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“New Governance” approaches in the EU: The OMC and the mid – term review of the “Lisbon Strategy”¹

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1. Defining “New Governance”

The “New Governance” literature deals with the emergence of a number of new approaches to governance in the European Union. It is the label used to refer both to departures *within* the classic Community Method and to alternatives *to* that method². As *alternatives within* the Classic Community Method (CCM) Scott and Trubek point to: the flexibility phenomenon, comitology, and the range of actors involved in the preparation of Community acts (Diagram 1). As far as *alternatives to* the CCM are concerned, they mention: the partnership concept in the context of structural funding, the social dialogue process, the Open Method of Coordination and finally, to a certain extent, the concept of Environmental Policy Integration presented at the Cardiff Summit of 1988.

These new procedures share a number of characteristics that differentiate them from the traditional modes of policy making and legislation. Even though there is no single characteristic for all these new mechanisms, the literature has mostly concluded to the following points that make “New Governance” distinct from the classic EU procedures.

Firstly, new governance accepts the necessity for coordination not only of action and actors at different levels of government, but also between government and private actors. This can also be seen as a further interlinking of domestic policy-making and cooperation at EU level, combining in the case of the Open Method of Co-ordination, common action and national autonomy in an unprecedented manner³. In this manner, they are designed more to support and coordinate the policies of the Member States rather than to create a single model for the EU. This multi-level governance style opens up the possibility for truly bottom up political dynamics, which differ from the top-down structures of the classic method. *Secondly*, many of the new governance approaches seek to mobilize the participation of a wide range of actors, aiming at the same time at enhancing learning processes. New knowledge may come from deliberative mechanisms, from combining national experimentation with peer reviewing, benchmarking performance, and sharing best practices. *Thirdly*, many of the approaches rely less on formal rules and hard law than on open-ended standards, flexible and revisable guidelines, and other forms of soft law. In this way, they adapt to diversity and make it easier to revise strategies as the learning processes bring to light new knowledge among the Member States⁴.

Another important question is *why new governance* ? New governance can be seen as a way of coping with complex problems under conditions of uncertainty. This complexity and uncertainty of the issues on the agenda do not allow for uniform solutions. As the European Union moves into new areas such as employment and social exclusion it starts to confront

¹ Paper presented at the IV^{ème} Séminaire Doctoral International et Européen held by the Institut du Droit de la Paix et du Développement, Université de Nice-Sophia Antipolis at Nice, France, 7-14 September 2005

² Scott J. & Trubek D. M. “Mind the Gap: Law and New Approaches to Governance in the European Union”, European Law Journal, Volume 8, No. 1, March 2002, p. 1-18.

³ Jacobsson K. & Vifell A. “Integration by deliberation ? On the role of committees in the open method of co-ordination”, in Erikson E. O., Joerges C. & Neyer J. (eds.) European Governance, Deliberation and the Quest for Democratisation, Arena Report No. 2/2003, Oslo

⁴ Eberlein B. & Kerwer D. “Theorising the new modes of European Union governance”, EIoP Volume 6, No. 5, available at <http://eiop.or.at/eiop/texte/2002-005a.htm>

problems to which many Member States have not yet given a proper answer⁵. Due to this diversity among the Member States, new governance sets general goals for each policy examined, but leaves specific policy measures to be taken by the Member States.

Except from the complexity and uncertainty of issues, new governance emerged as a result to a number of new approaches to Public Management. Power sharing practices, management by objectives, and experimentation are some of the tools of New Public Management⁶. The common characteristic of all these tools is the recognition of the limits of traditional top – down regulatory approaches. Also new governance mechanisms may be an answer to the democratic deficit problems of the EU, and to the limited legal authority for EU level action. It seems that new governance is the only way for the European Union to have a say in the domains covered by its procedures, since not only it lacks legal competences, but also the Member States are unwilling to pass competence to the EU level in these areas of policy.

From all new governance modes, this paper will further analyse the Open Method of Co-ordination, consolidated in the Lisbon Summit of March 2000.

2. The Open Method of Co-ordination

In March 2000, the Lisbon Summit committed the EU to become by 2010 “the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment”. This can be easily interpreted to the following three specific goals for the Union :

- Improve European competitiveness
- Develop the European modes of social protection
- Respect the environment.

The Spring 2005 European Council will be mid-term reviewing the whole process having as a basis for discussions the Report from the High Level Group chaired by Wim Kok⁷. The Group was established by the Commission after an invitation from the European Council held in Brussels in March 2004 to carry out an independent review to contribute to the mid-term review. The High Level Group carried out its work from May to October 2004 and after meeting six times it presented its report to the Commission on 3 November 2004.

The open method of coordination (OMC) is a “soft-political” policy instrument that has been gaining ground in the European Union from the mid-1990s onwards⁸. High stakes are placed on OMC to achieve progress in politically sensitive areas. The heads of state and government of the EU Member States agreed, during the first Spring Summit on economic and social questions, that “decisions taken must be implemented rapidly and new impetus given to areas where progress has been slow”⁹. The co-ordination of national economic policies under the EMU, established in the Maastricht Treaty, and the employment chapter of the Amsterdam were the two areas in which the OMC was primarily introduced as a new mode of governance in the EU. But it was not until the Lisbon Summit in March 2000 that the method was materialized.

The OMC seems to “bring a breath of fresh air into the mechanisms of common EU action”¹⁰. The main procedures of the OMC are: *firstly* common guidelines to be translated into national

⁵ De la Porte C. & Nanz Patrizia “*The OMC: a deliberative-democratic mode of governance ? The cases of employment and pensions*”, Journal of European Public Policy, Volume 11, No. 2, April 2004, p. 267-288

⁶ Hastings M. “*Managing the Management Tools*”, Institute of Management, 2001, London

⁷ “*Facing the Challenge: The Lisbon strategy for growth and employment*”, Report from the High Level Group chaired by Wim Kok, Luxembourg, Office for Official Publications of the European Communities, November 2004

⁸ De la Porte, “*Is the Open Method of Coordination Appropriate for Organising Activities at European Level in Sensitive Policy Areas ?*”, European Law Journal, Volume 8, No. 1, March 2002, pp. 38-58

⁹ European Council, Stockholm European Council, Presidency Conclusions, 23-24 March 2001

policy, *secondly* periodic monitoring, evaluation and peer review organized as mutual learning processes and *thirdly* indicators and benchmarks as means of comparing best practice.

The European Council is at the top of the decision making pyramid, setting the overall objectives to be achieved by the European Union. Specific aims must then be decided upon in the different policy areas to which the OMC is applied. The work of the different Council formations is carried out by sector-specific Committees that have the mandate to undertake the technical aspect of the work, especially the selection of indicators and benchmarks, based on proposals made by the European Commission. In the practical implementation of OMC to different policy areas, the coordinating role is given to the Commission.

The Commission presents proposals on the European guidelines, organizes the exchange of best practices, proposes indicators and benchmarks, and provides support to the process of implementation, monitoring, and peer review. Ultimately, it is up to the Member States to set national and regional-level targets to reach the objectives defined at European level. This is in conformity with the implementation mechanisms that Community actions initiated on the basis of subsidiarity should respect. In the context of the OMC, the EU level does not act as a centralized supranational entity, since it does not intervene directly in the national contexts of the Member States¹¹. In the national context, different players such as NGOs, social partners and civil society participate in the preparation and implementation of the European strategies. But the participation rate for social partners is much higher in countries where the social dialogue plays a role traditionally¹². As to NGOs and civil society, they are mostly informed of what is going on, but yet again they are more organized in countries with higher social capital standards.

The domains to which OMC is applied are generally characterized by little traditional regulatory pressure from European to national and sub-national authorities : information society, research and development, enterprises, economic reforms, education, employment, social inclusion, and pensions. So the issue areas of the Lisbon strategy fall under the category of either competitiveness policies or welfare policies :

Table 1: The OMC Policies

Competitiveness Policies		Welfare Policies	
Information	society	Education	policy
Research and development	policy	Employment	policy
Enterprise	policy	Modernizing social pension systems	
Internal market	policy	Social exclusion	policy
Macro – economic policy		Renewed European social model	

One can easily underline the double nature of the Lisbon strategy addressing both the issues of competitiveness and social cohesion. For both these objectives, the OMC seems as a convenient formula for placing issues high on the EU agenda while preserving at the same time the national autonomy of the Member States. As mentioned above, the OMC is compatible with the subsidiarity principle, but it can also bypass it by allowing the EU to initiate coordinated action in areas where authority rests exclusively with the member states¹³. Subsidiarity can be defined as a political and legal principle that was adopted and developed within the EU to address the issues of competence and the exercise of power between the

¹⁰ Borrás S. & Jacobsson K., “The open method of co-ordination and new governance patterns in the EU”, Journal of European Public Policy, Volume 11, Issue 2, April 2004, p.187

¹¹ Chassard Y., “European Integration and Social Protection: From the Spaak Report to the Open Method of Co-ordination”, in Begg I. & Mayes D. (eds.), Social Exclusion and European Policy, Edward Elgar, 2001

¹² Biagi M., “The Impact of European Employment Strategy on the Role of Labour Law and Industrial Relations”, The International Journal of Comparative Labour Law and Industrial Relations, Summer 2000

¹³ Teló M., “Governance and government in the European Union: the open method of coordination”, in Rodrigues (ed.), The New Knowledge Economy in Europe : A Strategy for International Competitiveness and Social Cohesion, Edward Elgar, Cheltenham

Member States and the European institutions¹⁴. Although the legal scope of subsidiarity is rather narrow, its usage to legitimize EU action in politically delicate areas is in practice not confined by these legal limits.

At this point, it is crucial to mention two aspects of the OMC : *firstly* its comparison to the EMU and *secondly* the much critiqued benchmarking process. EMU was achieved under German monetary hegemony: the governance of their anchor currency would henceforth be pooled, but according to benchmarks and disciplines that the German monetary authorities would primarily define¹⁵. In the OMC this is not the case. For example, for coordination in the employment and social policy fields, the European policies are formulated in the absence of hegemony. As far as benchmarking is concerned, its supporters claim that it puts pressure on the Member States to converge towards commonly defined goals, it assesses the success of the application of the method, and finally it revolves around the process of learning for organizations with similar structures, objectives and frames of reference¹⁶. On the other hand, benchmarking is criticized for being exclusively concerned with quantified aims at the expense of process and strategy¹⁷. The objectives seem to be more a result of political bargaining, rather than detailed scientific analysis. Finally, benchmarking is also being criticized for ignoring distinct institutional characteristics which are associated with the different policies concerned.

3. The Lisbon strategy revisited: The 2005 Spring European Council

In its report, the High Level Group urges the Member States to achieve the goals of higher growth and increased employment in order to sustain Europe's social model. Member States and the European Commission must re-double their efforts to make change happen. Far more emphasis must be placed on involving European social partners and engaging Europe's citizens with the case for change. Greater focus is required to build understanding of why Lisbon 'is relevant to every person in every household in Europe'.

According to the report, external events since 2000 have not helped the Member States achieving the objectives and warns that too many targets will be seriously missed. The Lisbon strategy is even more urgent today as the growth gap with North America and Asia has widened, while Europe must meet the combined challenges of low population growth and ageing. 'Time is running out and there can be no room for complacency. Better implementation is needed now to make up for lost time'. There are a number of key recommendations which the High Level Group propose in order to change the present disappointing situation:

- The 2005 Spring European Council should agree to an action plan to reduce the *administrative obstacles* for moving to and within the EU for world-class *scientists and researchers*
- *Fast-track work permit* for researchers and *mutual recognition of professional qualifications* must be improved

¹⁴ In the terms of Article 5 of the EC Treaty : In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

¹⁵ Pochet P., De la Porte C. & Room G., "Social Benchmarking, Policy – Making and the Instruments of New Governance", Journal of European Social Policy, November 2001

¹⁶ Arrowsmith J., Sisson K. & Marginson P., "What can benchmarking offer the open method of co-ordination?", Journal of European Public Policy, Volume 11, No. 2, April 2004, pp. 311-328

¹⁷ Tables 2 – 4, at the end of this paper, present the relative performance of the old and new Member States according to the 14 structural indicators. In green are marked the best performances, in red the worst, and in blue the countries that have already accomplished the 2005 or even the 2010 targets.

- Establishment by the end of 2005 of an autonomous *European Research Council* (ERC)
- Member States should give more and better follow-up to the *eEurope 2005 action plan*
- Adopt the *Community patent* before or at the 2005 Spring European Council, overcoming the outstanding language issue
- A full list of *internal market legislation* still awaiting transposition should be annexed to the spring conclusions. This list should be sorted by Member State, *beginning with the worst offender*
- Remove *obstacles to the free movement of services* by the end of 2005
- Adopt the remaining *financial services action plan* before the end of 2005, reduce barriers to *cross-border clearing*, and facilitate the integration of *retail financial markets*
- Reduce the *administrative burden* in key priority sectors
- Reduce the time, effort and cost of *setting up a business* by the end of 2005
- Report on the implementation of the *European Employment Taskforce*, including employment performance and sustainability of social systems
- Adopt national strategies for *lifelong learning* by 2005
- Develop an *ageing strategy* by 2006 : legal and financial incentives for workers to work longer, lifelong learning, and improving working conditions and quality in work
- Promote development and diffusion of *eco-innovations*, and set up action plans for *greening public procurement* by the end of 2006
- The 2005 Spring European Council should *revitalise the Lisbon strategy*, around the key priorities of growth and employment
- The European Parliament could *establish a standing committee* on the Lisbon strategy for growth and employment
- The *EU budget should be reshaped* to reflect the Lisbon priorities
- The Commission should deliver an *annual league table of Member State progress* towards achieving the 14 key indicators and targets. Countries that have performed well should be praised, *those that have done badly castigated*
- Communications and *communication strategy within the Commission* should be reviewed

In its conclusions the High Level Group points out that it is not too late to change. It believes that the programme of reform outlined in its report, is eminently deliverable and that it will bring improvement. It emphasizes though that the proposed measures require sustained political determination : ‘in the end, much of the Lisbon strategy depends on the progress made in national capitals: no European procedure or method can change this simple truth’.

The 2005 Spring European Council agreed that the EU and the member-States’ action should make a bigger and more practical contribution to growth and development¹⁸. A simplified arrangement was introduced : the new approach is now based on a three-year cycle which starts this year and will have to be renewed in 2008, compromising of the steps described in Diagram 6. The starting point will be the Commission’s Strategic Report, discussed at the Spring European Council and in accordance of which the Council will adopt a set of Integrated Guidelines consisting of two elements : Broad Economic Policy Guidelines (BEPGs) and Employment Guidelines (EGs). On the basis of the Integrated Guidelines, the member-States will draw up, on their own responsibility, National Reform Programmes geared to their own needs and specific situation. On its side the Commission will present, as a counterpart to the national programmes, a Community Lisbon Programme covering all action to be taken at Community level in the interests of growth and development, taking into account the need for policy convergence.

The reports on follow-up to the Lisbon Strategy, sent to the Commission by member-States each year, will now be grouped in a single document clearly distinguishing between the different areas of action and setting out all measures taken during the previous twelve months to implement the national programmes. The first such document will be submitted in the autumn of 2006. The Commission will report on the implementation of the strands of the

¹⁸ European Council Brussels, 22 and 23 March 2005, Presidency Conclusions (7619/05), p. 12 – 14

strategy each year and the European Council will review progress every spring and decide on any necessary adjustments to the integrated guidelines.

At the end of the third year of each cycle, the Integrated Guidelines, the National Reform Programmes and the Community Lisbon Programme will be renewed in accordance to the procedure described, taking as the starting-point the Strategic Report by the Commission, based on an overall assessment of progress during the previous three years.

4. Conclusions

New governance approaches emerged as a response to the complexity and uncertainty of the issues that the public administrations of the Member States were confronting, but also due to the limited legal authority for EU level action. The OMC is an example of a new governance mechanism: a decentralized but carefully coordinated process, involving the exchange of best practices, the use of benchmarking, national and regional-level target-setting, periodic reporting, and multi-lateral surveillance. The Lisbon Summit represents a key event to the new governance literature: the Union set itself an ambitious goal, to become the most dynamic and competitive knowledge-based economy in the world, and the tool it would use to achieve this goal turned out to be the OMC.

The Lisbon strategy was a comprehensive but interdependent series of reforms. According to the Report from the High Level Group the targets of the strategy will be seriously missed, since Europe has lost ground to both the US and Asia and its societies are under strain. It insists though on keeping the targets : ‘the ambition is needed more than ever’. Finally, it proposes a refocused Lisbon strategy, on growth and employment, which will be able to support Europe’s distinctive economic and social model ‘that has combined productivity, social cohesion and a growing commitment to environmental sustainability’.

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Table 2

Relative performance of the old Member States according to the structural indicators on the shortlist

	Austria	Belgium	Denmark	Finland	France	Germany	Greece	Ireland	Italy
GDP per capita (PPS, EU-15:100) 2003	111.4	106.6	112.9	100.6	103.8	98.8	73.0	121.7	97.8
Labour productivity per person employed (PPS, EU-15:100) 2003	96.4	118.4	97.8	98.6	113.7	94.3	90.3	119.7	103.6
Employment rate (%) 2003	69.2	59.6	75.1	67.7	63.2	65.0	57.8	65.4	66.1
Employment rate females (%) 2003	62.8	51.8	70.5	65.7	57.2	59.0	43.8	55.8	62.1
Employment rate of older workers (%) 2003	30.4	28.1	60.2	49.6	36.8	39.5	42.1	49.0	30.3
Educational attainment 20-24 (%) 2003	83.8	81.3	74.4	85.2	80.9	72.5	81.7	85.7	69.9
Research and development expenditure (% of GDP) 2003	2.2	2.2	2.5	3.4	2.2	2.5	2.0	1.2	1.1
Business investment (% of GDP) 2003	20.3	17.9	18.2	15.3	15.9	16.3	21.8	19.7	16.5
Comparative price levels (EU-15:100) 2002	102	99	131	123	100	104	80	118	95
At-risk-of-poverty rate (%) 2003	12.0	13.0	10.0	11.0	15.0	11.0	20.0	21.0	19.0
Long-term unemployment rate (%) 2003	1.1	3.7	1.1	2.3	3.5	4.6	4.1	1.5	4.9
Dispersion of regional employment rates 2003	3.1	7.7	-	6.1	5.0	6.0	3.6	-	17.0
Greenhouse gas emissions (index base year 100) 2002	108.5	102.1	99.2	106.8	98.1	81.1	126.5	128.9	109
Energy intensity of the economy 2002	146	214	123	272	187	165	258	164	184
Volume of transport 2002	120	100	85	95	96	102	127	133	103

Source: Eurostat <http://europa.eu.int/comm/eurostat/structuralindicators>

Table 3

Relative performance of the old Member States according to the structural indicators on the shortlist

	Lux.	Netherlands	Portugal	Spain	Sweden	UK	US	Target 2005	Target 2010
GDP per capita (PPS, EU-15:100) 2003	194.6	109.9	68.3	87.3	105.6	108.9	140.3		
Labour productivity per person employed (PPS, EU-15:100) 2003	132.2	95.2	63.5	94.8	96.5	101.9	121.6		
Employment rate (%) 2003	62.7	73.5	67.2	59.7	72.9	71.8	71.2	67.0	70.0
Employment rate females (%) 2003	52.0	65.8	60.6	46.0	71.5	65.3	65.7	57.0	60.0
Employment rate of older workers (%) 2003	30.0	44.8	11.1	40.8	88.3	55.3	59.9		50.0
Educational attainment 20-24 (%) 2003	69.8	73.3	47.7	63.4	85.6	78.2			
Research and development expenditure (% of GDP) 2003	1.7	1.9	0.9	1.0	1.1	1.9	2.8		3.0
Business investment (% of GDP) 2003	15.0	16.5	19.1	12.1	12.6	14.6			
Comparative price levels (EU-15:100) 2002	100	102	74	82	117	108	113		
At-risk-of-poverty rate (%) 2003	12.0	11.0	20.0	19.0	9.0	17.0			
Long-term unemployment rate (%) 2003	0.9	1.0	2.2	3.9	1.0	1.1			
Dispersion of regional employment rates 2003	-	2.4	3.9	8.9	4.3	6.0			
Greenhouse gas emissions (index base year 100) 2002	84.9	100.6	141	139	96.3	85.1	113.1		92.0
Energy intensity of the economy 2002	198	202	254	229	224	212	330		
Volume of transport 2002	110	97	126	137	90	86	91		

Source: Eurostat <http://europa.eu.int/comm/eurostat/structuralindicators>

Table 4

Relative performance of new Member States according to the structural indicators on the shortlist

	CY	CZ	EE	HU	LT	LV	MT	PL	SI	SK	EU-25	EU-15
GDP per capita (PPS, EU-15:100) 2003	76.3	66.5	42.5	55.6	41.9	88.1	68.1	42.2	70.6	46.8	91.2	100.0
Labour productivity per person employed (PPS, EU-15:100) 2003	77.1	61.3	43.1	62.8	44.4	89.1	82.3	49.6	70.0	54.1	93.1	100.0
Employment rate (%) 2003	69.2	64.7	62.9	57.0	61.1	61.8	54.2	41.2	62.6	57.7	62.9	64.4
Employment rate females (%) 2003	60.4	56.3	59.0	50.9	58.4	57.9	43.6	46.0	57.6	52.2	55.1	56.0
Employment rate of older workers (%) 2003	50.4	42.3	52.3	28.9	44.7	44.1	32.5	26.9	23.5	24.6	40.2	41.7
Educational attainment 20-24 (%) 2003	82.2	92.0	81.4	85.0	82.1	74.0	43.0	88.8	90.7	94.1	76.7	73.8
Research and development expenditure (% of GDP) 2003	1.2	1.2	0.8	1.0	0.7	0.4	-	0.6	1.5	0.6	1.9	2.0
Business investment (% of GDP) 2003	14.1	22.4	25.0	19.8	17.8	22.9	-	14.9	21.1	23.2	16.8	16.7
Comparative price levels (EU-15:100) 2002	83	53	61	55	51	54	72	58	73	44	96	100
At-risk-of-poverty rate (%) 2003	16.0	8.0	18.0	10.0	17.0	16.0	15.0	15.0	11.0	11.0	15.0	15.0
Long-term unemployment rate (%) 2003	1.1	3.8	4.6	2.4	6.1	4.3	3.5	10.7	3.4	11.1	4.0	3.3
Dispersion of regional employment rates 2003	-	5.8	-	8.5	-	-	-	7.2	-	7.6	13.0	12.0
Greenhouse gas emissions (index base year 100) 2002	19.0	74.3	44.8	69	39.8	36.9	128.5	67.7	98.7	71.8	91.0	97.1
Energy intensity of the economy 2002	280	921	1156	564	1273	759	264	650	343	964	210	191
Volume of transport 2002	93	100	177	91	119	123	-	70	92	62	101	102

Source: Eurostat <http://europa.eu.int/comm/eurostat/structuralindicators>