by a rule or commitment or by a set of rules or commitments (Ibid: 401). Given that we are discussing international public law, in practical terms this category demands a measure for the *subjective acceptance* by states of a particular rule as a legal rule or not, i.e. as binding or non-binding as a matter of international law (Radulova, 2007: 12).

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

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

Even though this conceptualization of institutionalization already seems to capture some important dimensions of institutionalization (OMC effectiveness), we consider that two others should be added to this theoretical framework, namely “commitment”, “participation” and “revision”.

Let us first turn our attention to commitment. It seems crucial to acknowledge that institutions may change, not because of the legal obligation to do so, but as a consequence of “subjective” acceptance, or strategic use, of given rules or norms. This may happen for many reasons other than their legal status: concern about reciprocity,

² The concept of legalization is understood by Abbott and colleagues as a particular form of institutionalization (Ibid:401)

reputation, and damage to valuable state institutions, as well as other normative and material considerations, all play a role. In order to reflect this subjective commitment of certain actors to 'deliver the goods', independent from their legal obligation to do so, we see "commitment" as a first addition to the legalisation framework.

It can be argued, secondly, that the active participation in a rulemaking process of a broad range of stakeholders increases the likelihood of the rules being effectively institutionalized. Thus, "The diffusion of procedural commitments to transparency and participation in EU networked governance has had democratizing destabilizing effect in terms of stimulating demands to widen the circle of actors and alternatives involved in policy-making at the national as well as the European level" (Sabel and Zeitlin, 2006:64). While we consider the procedural requirements for ensuring active participation in decision-making by a broad range of non-state and subnational stakeholders - including civil society associations and NGOs as well as industry bodies, social partners and other interested parties - as an important indication for active participation, we see transparency as a necessary foundation for it.

A third dimension we consider to have been omitted from the legalization framework in order to get a full grip on the effectiveness of the OMC, is the scope for *revision* that is being provided for in EU-level framework making. This dimension of institutionalization refers to the room for manoeuvre available to actors to revise institutional arrangements as they apply them. It has been argued indeed that that any decision-making process (both 'soft' and 'hard') is to some (but in a varying) degree *deliberative*: actor's initial preferences are transformed through discussion by the force of the better argument. In other words: "consensus is regarded as provisional, a necessary condition for taking decisions that have to be confronted now, but certainly not the final word of discussion" (Sabel and Zeitlin, 2006:4). Thus, in complex areas of decision making "actors have to learn what problem they are solving, and what solution they are seeking, through the very process of problem-solving" (Ibid:46). To the extent that 'along the road' revision of the institutional arrangement allows to adapt the rules in use to the complex situation they apply to, "revision" seems indeed an important additional dimension of the institutionalization framework.

Figure 1 summarises the two dynamics that could help us to explain the effectiveness of the OMC: obligation, precision and delegation are the key dimensions of the "legalization" pathway, while commitment, revision and participation are the main dimensions of the new governmentalist pathway.

LEGALIZATION PATHWAY		NEW GOVERNMENTALIS PATHWAY
Obligation	<----->	Commitment
Precision	<----->	Revision
Delegation	<----->	Participation

FIGURE 1. Framing the effectiveness of Open Method of Coordination: the 'legalization' and 'newgovernmentalist' pathways

In the remainder of this paper, I will provide empirical evidence of the 'effectiveness' of the social protection and social inclusion OMC (SPSI OMC) following, first, the legalization pathway, and, second, the new governmentalist pathway.

2. EMPIRICAL EVIDENCE OF THE IMPACT OF THE SOCIAL PROTECTION AND SOCIAL INCLUSION OMC IN BELGIUM

a. Obligation: delivering the goods through EU-SILC

At the end of the nineties of last century, Belgium's official statistical capacity with regard to poverty and social exclusion faced some real challenges. The national statistical institute (NIS) hardly possessed any know how in this area, and was completely dependent on two universities (Liège and Antwerp) to provide statistical information which the latter collected through the annual Panel Survey on Belgian Households (PSBH). Importantly, these universities made these Belgian national panel data available to EUROSTAT³. The latter then adapted the data so that they would satisfy the requirements of, and could be integrated in, European Community Household Panel Study (ECHP)⁴. It would be an understatement to say that the relationship between the Belgian national statistical institute and Eurostat was rather tense: for almost 5 years the NIS, informed by the Universities of Liège and (especially) Antwerp, contested the validity of the Belgian ECHP data, mainly because of the income imputation procedures followed by Eurostat⁵. Eurostat, so the Belgian side claimed, significantly overestimated the risk of poverty in Belgium (CSB, 2002), which led to confusion and sharp national debates: depending on the source being used, Belgium performed between 'very well' and 'on average' as compared to other

³ EUROSTAT is the Statistical Office of the European Communities.

⁴ Whereas in all but 2 countries ECHP-surveys were carried out using the harmonised ECHP questionnaire (blueprint questionnaire), in Belgium and the Netherlands ECHP data came from existing national panels (Atkinson *et al*, 2005: 55).

⁵ Amongst others with regard to capital income and in case of within-household non-response (CSB, 2002).

countries. Even more importantly is that there was no agreement about the long-term evolution of the poverty situation: according to Eurostat calculations poverty decreased over time, while the Belgian panel data indicated the contrary. In sum, Belgium faced a double challenge at the turn of the century: weak official statistical capacity and contested poverty and social exclusion indicators.

During the second half of 2001, the situation changed in important ways, since the then adopted Action Programme on Social Inclusion boosted discussions on a new statistical tool which would replace, from 2003 onwards, the ECHP survey (European Parliament and Council of the EU, 2002). At that moment, the technical problems facing social statistical capacity in Belgium made their way to the political level. There are two main reasons for this: first, whereas the ECHP simply operated under a gentleman's agreement, the new instrument, EU-SILC (Survey on Income and Living Conditions), was being institutionalised in a very formal way, namely through a set of clear legal acts and implementation regulations (eg. a Framework Regulation of the European Parliament and the Council). Thus, the pressure to "deliver the goods" increased considerably. Secondly, reaching an agreement on commonly defined indicators for social inclusion was one of the top priorities of the 2001 Belgian Presidency of the EU⁶ (Belgian Presidency of the EU, 2001: 23-31), and thus it was inconceivable for the Belgian President of the Council of the EU (Social Affairs formation), minister Frank Vandenbroucke, that his country would not be able to be part of the new statistical tool which would deliver the substance of indicators on social inclusions. Remember that Vandenbroucke wanted to reach an agreement on a set of indicators at the 'Laeken European Council in 2001'⁷.

Vandenbroucke therefore instructed his cabinet to resolve this situation as soon as possible. In spite of efforts made in 2001 and 2002 both at the political and technical level, the disputes between the national statistical institute and Eurostat continued and the situation even got worse when in the summer of 2002 the University of Antwerp concluded, again, that the publication of the Belgian ECHP-data for the years 1994-1999 was « hardly reasonable » in view of the many remaining problems with validity. Thus, by the end of 2002 this seemingly technical discussion became a real political *problem* for the Belgian Minister for Social Affairs, but also for the Vice Prime Minister, Johan Vande Lanotte, who was also Minister for Social Integration. There are three reasons for this.

First, at the end of 2002, the Commission confirmed that the "structural indicators on social cohesion" of the 2003 "Spring Report" would consist of a selection of the Laeken indicators. In other words, if Belgium continued to challenge (and block) the Belgian ECHP-data, Belgium would have been the only Member State with nothing but "missing values" in the Spring Report with regard to social inclusion indicators. In

⁶ The Belgian Presidency of the EU commissioned an in-depth methodological research for this specific purpose (see Atkinson *et al.*, 2002).

⁷ The report on indicators for social inclusion prepared by the Social Protection Committee and endorsed in Laeken can be found on the web-site of Directorate General *Employment and Social Affairs* of the European Commission (www.europa.eu.int).

view of the fact that Belgium was amongst the Member States which pushed most fiercely to obtain full consistency between the Laeken indicators and the Structural indicators used in the Spring Report, this was an unacceptable perspective. Secondly, the ongoing dispute with Eurostat started to cast some doubts on whether Belgium would really be able participate, from the very beginning, in the 'gentleman's agreement' between six Member States⁸ as well as in Norway that would launch EU-SILC as from in 2003, before it was formally enlarged to all Member States (Atkinson *et al*, 2005: 107). Thirdly, in case of non-agreement about the poverty and social exclusion indicators, it would have become very difficult for Belgium to use (contested) the Laeken indicators in the 2003 National Action Plan on social inclusion, while it had been pushing other Member States to do exactly that.

Thus, both the Vice Prime Minister and the Minister for Social Affairs instructed their cabinet members, during the second half of 2002, to boost discussions and negotiations between Eurostat and the competent Belgian authorities. As a result, a compromise was reached in November 2002, after which the Belgian ECHP-data were released. Note that as a result of the recalculations made by Eurostat at Belgian request, the risk of poverty rate decreased by no less than 2%, which constituted very important corrections, as the University of Antwerp had claimed for some years. Apart from solving a year-long deadlock over the level, validity and interpretation of Belgian poverty indicators, (the perspective of) Belgium's participation in EU-SILC had other, more institutional implications. So as to ensure that Belgium would be able to live up to its EU-SILC obligations, the national statistical institute decided to boost its own statistical capacity, so that the collection of social data could be organized by the NIS itself, as is the case at this moment. In sum, it seems that the legal obligation, deriving directly from the SPSI OMC (the Action Programme more particularly), to collaborate in EU-SILC had a major impact on statistical capacity building in Belgium.

b. Precision: target-setting as a new feature in Belgian social policy-making

In the first round of NAPs/inclusion, submitted in 2001, only a minority of the then 15 Member States included outcome targets. The impetus for an enhanced role for targets in the next round of NAPs/inclusion came from the March 2002 Barcelona European Council: *"The European Council stresses the importance of the fight against poverty and social exclusion. Member States are invited to set targets, in their National Action Plans, for significantly reducing the number of people at risk of poverty and social exclusion by 2010."* (European Council, 2002: 9). To a large extent this insistence on targets proved effective: even though there was wide variation across the 15 EU members in the way they responded to the Barcelona European Council invitation to set targets in their 2003 NAPs/inclusion, overall there was certainly a greater emphasis on targets than in the first round, and a number of Member States set targets in terms of the Laeken common social inclusion indicators (Atkinson *et al*, 2005:153).

⁸ Belgium, Denmark, Greece, Ireland, Luxembourg and Austria.

And yet, there was one notable exception. Indeed, it came as some surprise to most European partners that Belgium was the *only* Member State which did not integrate *any* quantified target in its 2003 NAP/Incl (European Commission, 2004:40). After all, Belgium was definitely one of the most outspoken supporters, and arguably among the architects, of the Barcelona European Council Conclusions with regard to this issue. Maybe even more remarkable is that the same 2003 Belgian NAP/inclusion does explicitly discuss the rationale for the approach it adopts to target-setting. Thus, the Plan:

“[...] states that the experience of other Member States (such as the Netherlands, the UK and Ireland) shows that formulation of global and central targets is not straightforward. For this reason, the Belgian plan has decided to work with *specific* targets, which have the advantage that they are more *concrete* and can be more easily attained by *specific* policy instruments, and are thus easier to address. [...] The Belgian Plan does not then set out a list of the specific targets set, and the subsequent discussion relates to policy measures being implemented. So although the arguments for setting various and concrete targets are articulated, no targets are in fact set out (Atkinson *et al*, 2005: 155).

From a Belgian perspective it was perhaps not so surprising that in spite of the lip service paid to the importance of precise targets, they were not included in the second round of NAPs. The reason is actually quite simple: no political agreement could be reached on the targets, and this has everything to do with the operation of the principle of subsidiarity within the Belgian context. Regions and Communities are basically competent for important aspects of social welfare, eg with regard to social housing, worker placement and some aspects of unemployment policies, personal aid (child protection, disabled persons) and some aspects of health care (hospitals, prevention). All social security aspects (family allowances, pensions, child benefits, health care and unemployment insurance) as well as labour market policies and the management of industrial relations remain centralised at the federal level (Beyers and Bursens, 2006: 1070).

Importantly, the design of most policy areas is further complicated by the Belgian institutional setting which is characterized by the fact that even in those areas with subnational competencies, framework rulemaking remains federal in most of these areas (Hooghe, 2003). One example can illustrate this: housing competences are shared by federal and regional authorities - price regulation as well as fiscal incentives being a federal issue and quality standards a regional one (Groenez and Nicaise, 2004: 11). In other words, for an agreement on almost any quantified target in the area of social policy, unanimous agreement is needed between 5 different governments which are on an equal footing, since the federal government has no superiority over the subnational levels.

Thus, for some it came as a considerable surprise that in the most recent National Action Plan on Social Inclusion 2006-2008, Belgium *did* in fact propose a wide set of quantitative targets, for each of the policy priorities, from now up to 2010, with

interim targets for 2008. Crucially, these targets also cover some of the most “difficult” policy areas in view of the internal division (or rather: sharing) of competencies described above. Thus, targets are included with regard to housing and education, both of which are mainly subregional competencies, but with important federal involvement. It is important to note that the NAPIncl sets overall “Belgian” targets, and not subregional ones. The importance of “Belgian” targets being applied to subnational competencies cannot be underestimated: apart from the fact that “it is the first time that Belgium commits itself formally to explicit targets with regard to the fight against poverty” (Interview José Goris and Sophie Mollinghen, 2007), it is widely acknowledged that pursuing these national targets is only possible through increased coordination of regional policies, which is not evident given the institutional context.

According to the President of the Flemish ‘Network of associations where the poor take the floor’, which plays an increasing role in the preparation of the NAPIncl⁹, there is no coincidence involved: “the Network has insisted to find agreement on targets in policy areas with shared competencies [between federal and regional level, BV], since it is in those policy areas that deadlocks arises because of lack of coordination (Interview Ludo Horemans 2007). In other words, targets in well-chosen policy areas become an additional strategic argument to better coordinate those policies. On the other hand, as a consequence of target setting, the regions and the federal government seem to be developing a keen interest in what the other entities are doing in the concerned policy area, possibly because they realize that if the other entities do not reach their subnational targets, this means that the national target will be missed as well (cf. next section on “Delegation”).

Some of the key actors involved in the Social Inclusion OMC already see some impact of the precise targets that were agreed. Thus, the national coordinator of the Belgian NAP claims that “with regard to social housing the National Action Plan clearly highlights that the numbers need to increase. After the European Commission’s recommendations to Belgium in the Joint report, social housing became an issue of discussion in Flanders. The minister for housing (Mario Keulen) was questioned by the media, the sector, the Flemish Parliament: what will you do to increase social housing as you announced in the Plan” (Interview José Goris and Sophie Mollinghen, 2007). The same interviewee expects that this kind of pressure will increase in the future, as more national actors start discovering the targets: “If an organization defends a certain interest, it now has an official source to say, in 2010 or sooner, ‘this has not been realized, in spite of promises made’” (Ibid).

According to many actors involved in the SPSI OMC “the European strategy has helped to be more concrete” (Interview Ludo Horemans 2007). A telling example of this is the recent increase of the minimum income for elderly people, “GRAPA” in French (since December 2006). The Belgian Minister for Pensions, Bruno Tobback explains that:

⁹ Namely through the ‘Task Force Actions’ in which different stakeholders and experts are represented and which prepares the NAPIncl, together with the ‘Task Force Indicators’.

“Sometimes the OMC can be usefully applied in the national debate. For example, we legitimized the increase of the GRAPA by pointing out that that the benefit levels were below the European risk of poverty line. By arguing that the GRAPA needed to attain the level of this poverty norm, we were able to increase the minimum income for some 70.000 people with between 60 and 90 euros every month. This is a significant increase of more than 10 percent [...]. This measure will cost around 70 million euros every year. The European poverty norm allowed to defend an increase for a well-defined target group (poor elderly) against which hardly anyone could resist. The government also decided that the GRAPA will, from now on, be structurally linked to the evolution of the general living standard. This has not been laid down in law, but it seems unlikely that anyone would dare to turn back the clock, since some would say that the government would ‘push’ these old people back under the risk of poverty line” (interview Bruno Tobback, 2007).

According to the deputy head of cabinet of the Belgian Minister for Social Integration, the European risk of poverty norm acquired a broader mobilizing character:

“it has become widely accepted. It is a substantive argument in budgetary negotiations to say: “we are not being generous to the poor”. In order to determine whether people are entitled to free legal assistance, the European risk of poverty norm is also the relevant criterion now. References to European norms, and EU-SILC calculations, have become frequent in policy discussions and documents (interview Johan Vandebussche, 2007).

And it seems that this will not change in the near future: poverty organizations will “thoroughly exploit the measure to increase the minimum income for the elderly to the European poverty norm. After all, the same reasoning could be followed for other target groups, like younger people living on minimum welfare benefits, persons living on minimum unemployment benefits etc. For us the GRAPA case is an important precedent to say: “the minimum income levels of all these income groups should be raised to the European poverty norm”. We were stunned to find this argument in the NAPIncl” (interview Ludo Horemans 2007).

Finally note that in the run-up to the federal elections in June 2007 another OMC-indicator was strategically used, thereby ending up into the core of political debates, when the President of the Flemish social-democratic party (sp.a) suddenly declared that one of the key priorities of his party during the following legislature would be “to increase the average replacement rate of pensions to 70 percent of the last net wage”. The proposal was launched after some of the President’s advisors had drawn from the pension-OMC indicators that Belgian (theoretical) replacement rates is, on average, 62%. The Belgian Minister for Pensions confirms that “the theoretical replacement rates which are calculated in the context of the pensions OMC are strategically used to make the stakes of the elections more concrete, and to aim high. The political goal is: a strong additional investment in our pension system” (interview Bruno Tobback, 2007).

In short, it seems that some of the tools of the OMC, namely the indicators and targets, have been used, at least in Belgium, to set more concrete policy objectives, or, in other words, to reduce the scope for reasonable interpretation. Targets give both the Commission and national actors a tool to check whether the goods have actually been delivered, and they are giving rise to increase coordination mechanisms (cf infra). And certain indicators (eg risk of poverty) are being strategically used in policy/budgetary debates.

c. Delegation: strengthening the federal policy arena

In its evaluation of the social inclusion and pensions OMC's, the European Commission noted that "Several countries (Belgium, Finland, France, Germany, Ireland) stress that they took advantage of pre-existing coordination and consultation arrangements to prepare their NAPs, in some cases developing them further. For instance, Belgium uses federated structures but has added actions and indicator task forces to prepare and follow up the NAP" (European Commission, 2005: 21-22). Beyond the observation that all federated entities, both (economic) regions and (cultural/linguistic) communities are being involved in drafting the NAPs, it seems especially worth noting that all of the coordination mechanisms are being steered by federal administrations.

Thus, the abovementioned "Actions" and "Indicators" Task Forces are being prepared and presided by federal civil servants, from the federal Social Integration and Social Security Administrations, respectively. Furthermore, as regards evaluation, a specific on-line monitoring instrument for the NAPIncl has been set up by the federal Social Integration administration. Also "The federal administration has proposed the 3 priorities for the last NAPIncl, which were inspired by the EU-level. We have more or less steered the decision-making in this direction, prepared the meetings in this sense. There have been discussions about why other priorities (for example debt) were not taken into consideration, but in the end everyone accepted our proposal (Interview José Goris and Sophie Mollingen, 2007). Finally, the federal administration is also in charge of the bi-annual Conference during which the OMC/NAPIncl is being discussed with a wide variety of actors, and which has recently taken the shape of an "internal Belgian peer review" (cf. infra).

This new role for the federal administration has not gone unnoticed to most of the actors: "the Federal Social Integration Administrations keeps track of the implementation records, co-ordinates the NAP. The federal level thereby regained a better overview over the poverty policies of the Regions and the Communities. You could speak of a 'light steering effect' or a 'more active coordination' than in the past. The Regions have changing moods about this situation. Sometimes they see it as a burden, sometimes but they want to be part of it as well (Interview Johan Vandenbussche 2007).

The federal administration itself seems to be clearly aware of this new situation: "as coordinator at the national level, we have to watch out: each regional government is autonomous, the federal government cannot impose anything on them (Interview José

Goris and Sophie Mollingen, 2007). And yet, with regard to target setting, the administration interpreted its role very broadly: “at the political level, Belgium has always been in favor of those targets, but we did not manage to develop them for our own NAP. So the administration had to take its responsibility, and move faster than political decision-making. Until recently we just waited, but now we were forced to write our own proposal, based on the work of the Indicators Taskforce. We set up an internal benchmarking, so that each region would perform well on at least one of the targets. The day before the final (intercabinet) meeting we sent our proposal to the cabinet. It was agreed without discussion, and integrated in the NAP, we are not even sure they know what they agreed to” (Interview José Goris and Sophie Mollingen, 2007).

In sum, it seems, first of all, that the SPSI OMC stimulates Regions, Communities and central government to cooperate. Secondly, the Communities and Regions seem to have delegated some authority with respect to coordination and follow-up of the OMC to the federal level. Thus, even in the absence of one single, overarching cooperation system with regard to EU social policies, it seems that the OMC keeps the federal government and the federal policy-making arena at the centre, even in a policy area that has been de-federalized to a very large degree (cf. infra). This finding confirms the general conclusions drawn by Beyers and Bursens (2006: 1073) that due to European integration the central government in Belgium remains an influential actor even with respect to issues that do not belong to its competences. And it confirms their finding that extensive (not minor) regional capabilities coincide with high (not low) level of cooperative behavior within Belgium (Ibid: 1074).

So far I have discussed the effectiveness of the social protection and social inclusion OMC in terms of what has been referred to above as the ‘legalization’ dynamic. In the following paragraphs we will see whether this process also had an effect through a different kind of dynamic that has been referred to above as “new governmentalist”. Again, we consider 3 aspects: commitment, revision and participation.

d. Commitment: agenda-setting, increased coordination and monitoring

The question is, first of all, whether the OMC has increased the subjective commitments of certain actors to ‘deliver the goods’. There seems to be some evidence that it has.

First of all, most of the actors involved in this process, are convinced that the SI OMC keeps the fight against poverty high on the political agenda. Thus the coordinator of the Brussels Region part of the NAP, who is in general very skeptical towards the OMC, says that “if the OMC were to be abandoned at EU -level, I am not sure why the regional governments would continue to invest as much in this policy area. Sometimes I feel the OMC is only bluff, but then again I believe it has mobilized our 3 or 4 governments to intensify the fight against poverty” (Interview Annette Perdaens, 2007). Her Flemish counterpart confirms “Europe has played a role. Through a detour it leads to more attention to the fight against poverty: because there is attention for

the subject, because we have to “sell” what we do, because we have to explain our actions. In general, the OMC gives you the impressions that you are part of something bigger because you know that they find it important as well. You meet people who really want to fight for it. You know, ‘La lutte’” (Interview Lieve De Grande, 2007).

Secondly, there is clear evidence that the OMC has led to increased efforts to coordinate and streamline policy initiatives *within* each of the regions, which have, as discussed above, the bulk of the competencies in the fight against poverty and social exclusion. Different observers have pointed out that Brussels, Wallonia and the German Community only recently announced that they would start elaborating strategic poverty plans, and suggest that without the EU this might not have happened (yet). The coordinator of the Brussels Region part of the NAP seems to confirm this:

“the new law of July 2006 announces a Brussels ‘Action Plan against Poverty’, which will probably be produced in 2008 for the first time. That is where you see an influence of the NAP. We decided to kill two birds with one stone: we will elaborate a real Plan for our own purpose, which will also be the Brussels contribution to the NAP. In that way, the work we did for the NAP since 2003 ultimately affected the Brussels Region: both the political and administrative level have been mobilized to do something much more structured, much more coherent, rather than continue to superpose measures” (Interview Annette Perdaens, 2007).

Even though Flanders already made up a strategic ‘action plan’ in the fight against poverty before the launch of the OMC, some claim that the European process contributed to formalizing the commitment to involve a wide variety of actors in the process through a legislative act, i.e. a Flemish poverty ‘Decree’ which came into force as of 1 January 2004 (Interview Horemans 2007).

According to one key actor the pressure coming from the OMC to coordinate policies within Regions has another important consequence: it helps to bridge different “planning” approaches between the regions: “at the level of principles, Flanders has a real “planning” mentality, it favors governance by objectives, and is therefore in line with the European strategy. French speakers do this to a far lesser extent, it is an important cultural difference. It is no coincidence that the Flemish Action Plan was formalized as early as 2003, while Brussels will have to wait until 2008 (Interview Annette Perdaens, 2007)

A third “commitment” effect as a consequence of the OMC seems to result from the fact that policies are permanently being monitored, both by the EU and the national level. It was already mentioned above that a monitoring instrument for the NAP was set up by the federal Social Integration administration. The instrument contains follow-up data on the set of measures in the NAPs, on the federal as well as regional and community levels. At present, while extensive information is available for some measures, information on other measures is still scarce (Groenez and Nicaise, 2004: 1). Even though far from perfect, this monitoring seems to create considerable pressure on those involved in policymaking: “the European process is our anchor point, sometimes we can say ‘we have to do this’, for example with regard to the

requirement to set targets. The rhythm is important as well. We have to follow: writing a plan, evaluation, monitoring, writing a new plan. And being questioned about why some things were not realized. The continuity of this exercise cannot be underestimated, the OMC certainly keeps us focused, and it shortens the policy cycle, even though politics is never a straight line. Our own monitoring system is sometimes being cursed by some of the actors, but it is an important tool since it allows to verify in a structured way who should do what by when with which budget. Of course we cannot 'judge' the others, in view of the Belgian institutional context, but it is still a way of confronting each other with the state of progress, or delay, of announced policies" (interview Johan Vandebussche, 2007).

e. **Revision: towards an 'internal OMC', a spirit of evaluation and priority to child poverty**

Another way of assessing the "impact" of the SPSI OMC is to look at instances where national actors have used the room for manoeuvre available to them to revise the institutional arrangements as they apply them. A striking example of such revision of the institutional context of the OMC seems is that this European process seems to have spilled over in an internal learning process, between competent levels of decision-making.

Thus, the national coordinators of the Belgian NAP see an increase in interregional exchanges, and refer to "a kind of OMC within Belgium", which is complemented by increased informal contacts between civil servants of regional and federal administrations (Interview José Goris and Sophie Mollighen, 2007). Furthermore, "There are a number of examples of conscious learning from each other, between the regions. This is where you see the influence of the EU. In the Resource Centre¹⁰ the Regions also exchange views between civil servants, but this was rather practical and not very frequent, and the goal was especially to work with the target group. The more coordinated way of working between the regions and the federal level emerged through the Actions Task Force which started working to prepare the NAP (Interview Lieve De Grande, 2007).

The Director of the President of the Flemish 'Network of associations where the poor take the floor' confirms: "discussing each others policies, between regions, is a new feature in Belgian social policymaking" (Interview Ludo Horemans, 2007). Or, in the words of the Director to the Health and Social observatory of Brussels Capital:

"it is the first time we really collaborate, even though formally speaking we should have done so since a law in 1998 obliged us to, but this was so far considered to be a luxury. It is the first time we want to work together between regions in a structural way, that we are motivated to do so and at the same time each of us notices slight modifications in the mentality of civil servants to start working in this direction as well. I think some see it as an internal OMC. In any case it seems to make more sense to find inspiration in the practices and policies of other regions, within Belgium, than

¹⁰ Resource Centre for the Fight against Poverty, Precariousness and Social Exclusion.

to look at other countries. We never have the time to read the NAP of another country" (Interview Annette Perdaens, 2007).

The Deputy Head of Cabinet of the Minister for Social Integration provides insight in the actual mechanisms of the "internal learning process": "the Flemish see what the Walloons write in their Plan, and wonder why they could not do something similar. There is a permanent pressure that pushes us forward. If nothing happens in Flanders around debt settlement of socially excluded while progress is made in Wallonia, social organizations pick this up from the NAP, they organize pressure. In principle this could also happen without the OMC, but the number of places where there is a wider view on the whole country and where exchange of ideas are possible, are becoming scarce. It is important that we hold on to them, certainly now that the process is clearly deepening: first all energy went to writing process the details, now it is clearer who the actors are, they require certain legitimacy. As a consequence, there is more room for substantial discussions now, we can be a bit sharper towards each other, now that we know each other and know what to expect. We do not have to evaluate each other, but still we can tell each other what we find good, and what we like less. We can do so, because people feel safer now, we have learned to trust each other (interview Johan Vandebussche, 2007).

A second case of 'revision' of the institutional arrangements while they are being applied has to do with the follow-up of policy initiatives. Thus, senior civil servants of the federal Social Integration administration claim that: "So far, the existing instruments and institutions (the Resource Center etc.) issue recommendations, but rarely verify what happens to them in policy terms. Let alone that the government itself would reflect upon what it realized as compared to the promises it made. This new policy phase, of monitoring and evaluation, has now been created in Belgian social policymaking through the OMC/NAP, also because it is a continuous process. We can now say: of all the measures that have been announced in the NAP 2001/2003, 80% has been put into place, and 20 has not. We would now like to do this in a very systematic way now, and we have the tool to do it, but so far we are faced with some important technical flaws" (Interview José Goris and Sophie Mollighen, 2007).

As we have shown in the previous section, many actors do indeed perceive this monitoring system as pressure, as it strengthens their subjective commitment. In other words, it seems that certain actors have successfully revised the institutional setting so as to push forward a 'spirit of evaluation' in Belgian social policymaking. Even though technical and other obstacles still seems to impede a thorough evaluation of the implementation of many of the measures, it seems that at least at the mental level the OMC has helped to create a revolution in this respect.

A third, more substantive example of actors having to learn what problem they are solving through the very process of problem-solving, is the choice of child poverty as one of the policy priorities in the Belgian NAP/Inclusion 2006-2008. This first of all illustrates the growing influence of Europe and the OMC on the Belgian social inclusion agenda: prior to the appearance of child poverty in this NAP, child poverty was not

explicitly on the political agenda and received little attention, to the point that children living in poverty were almost invisible in the Belgian social inclusion discourse. The President of the Flemish 'Network of associations where the poor take the floor states: "we are skeptical about this focus on child poverty. Why would we accentuate certain target groups, and not certain others. But the pressure from the EU was obvious. The governments and the Working Group simply settled for it" (Interview Ludo Horemans, 2007). A political advisor:

"I note the fact that child poverty is now one of our 3 priorities in fighting poverty, which is confirmed by a recent Resolution by the Senate on this issue which was also inspired by a UNESCO report. Child poverty has become an issue in Belgian politics and it will start to direct social inclusion policies. If a message is repeated long enough in the right places, amongst others by the UK in this case, it will end up on the agenda anyway. The fact that this issue is now in our NAP proves that the OMC is used to set national policy agenda's" (interview Johan Vandebussche, 2007).

At least as interesting as the agenda-setting effect itself, is that certain actors very quickly saw the advantages of the new focus. Thus, the federal Social Integration administration proposed to set targets with regard to combating child poverty, which requires the follow-up of measures in many different areas, and this further strengthens the role of the federal government. Also, "the Network will use the European focus on child poverty to demand thorough measures. This is a sensitive issue after all children cannot be blamed for being poor, so this provides us with many opportunities" (Interview Ludo Horemans, 2007). At the same time it seems that Belgium, while performing rather well in terms of child poverty, seems to be discovering that it may have underestimated the problem load of certain specific aspects of the problem, such as teenage pregnancies. More generally, it is acknowledged that there are a number of blind spots in the knowledge about this issue, also because the search for indicators has only started after it was decided to select child poverty as a priority in the NAP. In sum, it seems that "child poverty" has been catapulted from the OMC into the Belgian political arena, and that surprisingly quickly some of the key actors revised their attitude towards it, discovering new opportunities while learning more about the problem, and thus the solutions they should develop.

f. Participation: from teacher to pupil

At the start of the Social Inclusion OMC in 2000, Belgium was rather confident about the way it had organised stakeholder involvement in the social inclusion process, and it was considered that Belgium represented a "model" in this respect, which could be a source of inspiration for other Member States. Thus, during its Presidency of the European Union, the experience (notably in Flanders) of involving not only the organisation representing the poor, but the social excluded themselves, was brought to the EU level. This was done through the organisation, hosted by the Belgian Presidency with the reluctant support of the European Anti-Poverty Network, of a first European meeting of people experiencing poverty. One would think that under such

circumstances it seems hardly plausible that a 'soft' mode of governance could have any significant impact at the national level.

And yet, as one can read from the evaluations of the first Belgian NAP/Incl, it seemed that the Belgian 'model' involvement of stakeholder looked much better on paper than in practice. In response, as mentioned above, Belgium set up, in view of the preparation of the second NAP/Incl an "Actions" and an "Indicators" Task Force for the preparation and follow-up of the NAP. Both the federal and regional level are represented, as are stakeholders of local administrations, representatives of both sides of industry (National Labour Council), academics and associations of the poor.

This somewhat improved the effective involvement, but not drastically: for the second NAP/Incl. "the consultation with other stakeholders (including associations representing the poor) has been fairly extensive", but "time was lacking for the other stakeholders to review and debate the preliminary draft of the NAP 2003-2005" (Groenez and Nicaise, 2004: 2-3). Furthermore, referring to the evaluation process the 'Flemish Network of associations where the poor take the floor' expressed its "regret at the indolence of the government. The inclusion into the new NAP of the practical guidelines for a more permanent and systematic participation of grassroots associations in the policy process was considered to be a government commitment. The government however, did not live up to this commitment" (Ibid: 3).

The Belgian government admitted that whereas "consultation and involvement has increased as the process has developed [...] and real progress had been made, mobilisation has only been partly successful and there is much still to do (European Commission, 2005: 22). According to most observers, this second 'cold shower' led to a real improvement of the stakeholder involvement at the beginning of 2005. A key actor recalls that:

"The federal administration had organized a conference at the beginning of 2005 to evaluate the NAP/Incl, but it turned out that no-one actually knew the NAP. So we never got to evaluation, but the conference had as strong mobilizing effect. Whereas involvement had already improved, through the setting of the "Actions Task Force", it was still rather poor. Now, all of a sudden there was lots of interest for the Plan, from Public Centers for Social Welfare, from trade unions etc. And most of them wanted to stay on board afterwards, so the preparation and follow-up of the NAPs was changed: technical issues were from then onwards discussed by a "Technical Task Force" of civil servants, so that the "Actions Task Force" could have genuine thematic meetings at least 4 times a year, with a wide variety of actors. This is working well now: the third NAP/Incl was discussed 4 times. We consider this to be a good practice in terms of preparation: third time, good time in terms of actor involvement" (Interview Ludo Horemans 2007).

In sum, the way stakeholders were involved in the preparation of the NAP/Incl matured step-by-step, and Belgian authorities learned that their 'participatory model' (which they wanted to 'upload' to the EU level) could be much improved. The fact that they actually did adapt their ways of doing things is no coincidence: "there are

certainly actors who use the NAP/Incl as a leverage, namely with regard to the requirement to involve a wide variety of organizations in anti-poverty policy (interview Johan Vandebussche, 2007). Others conform that “the sector of organizations where the poor take the floor use the reference to participation in the NAP/Incl, underline the fourth Nice Objective about the mobilization of the actors over and over again. They may not read the NAP, but they will use it to obtain subsidies if they can. ‘Mobilization’ works as leverage, a powerful argument. Which is used if it suits them” (Interview José Goris and Sophie Mollighen, 2007).

Finally, three important potential future developments are reported. Firstly, there are indications that the described NAP coordination structures (ie the “Indicators” and “Actions” Task Forces) are slowly replacing pre-existing coordination mechanisms, such as the Inter-Ministerial Conference (IMC), which meets irregularly, a tendency that is strengthened because the civil servants who were in charge of preparing the meetings of the IMC are in charge of the coordination of the OMC process. Secondly, some profound changes seem to be taking place in Wallonia, where the NAP process is being steered by an ‘interdepartmental working group’ which was installed from the elaboration of the first NAP. Importantly:

“Until recently, this working group did not include any other than ‘political’ players, but the Walloon Combat Poverty Forum drew inspiration from its Flemish counterparts, which have been structurally involved in the NAP for a long time, and is now being invited to participate in the meetings. It seems that the Combat Poverty Forum will soon be entitled to structural funding as well. In this way the OMC may provide stakeholders with a place in policymaking they never obtained before (Interview José Goris and Sophie Mollighen, 2007).

Thirdly, note that the Belgian National Labour Council, the tripartite body that brings together the ‘two sides of industry’ is lobbying, at this very moment, so as to obtain a seat during the national preparations of the Social Protection Committee meetings (Interview Jean-Paul Delcroix). It remains to be seen whether this will effectively boost the involvement of trade unions and employers in the OMC.

CONCLUSIONS AND DISCUSSION

The ‘puzzle’ this paper attempted to address was the contrast between the outright sceptical views with regard to the OMC held by recent mainstream academic literature and the continued support for this method from many of the actors involved. A first conclusion is that there seems to be quite bit of support for our key hypotheses, namely that these actors perceive this ‘soft’ mode of governance rather as a rather useful tool, which has real effects, such as the spill-over of the European OMC into an internal Belgian type of OMC, which is seen as a major step forward by most key actors. Besides this there is evidence that, in spite of the fact that Belgium considered itself as a model with regard to actor involvement, participation practices have changed in important ways. Furthermore, new policy priorities (like child poverty) have been forced to the political agenda. While coordination has increased *within* each of the Regions (which have most of the competencies in the area of poverty and

social exclusion), the role of the federal government has been strengthened, in spite of its limited competence in this policy area. A spirit of evaluation and assessment represents a landslide change in Belgian social policy making, even though the actual practice still represents many difficulties. Finally, the level of ambition has been increased, through boosting statistical capacity and introducing target setting on a variety of issues.

At first sight, those who claim that the OMC is 'weak and ineffective' may have to reconsider, or be more specific about their claims: some of the changes that we claim to be linked to the OMC can hardly be described as insignificant, and clearly constitute more than 'rhetoric or cheap talk'. Similarly, this empirical evidence sheds some doubts about the distinction that is often made between the effectiveness of 'hard' and 'soft' law: it seems that the effectiveness of the OMC can best be explained by combining the 'legalization' and 'new governmentalist' pathways described in Section 1.

Clearly, more research is needed to shed light, for example on the time dimension: the above analyses has made it clear that some of the effects of the OMC simply take considerable time, for example because actors need to build trust amongst themselves before they can start assessing each others policies in a more direct way. This framework for measuring the effectiveness of the OMC also call for a nuanced judgement vis-à-vis different OMCs: in this paper, the 'empirical test' was applied mostly to the Social Inclusion strand of the Social Protection and Social Inclusion OMC, but it seems that quite different result would be obtained if a similar exercise would be applied to the pensions or healthcare strands of the same process, or to other OMC's such as the European Employment Strategy or Economic coordination. Indeed, one could hypothesise important variations in the level of obligation, precision, delegation, commitment, revision and participation between them. In this perspective, generalisations about "the (in)effectiveness" of *the* OMC should be avoided.

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