

# THE CONTEMPORARY EUROPEAN UNION

New methods of governance and the EU  
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# REVIVAL OF INTEGRATION?

- SEA and Maastricht led to new impulse to studying the EU: neofunctionalism, combined with intergovernmentalist approaches, as an explanatory theory was reborn.
- ‘Syncretic’ approaches emerged.

# EVOLUTION OF INTEGRATION

- Integration was no longer solely an economic affair, but political spillover was also occurring. Hence should this be solely an area of study for International Relations scholars?
- Can't the EU be where democracy takes place? (Neo-federalists)
- What about comparative political science? Public policy scholars?
- (*Richardson citation, p. 107*).

# GOVERNANCE / PUBLIC POLICY

- Multi-level governance:
  - Fluidity
  - Permanence of uncertainty
  - Multiple modalities of authority

# INSTITUTIONS

- “formal rules, compliance procedures and standard operating practices that structure relationships between individual units of the polity and the economy” (Hall via Rosamond).
- Institutional approaches recognise that: “EU outcomes cannot be read off from an analysis of preferences and state power alone”.

# TRADITIONAL DECISION- MAKING

- Community method
- Ordinary procedure, leads to:
  - EU legislation (directives, regulations)
  - Implementation by Member States
  - Role for the Commission and the Court of Justice in ensuring uniform and correct implementation



# ALTERNATIVE METHODS

- At beginning of the century, there were increased use of alternative methods of policy-making, deviating from the traditional pattern
- Little or no legislation involved
- Increased involvement of third parties
  - => private actors become real partners

Examples: social dialogue, OMC, EU eco-labeling scheme

# SOCIAL DIALOGUE

- Employers-Employees-Commission
- Two dimensions: sectoral (27 sectoral committees) and intersectoral (ETUC, UNICE, UEAPME, CEEP)
- Functions:
  - consultation (art. 138)
  - implementation (art. 137)
  - agreements (art. 139)



# SOCIAL DIALOGUE

Functions: Consultation

Art. 138 – two-stage consultation procedure (by the Commission)

First stage: before presenting proposals in the field of social policy  
(on the possible direction of Community action)

Second stage: on the actual content of the envisaged proposal

# SOCIAL DIALOGUE

In order to be consulted under art. 138, the organizations should:

- Be cross-industry or relate to specific sectors or categories and be organized at European level
- Consist of organizations which are themselves an integral part of Member State social partner structures and with the capacity to negotiate agreements and which are representative of all Member States, as far as possible
- Have adequate structures to ensure their effective participation in the consultation process

# SOCIAL DIALOGUE

Functions: Implementation

Art. 137 – role in the implementation of directives

- task entrusted by the Member State at the joint request of management and labour (e.g. Amendment of a National Collective Agreement)

# SOCIAL DIALOGUE

Functions: Negotiation

Negotiated agreements

=>

Commission proposal

=>

Council directive

# SOCIAL DIALOGUE

In the area of social policy, social partners have a unique position in the system of the EC Treaty not granted to other interest groups:

- They may be entrusted at member state level with the implementation of Community Directives (art. 137.3)
- They are consulted twice (compulsory) on potential EU social policy legislation (art. 138.2 and 138.3); on the “if” and the “what” – so called first stage and second stage social dialogue consultation
- They are in a position to suspend (for nine months) the legislative procedure by jointly exercising their right to enter into negotiations with a view to self-regulation (art. 138.4)
- They are entitled to self-regulation (art. 139.1 and 139.2); and a Council/EP decision may endorse their self-regulation on a proposal of the Commission, effectively providing a degree of certainty for the future that the Community will not legislate on the subject of an agreement



# SOCIAL DIALOGUE

## Outcomes:

- Opinions/declarations
- Common positions
- Codes of conduct
- Guidelines
- Charters
- Agreements
- Employers tend to prefer non-binding texts
- Employees prefer agreements



# OPEN METHOD OF COORDINATION (OMC)

- “Open coordination is a mutual feedback process of planning, examination, comparison and adjustment of the policies of the [EU] Member States, all of this on the basis of common objectives” (Vandenbroucke)
- “The OMC is an experimentalist approach to European Union governance, based on benchmarking national progress towards European objectives and organized mutual learning” (Zeitlin)

# OMC

Presidency conclusions of the Lisbon European Council (March 2000):

- “fixing **guidelines for the Union** combined with specific timetables for achieving the goals which they set in the short, medium and long term;
- establishing, where appropriate, quantitative and qualitative **indicators and benchmarks** against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practices;
- 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** organized as mutual learning processes.”

# OMC COMPONENTS

- Guidelines
- Benchmarking and sharing of best practices
- Multilevel peer review
- Indicators
- Iterative process
- Implementation through domestic policy and legislation (no EU legislation needed)

# OMC

OMC most often used where:

- EU powers are limited
- insufficient consensus/political will to enact binding directives
- too complex/diverse to be credibly harmonized at EU level

Variations in modalities and procedures depending on:

- specific characteristics of the policy field
- Treaty basis of EU competence
- willingness of MS to undertake joint action

# OMC

- Used in: social inclusion, pensions, health, long-term care, research/innovation, information society/eEurope, enterprise promotion, structural economic reform, education and training
- OMC-type processes and approaches used in: immigration and asylum, environmental protection, disability, occupational health and safety, fundamental rights, youth policy



# OMC

- “the governance instrument of choice for EU policymaking in complex, domestically sensitive areas where diversity among the MS precludes harmonization but inaction is politically unacceptable, and where widespread strategic uncertainty recommends mutual learning at the national as well as the European level” (Zeitlin)



# OMC ADVANTAGES

- A “third way” for EU social policy between regulatory competition and harmonization, an alternative to both supranationalism and intergovernmentalism
- Cognitive and normative tool for defining and building consensus around a European social model
- Mechanism for promoting experimental learning and deliberative problem solving
- Vehicle for enhancing democratic participation and accountability within the EU

# OMC BENEFITS

## OMC processes:

- have raised the political salience and ambitions of employment and social inclusion policies at the national as well as the EU level
- have contributed to broad shifts in national policy orientation and thinking, involving the incorporation of EU concepts and categories into domestic debates
- have stimulated improvements in horizontal or cross-sectoral integration across formally separate but practically interdependent policy fields
- have stimulated improvements in national statistical and steering capacities
- have encouraged the reinforcement of arrangements for vertical coordination among levels of governance

# OMC PROBLEMS

- “Trojan horse”
- Not very “open”: network of civil servants and experts
- Legitimacy
- Little participation
- Limited evidence of reflexive learning
- Weak involvement of the EP; no role for the Court of Justice
- Has influenced the balance of power of the institutions

# OMC DISCUSSION

- OMC as a “legitimizing discourse” (Radaelli)
- Is OMC a new mode of governance?
- Relation with the Community Method
- Relation with subsidiarity
- OMC in the Constitution and the Lisbon Treaty

# CONCLUSIONS & DISCUSSION

- The community method and alternative instruments: side by side or erosion of the community method?
- Legitimacy vs. efficiency
- Involvement of private actors in the pursuit of public goals.
- Is this a move towards a 'neo-federal' Europe?