

*Soft Regulation and the Subtle Transformation of States:
The Case of EU Employment Policy*

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ABSTRACT

This report studies the soft regulation developed in the field of EU employment policy from the late 1990s onwards, more precisely that type of policy co-ordination that was at the Lisbon summit in 2000 framed the 'Open Method of Co-ordination'. The study focuses in particular on the role of *one* type of regulatory mechanisms in this system of governance which I call *discursive regulatory mechanisms*, that is mechanisms related to language-use and knowledge-making and thus fundamentally to meaning-making. They include joint language-use (key concepts and discourse); the working out of common classifications and common operationalisations (indicators); the building of a common knowledge base (including collection and standardisation of statistics); the strategic use of comparisons and evaluations (benchmarking); the systematic editing and diffusion of knowledge and evaluation results, combined with social pressure (peer pressure) and time pressure. Or, in a more abstract formulation, governance by persuasion; diffusion; standardisation of knowledge; strategic use of policy linkages; and time management. It is argued that these measures together constitute a systematic *system* of governance with the potential to transform the practices of the member states and thus add to the integration process – however, by a partly different kind of dynamics than regulation and integration by hard law. The logic of the OMC is that the policy co-ordination is not a matter of external imposition of norms but of voluntary and gradual acceptance and implementation. To the extent the OMC is effective, the impact is likely to be more subtle and long-term. One example is the fact that the member governments have begun to rethink national policy in the light of 'common problems' and redefine it in terms of 'common concerns' and something that is legitimately the concern of other states and nationals. The European policy framework is not replacing, but adding to/complementing, the national one, constituting an alternative and increasingly legitimate framework that challenges the exclusiveness of national frames of references in some sensitive policy areas. Parallels can be drawn to the establishment of national parameters and political frames of references in the national integration projects.

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Introduction¹

How to create a common 'Europe' and a commitment to the integration project among the member governments as well as the individual citizens? Anthropologists and sociologists have pointed to the way culture is used to integrate Europe (Shore 2000; Hansen 2000), by means of common symbols such as an EU flag, an EU anthem, a common currency, an EU citizenship, but also more technical devices such as EU statistics. These symbolic elements make it possible for people, policy-makers and citizens, to imagine 'the new Europe' as a political entity and a community, and to conceive of oneself as part of that (Shore 2000, p. 26). In much these are the same devices as were used in the national integration projects.

This study will have a more limited scope. It will study one policy field, EU employment policy, and it will focus some aspects of culture, notably the role of language-use and knowledge-making in the regulation of this policy field. We have deliberately taken a broad view of regulation, covering also the regulatory activity of non-state actors, which may or may not have an impact on states. I will in this report focus on the attempts of an intergovernmental organisation, the EU, to regulate the activities of the member states in the field of employment policy. In doing so, I again take a broad view of regulation, focussing on regulation by other means than legislation. Regulation I take to mean measures used by the EU to govern the political behaviour of, in my case, not the individual citizens but the member states. The aim of EU regulation being co-ordination of member state policy. The intent to govern is purposeful, but all measures pointed to may not have been purposefully designed. Some may fill a function not altogether intended when introduced and my interest concerns

¹ A later version of this report will be published in Bengt Jacobsson & Kerstin Sahlin-Andersson (eds.) *Transnational Regulation and the Transformation of States* (book manuscript).

both the intentional and the more social and functional aspects of the attempts to regulate. I will argue that the measures pointed to in this report together constitute a systematic *system* of governance with the potential to transform the practices of the member states and thus add to the integration process – however, by a partly different kind of dynamics than regulation and integration by hard law.

Even when focus has been on European integration by legislation (the Community Method), it has been acknowledged that there are many other regulatory and co-ordinatory mechanisms at work in the EU cooperation than mere legislative force. International organisations have been analysed in terms of meeting places for politicians, civil servants and 'experts'. Social mechanisms behind the impact of these organisations on national policy pointed to have then been, *inter alia*, mutual identification, loyalty shifts, actor socialisation and internalisation of norms, learning processes and the development of 'epistemic communities' and common cognitive frames within these dense, transnational communications networks. This kind of social dynamics may be even more crucial in the case of non-binding regulation, or *soft law*.

It has been argued that increased use of soft law may be due to increased strength and maturity of the international system – not all relations need to be governed by law but some can be left to etiquette, social discourse and informal commitments (Shelton 2001, p. 12). Seen in that perspective, the recent expansion of soft regulation in the EU in the form of the so called 'Open Method of Co-ordination' (OMC) is a sign of the fact that the integration project has reached a phase where not only the core areas of the welfare state are directly affected (Jacobsson *et al.* 2001), touching upon the very heart of national sovereignty, but also where the increasingly dense cooperation does exert an increasingly powerful social and moral pressure on (elite) actors, politicians and civil servants, to adapt to a common framework.

The aim of this report is to study the soft regulation developed in the field of EU employment policy from the late 1990s

onwards, more precisely that type of policy co-ordination that was at the Lisbon summit in 2000 framed the 'Open Method of Co-ordination'. I will focus in particular on the role of *one* type of regulatory mechanisms which I will call *discursive regulatory mechanisms*, that is mechanisms related to language-use and knowledge-making and thus fundamentally to meaning-making. This type of regulatory devices with a more subtle impact has so far not been much acknowledged in the literature on soft law in the EU, which has up to recently mainly been the concern of legal studies (Kenner 1995, 1999; Snyder 1993). Authors on the role of culture in the integration projects have, on the other hand, not systematically related this to process-oriented studies of the regulation of particular policy fields.

The empirical material was collected during 1999-2002 and draws on 21 interviews with policy-makers and social partners in Brussels as well as on documentary studies. The study also includes a case-study of Sweden based on 24 interviews with Swedish policy-makers and social partners and on documentary studies. The Swedish case-study will mainly be drawn upon to illustrate some of my key arguments.²

A New Method of Cooperation

Traditional welfare policy areas, such as employment policy and social protection, have recently been defined as areas of 'common concern' among the EU member states and are no longer exclusively a national responsibility. In these areas, the ordinary supranational legal method has not met acceptance from the member governments. Therefore, forms of soft regulation and governance have emerged, however based on and supported by new treaty provisions.

² In addition, some information about the implementation of the EES in other member states has been achieved through research cooperation within the GOVECOR project, funded by the European Commission (www.govector.org). My own case studies have been supported by the Swedish Research Council.

The European integration has reached a phase where the core areas of the welfare state are directly affected, such as employment and social policy (Jacobsson *et al.* 2001). The full implementation of EMU has increased the economic interdependence, and fiscal policies and labour market and social policies are, due to the risk of externalities, no longer considered merely national – but common – concerns (Ekengren & Jacobsson 2000; Hodson & Maher 2001). With the EMU, the member states have lost some macro-economic policy instruments, i.e the control of monetary policy and they have limited their autonomy in fiscal and budgetary policy by the Growth and Stability Pact. Increased adaptability and flexibility in labour markets and in social security systems has been deemed needed, as has the need for coordination of fiscal policies.

In these sensitive welfare areas, supranational decision-making has not met political support and a method of cooperation has been developed which is basically a government cooperation, but at the same time includes supranational elements and also builds on a broad participation of actors, such as the social partners and sub-national actors. The aim is to reach a voluntary co-ordination and adaptation of member state policy. The key word is policy convergence, not harmonisation, the aim being convergence of objectives, performances and to some extent of policy approaches, but not of means (institutions, rules and concrete solutions). Harmonisation of social policies is considered a sensitive matter but would also be difficult, due to the complexity of – and differences in – national welfare traditions and systems. Enlargement of course adds to this picture. The OMC provides a formula for cooperation in the social field in the context of a more diverse group of member states.

Also other factors have supported the new policy approach. The completion of the internal market coincided with recession and rising unemployment in Europe, and the social policy order of the day shifted from constructing social regulatory policies at the European level to reconfiguring labour market and other arrangements to allow the European economy to compete in the

world market (Ross 1995). The inability in dealing effectively with reducing unemployment increased the willingness of member states to consider co-ordinated action and voluntary convergence of labour market policies. The same is true of common challenges, such as the demographical challenges, in field of social protection more recently.

The perceived need to view national policies as a 'common concern' and the need to achieve a certain policy convergence has resulted in specific procedures for establishing common policy goals and achieving member state compliance, including the setting of common objectives at the European level which the member states are expected to implement in their national policies. The key elements of the 'open method of co-ordination' as defined by the Lisbon summit are: 1) establishing guidelines for the Union, 2) translating the European guidelines into national and regional policy by setting specific targets and adopting measures; 3) establishing quantitative and qualitative indicators and benchmarks as a means of comparing best practice; and 4) periodic monitoring, evaluation and peer review.

In the field of employment policy, the annual procedure that has developed from Employment Title of the Amsterdam treaty (Art. 125-130) and from the 'job summit' in Luxembourg in November 1997 is that the Commission drafts Employment Policy Guidelines that eventually are decided upon by the Council by a qualified majority vote. An Employment Committee (EMCO), with two officials from each member state and two Commission officials, was set up as an advisory body in the process of drafting the guidelines. It shall, in its work, consult the European social partners. The European Parliament (EP), the Economic and Social Committee and the Committee of the Regions are also consulted in the policy process. While the guidelines are not legally binding, the Member States are expected to take them into account in their employment policies. National governments are to work out annual National Action Plans on employment (NAPs). The NAPs are in turn submitted to the Commission for cross-national comparison and evaluation.

Also the implementation of the guidelines is to be reported. Moreover, the member states are reviewing each others' performances within the Employment Committee (*peer review*). The results of the cross-national comparisons are published in an employment report to be approved jointly by the Commission and the Council (the Joint Employment Report). The report includes *benchmarking* of the countries and the identification of *best practices*. The formal task of supervising Member State implementation of guidelines rests with the Council, which can on a qualified majority vote make *recommendations* to Member States to adapt their policies according to the guidelines.³

This model of policy co-ordination drew upon the economic convergence process, which is also treaty based (Art. 99) and built around annual broad economic policy guidelines and including peer pressure. It was stated in the treaty (Art. 126) that the employment policy guidelines must be compatible with the economic policy guidelines. The model was also inspired by the 'recommendation policy' and peer review of OECD as well as of the benchmarking exercises of private companies. The use of benchmarking as an instrument to promote change and continuous improvement of the competitive performance of 'Europe' was introduced in two Commission Communications in 1996 and 1997 (CEC 1996, 1997b) and drew upon the work of the European Round Table of Industrialists (ERT 1996; see De la Porte *et al.* 2001). The use of benchmarking in private as well as public activity has expanded immensely the last decades.⁴

³ For descriptions and evaluations of the employment policy method, see also Biagi 2000; Ekengren & Jacobsson 2000; Foden 1999; Foden & Magnusson 1999, 2000; Goetschy 1999, 2001; Goetschy & Pochet 1997; Jacobsson 1999, 2001, 2002b; Jacobsson *et al.* 2001; Keller 1999, 2000; Kenner 1999; Trubek & Mosher forthcoming; Sciarra 2000 and nr 4 of *Transfer* 1999. On the open method of co-ordination in general, see De la Porte 2001; De la Porte *et al.* 2001; De la Porte & Pochet 2002; Hodson & Maher 2001.

⁴ Thus, the increased use of practices such as benchmarking, peer review and various kinds of auditing is part of a much wider phenomena. It has been connected to the rise of the 'new managerialism' in private as well as public sector activity. Its expansion and popularity have led authors to talk of the development of 'audit cultures' (Strathern 2000) or even an 'audit society' (Power 1997). Auditing as a

Neither is soft law a new method in EU social policy (see Cram 1997). However, compared to OECD as well as to the reliance on soft law in earlier phases of European social policy, the current employment procedure includes a more systematic system of monitoring and building on more of mutual commitments and political pressure.

The Lisbon summit in March 2000 decided to use the 'open method of co-ordination' (including common objectives, national action plans, and indicators for benchmarking) also for social inclusion. It also envisaged the method for the areas education and research policy and enterprise policy. Later the use of the OMC has been extended to the field of social protection and to immigration policy.

If we compare this system of governance with the traditional Community method we can see that it is characterised by: 1) Institutional mixes with peer group review bodies in addition to the 'classic' set of EC/EU institutions, and involvement of a variety of actors at supranational, national and sub-national levels; 2) Procedural mixes with collective self-co-ordination instead of regulatory or redistributive policies, and cyclical instead of sequential deliberation and problem-solving processes; 3) New administrative committees, located under the Commission and the Council jointly; 4) Other policy outcomes: guidelines, benchmarks as a result of joint monitoring instead of 'classic' norms (regulations, directives) (GOVECOR 2000). While not all of these components are altogether new, there is good reason to view the systematic *system* of governance developing as a new form of governance in the EU (Jacobsson 2001).

governance technique is comparably inexpensive, it functions at a temporal and spatial distance from the organizational processes to which it is applied, it is possible to apply to a broad variety of areas, it is 'harmless' and difficult to object to but can be effective in that it aims not only at imposing external control but ultimately at actors internalising norms, thus becoming "self-managing individuals who render themselves auditable" (Shore & Wright 2000, p. 57).

A Third Way Between Intergovernmentalism and Supranationalism?

The formula in the Amsterdam treaty was that the member states and the Community shall 'work together' in developing a co-ordinated employment strategy. It was an attempt to provide a framework for mutually reinforcing measures at both EU and member state level. The declared rationale behind the complementary approach is that the member states are now so closely linked that one member state's policy mistake will have an impact on the others. Thus, while authority over labour market policy remains with the national parliaments, the treaty makes it legitimate for the Commission to play an active role in the process as well as for Member States to have opinions on each other's labour market and economic policies. This approach has led some governments, notably the British and the Swedish, to speak of a 'third way between intergovernmentalism and supranationalism', and researchers have raised the question of whether we even see the contours of a new constitutional structure including a 'fourth pillar' based on a combination of subsidiarity and European action different from policy-making in the other pillars (Ekengren 1999; Ekengren & Jacobsson 2000). While the cooperation is formally intergovernmental, there are supranational elements (cf. QMV vote on recommendations and guidelines and the role of the Commission as an initiator) indicating a new combination of domestic policy-making and European level cooperation. Sub-national actors are instrumental in implementing the European employment strategy. Moreover, a key role in implementing the EES is given to the social partners at all levels.

The role of the Commission in the open method is a matter of dispute. Some point to the fact that the heads of states have increasingly taken the lead as regards policy initiatives (cf. the Lisbon summit), and that the Commission's exclusive right to initiative is lost in the open method. On the other hand, the role of the Commission as a broker is evident in the open method and 'mediation' may easily imply a policy guidance (Jacobsson

1999). For instance, the Commission provides the secretariat for the committees on employment and social protection and drafts most of the background documents, even if it has to share to right to initiative with the member states. The Commission can exert considerable power by its ability to take initiatives, draft and interpret the guidelines and recommendations, draft the joint employment report, collect statistics, and evaluate and comment on national reports. Still, the Commission has partly got a changed role with the open method, and has to cooperate closely with the member states, e.g. in the committees. Given the fact that the policy fields under concern are still national competence and moreover, touch upon the very heart of the welfare states, this is hardly surprising.

In a brochure, the Commission has described itself as a “social policy mediator who formulates hypotheses and objectives, invites to discussions and tries to create a consensus“. This is an important but indirect role. Besides the management of information and knowledge (see below), the Commission has also managed to establish arenas for exchanges and negotiations and a framework for debate, covering a broad range of actors. It has created contexts for other actors to operate – in an area where the EU’s own legal capacity is limited – and has moreover managed to ensure the support of key actors, such as social partners, by giving them a central role in the implementation. For the Commission, building confidence between the Commission, member states and social partners has been crucial in this situation where legal force does not apply and the relevant actors must be mobilised (Jacobsson 1999).

Soft law in combination with intense transgovernmental interaction and dialogue can be said to be a compromise solution in a situation where co-ordinated action is deemed necessary but where the member states are not willing to concede national decision-making competence. Why, then, would soft law be more effective now than in earlier phases of EU social policy? Some factors indicated above are increased interdependence and the risk of externalities, which have increased governments

motivation to cooperate closely also in sensitive areas. Another factor may be that the soft co-ordination is now highly politicized and benchmarking and peer review exercises are lifted to the level of Heads of States (at the spring summits). Yet another factor may be the increasingly close and dense cooperation where social norms make it increasingly difficult for national representatives to resist a common course of action. The functional interdependence increases the force of social pressure.

Discursive Regulatory Mechanisms

The employment policy co-ordination is an example of 'soft' regulation. Sociologically, a key issue is how formally non-binding agreements can gradually become morally and socially binding for the actors involved. That is, how external expectations can gradually be internalised and perceived as the 'reasonable' way to act. This kind of 'binding' is not absolute, and one can imagine action courses for conforming and adapting in some respects and preserving one's interests and initial positions – refusing conformity – in others. But it is reasonable to assume that lower degrees of freedom of political action and a more limited space of manoeuvre follow from both the structural, functional *and* social pressures inherent in the employment policy cooperation. Examples of structural and functional pressures being the need to deal with functional spill-over/externalities, and to handle the time pressure and administrative work load inherent in the new cooperation procedures (Jacobsson 2001). If the system of governance developed in employment policy cooperation means that actors are to some extent 'hedged in', what, then, are the mechanisms behind that? It is then a matter of other types of mechanisms for conformity and order than (legal) force. In order to understand the dynamics of a system of governance based on soft regulation, these types of *social* mechanisms need to be given attention. In this report I will limit myself to those regulatory mechanisms related to knowledge and meaning-making.

The discursive regulatory mechanisms I will look at include joint language-use (key concepts and discourse); the working out of common classifications and common operationalisations (indicators); the building of a common knowledge base (including collection and standardisation of statistics); the strategic use of comparisons and evaluations; the systematic editing and diffusion of knowledge and evaluation results, combined with social pressure (peer pressure) and time pressure. The effectiveness of the non-binding regulatory mechanisms increases if combined with various types of pressure.⁵

While none of these regulatory mechanisms are unique for the Open Method of Co-Ordination, they are systematically used in this method, and to the extent that the OMC does have effects on member state policy these are some of the key mechanisms likely to explain it.

A common language use – Eurodiscourse

Joint EU action, especially in a field where EU lacks supranational legislative capacity, presupposes to a certain extent agreement on common problem definitions and views on causal relationships. If there is a common framework for understanding and describing the problems, policy prescriptions can more easily be delivered. The establishment of a common interpretative framework for analysing the labour market has thus been key to the joint employment strategy. The White Paper *Growth, Competitiveness, Employment* (CEC 1993), which laid the ground for the EES, provided a problem description which in much came to be accepted among the member governments: Unemployment was seen to be a structural problem that cannot be solved by growth alone, in line with the argument of a lack of flexibility in labour markets which OECD economists had diffused for years. However, compared to the OECD Jobs

⁵ In another paper I have formulated the mechanisms of policy co-ordination more abstractly as governance by persuasion; diffusion; standardisation of knowledge; strategic use of policy linkages; and time management (Jacobsson 2001).

Strategy, the EES draws more on a combination of growth-oriented politics and structural reforms, and in addition recognising the role of social partners and wage moderation. Moreover, the alleged transition to a knowledge-based economy put issues of education and life-long learning high on the EU agenda (Jacobsson 2002).

An EU policy discourse on employment and social welfare has developed in the 1990s, built on the key concepts employability, adaptability, flexibility, activation, life-long learning and entrepreneurship but also on the concepts social inclusion, social partnership, social dialogue. The "European Social Model" is seen to be in need of 'modernization' – welfare systems must be made compatible with a competitive economy while not giving up the need for security and welfare among the citizens. The US is here used as a contrast regime. By comparing the European competitiveness with that of the US and by stressing the 'European social model' – however in need of modernization – as a 'productive factor' (CEC 1997a, 2000a), the Commission has attempted to establish a rationale for EU action in the social field. The argument is that Europe will not lose but gain competitiveness by investing in social security, which however, requires that the social benefit systems are made compatible with competitiveness. A "new balance between flexibility and security" must be struck and also a "preventive approach" instead of merely a "curative" approach be implemented. Most importantly, economic policy, labour market policy and social policy need to work together towards the same goal (Jacobsson 2002).

The employment policy guidelines are structured under four 'pillars': improving employability, developing entrepreneurship, encouraging adaptability and strengthening the policies for equal opportunities. The key concepts employability; entrepreneurship; adaptability; equal opportunities in turn provide the structure for the national action plans which are worked out annually by the member states, thus providing a scheme for policy thinking nationally. My case-study of Sweden shows examples when

existing practices have been re-classified according to the common scheme, for instance, the ESF projects have to fall under these categories. A civil servant working at the Swedish ESF Council put it: “The first year, we were a bit disturbed when we had to sort the projects under the four pillars of the guidelines – they had never been intended to be categorised in this way“. She added: “now we have bought the language” (author’s interview 2000). Also at the Labour Market Board, the language of the EES, is increasingly used, for instance the concept of employability. Moreover, in Sweden, new administrative units were structured according to these ‘four pillars’ of the guidelines when the labour market ministry was restructured (Jacobsson 2001). The concepts and categories established in the EU employment policy are increasingly used in national labour market policy discourse and has had at least a symbolic impact nationally (Crespo & Serrano 2001), but may accordingly also have operational and institutional consequences. In addition, many of these concepts lay the basis for common statistical categories and indicators.

Language-use is important because it functions as to steer thought and focus attention, i.e. to frame conceptions of reality. The establishment of a common language use and interpretative framework is an achievement at the level of policy thinking. In the case of the EES a policy paradigm emphasising such things as prevention, activation and life-long learning has clearly been established.

A common knowledge base – the role of Eurostatistics

Due to the subsidiarity principle, in order to establish a rationale for joint action, the Commission must convince the member states that there is an ‘added value’ in EU action. One way of showing ‘added value’ has been the building of a *common knowledge base* not available at the national level. The compilation and standardisation of knowledge may serve as a base for Community action, i.e the production of ‘European’

knowledge can be used to legitimise 'European' solutions (cf. Sutton & Nylander 1999 on public health policy). In the field of employment policy this has been a very deliberative strategy. Allan Larsson, former director-general of the Commission, has systematically tried to support policy claims with new data, for instance the often-quoted claim that in ten years 80 per cent of the existing technology will be passé while 80 per cent of the labour force will have outdated skills which points to the need for constant learning. Also the attempt to find 'objective criteria' for 'best practices' as well as comparable statistics is part of building a common knowledge base. It has also been instrumental in putting pressure on member states. For the Commission, it became evident that the use of common indicators, based on comparable statistics, was crucial for an effective monitoring and evaluation of policies, both at national and Community level. In the 1999 Employment guidelines, Member States were urged to support the process of defining and collecting comparable data in order to implement the Community-wide operational targets under the guidelines. In addition to the EU guidelines, the Member States were also invited to set themselves national targets which could be quantified wherever possible and appropriate. It was also deemed important that 'objective criteria' was found for the selection of 'best practices' (Ekengren 1999; author's interviews).

Commonly agreed definitions are a form of centralisation (Ekengren 1998b, p. 66). The Commission has stressed the need for common indicators also in the areas of education, entrepreneurship, taxation, adaptability and equal opportunities (CEC 1999). In 2000, the Commission presented a report on 'structural indicators' (CEC 2000b). The Employment Committee work to find common indicators to be used in objective-setting and benchmarking. During Autumn 2001, the EMCO worked on finding and agreeing on indicators for 'quality of work' (Thedvall 2002). Similar work has been done on flexibility and adaptability. This is of course not merely a technical but highly political work. The key concepts of the

policy discourse, such as employability, adaptability, flexibility have partly different meanings and value loadings for different actors and in different contexts. In the process of implementing the common guidelines, we can expect 'translation processes', where actors grant the core concepts a meaning that is acceptable in the context in question (cf. Czarniawska and Sevón 1996). However, the Commission has tried to prevent national divergences in interpretation by introducing common definitions and clarifications of guidelines (CEC 1999). Interpretations and operationalisations of concepts are inherently political and need to be 'managed'. The Commission has a central role in managing knowledge and may function as an 'editor' of knowledge and ideas into standards (cf. Sahlin-Andersson 1996), thereby exerting an indirect influence on policy content. Common categories and classifications and common operationalisations in terms of indicators are a way of centrally steering policy thinking and administrative practice.

To establish uniform systems of measurement was an integral part of the rationality of modern government – a population which could be counted and 'known' could also be more effectively controlled (Shore 2000, p. 30). With the rise of the nation-state, statistics were collected on a national basis, for instance by state agencies, and with national parameters. National statistics was a technical device in the national integration project, serving a control function, but also having a symbolic function in the development of a national consciousness. A country shaped in numbers became not only measurable and comparable but also possible to criticize, discuss and ultimately to identify with (Höjer 2001). Likewise, EU statistics fill an important function in the European integration project. The Eurobarometer and the Eurostat statistics have been instrumental in developing a perception of a European public opinion. It is possible for the Commission to point to the demand of 'European consumers' or 'European workers' (Shore 2000). The Commission's work of redefining the European economy in terms of 'common concerns' and 'problems' and its active

pressure on Member States to review their traditional social and employment policy (Jacobsson & Ekengren 2000, p. 18), has been a deliberate attempt to forge the national economies into one by establishing the parameters of a 'European economy' and a 'European labour market'. In the case of the latter, the goal is that Europeans will view the whole of Europe as a possible labour market and not think in terms of national labour markets (cf. CEC 2001). In order to achieve labour mobility, to make social security systems compatible is necessary but not deemed enough – Europeans must also start thinking of themselves as workers in Europe. Moreover, the common currency is expected to facilitate price comparisons between countries and evoke consumer demands for price convergence, based on a conception of being 'European consumers'. Thus, the Commission has tried to meet national arguments ('we cannot afford it', 'we cannot offer to every unemployed person' etc.) with *comparisons* between Member States measures and *innovative redefinitions* of the employment policy field and 'the European economy' (Larsson 1998a and b; see Ekengren 1999). The redefinitions are mainly made in terms of *common* European economic and demographic problems and based on *aggregated European statistics* (Larsson 1998b). Measurement and comparison are forceful co-ordination and ultimately integration mechanisms.

Systematic dissemination of knowledge

Related to the collection, standardisation and editing of knowledge is the systematic dissemination of knowledge and evaluation results. The annual Joint Employment Report contains detailed information about the labour market situation and policy efforts in each country as well as information about the member state response to previous guidelines and recommendations. Attempts are organised to increase the homogeneity of national policy regimes through strategic comparisons with others and by improved transparency and comparability. *Benchmarking* is a key diffusion and persuasion mechanism in EU employment policy. Drawing on the NAPs, the Commission identifies and

disseminates 'best practices'. The publicising of best practices as well as the least successful member states, is intended to foster, with the support of public opinion, internal competition among the member states (the 'name and shame' method). A driving force for member governments is to turn out well in these comparisons: "the whole process is driven by proving to be capable in the eyes of the Commission or other member states" (interview Swedish government official 1999).

The dissemination and diffusion of knowledge is intended to foster a mutual learning process among member states. *Peer review* is institutionalised in the EES by the procedure where national officials discuss and criticize each others' NAPs with pre-selected discussants especially prepared for the task, a procedure similar to the OECD economic peer review. Moreover, the Commission, in cooperation with the EMCO, organizes a Peer Review Programme around the identification and exchange of good practices in active labour market policies. The programme includes study visits to various countries and projects, where besides national officials also independent experts participate to evaluate the projects. Peer review is done in a systematic way whereby the host country presents a project, the independent experts presents a more critical analysis and the representatives of the peer countries also present a response. Compared with the peer review in the EMCO this is a less politicized exchange and only those countries interested participate in the exchange (interview Commission official 2001). There are some indications that the element of mutual sharing and learning has 'moved' from the EMCO to this latter type of peer review along with the increased pressure on the EMCO to produce formal standpoints (interview Commission official 2002).

My interviews with Swedish civil servants confirm that in the sharing of national experiences there is an openness to what others have to offer, even if time is a constraining factor to these exercises. However, exchanging knowledge can also lead to common problem perceptions in a more fundamental sense.

Studies of other international organisations such as the OECD confirm that processes of communication and socialisation in trans-national political-administrative networks can gradually lead to the development of common perceptions of problems and solutions (Mörth 1997; Sahlin-Andersson 1996).

Review, evaluation and control

In the absence of hierarchical control, various types of auditing practices gain in importance (Power 1997). As already mentioned, the OMC draws on the practice of benchmarking, peer review, cyclical follow-up of results and built-in feed-back mechanisms. To participate in comparisons implies an (implicit or explicit) acceptance of norms and objectives. As put by Shore & White (2000, p. 72), "to be audited, an organization must actively transform itself into an auditable commodity: one structured to conform to the need to be monitored ex-post. Thus, a major feature of audit is the extent to which it reshapes in its own image those organizations that are monitored. What is required is auditee compliance with the norms and procedures demanded by inspectors". Thus, auditing practices gain its efficiency from the fact that it aims not only at imposing external control but ultimately at actors internalising the norms.

The administrative practices of review have a steering function directly (eg. the structure of the National Action Plan is decided in the EMCO which national civil servants are then expected to follow) or indirectly by providing the key concepts and categories (see above). Moreover, an element of persuasion is built into the review process. The effects of the non-binding recommendations are to be ensured by *peer pressure* and also by public opinion pressure, fuelled by increased transparency and dissemination of national employment-related results, which may set in motion domestic processes. The most forceful instrument of peer pressure is probably the public recommendations directed to individual member states to live up to previous commitments, a practice also at work in the economic policy co-ordination. The

establishment of fora for policy dialogue, e.g. Employment Committee and the equivalents for economic policy and social protection, as well as the macro-economic dialogue, is partly intended to contribute to common problem perceptions by means of argumentation and persuasion. Potentially, due to the lack of force and the reliance on persuasion, this mode of governance is characterised by a more communicative logic than the traditional legislative processes, i.e. more arguing than bargaining. However, research on the interaction in the EMCO reveals that national officials do defend national positions when national interests are at stake (Jacobsson & Vifell 2002). Still, the intense interaction and policy dialogue in these fora may lead to adaptation over time. Social norms, developed in dense interaction networks, can gradually be perceived to be binding. The logic may here be either that expectations are internalised and thus perceived as 'reasonable', or that there is external social pressure to adapt.

Temporal disciplining

The last regulatory mechanism I will point to is the role of temporal discipline and to some extent temporal standardisation for the creation of new time frames and perspectives in the europeanized policy-making. As a parallel, temporal standardisation was important in the national integration project. A national 'political time' was created by time-tables and recurrent processes (cf. the budgetary process).

Time management is key in the OMC. Several authors have pointed out the importance of the EES being an iterative process (Ekengren & Jacobsson 2000; Goetschy 2000; Jacobsson 2001). Procedures are put in place which are repeated annually. The yearly drafting of guidelines and submission of NAPs means that national administrations continuously work with employment issues with the "European spectacles" on: working on guidelines, action plans, implementation reports, responses to evaluations by the Commission etc. This round, taking place yearly, provides

occasion for regular input from the Commission and other key actors (Jacobsson 1999). Beside the repetitive and cyclical character of the process, there is a considerable element of *time pressure* built into the process following both from the considerable work-load on administrations of the reporting procedures and the introduction of specific dead-lines. Procedures tend to focus attention. The procedures following from the the processes of the EES (Luxembourg process; Cardiff process; Cologne process; Lisbon process) are likely to have consequences for priorities at national ministries. Moreover, the often short dead-lines tend to limit the possibility to 'anchor' policy positions more broadly nationally, i.e. in Parliament or in relation to the broader public.

Ekengren (1998a) has pointed out the importance of the use of dead-lines and common agendas in the EU system of co-ordination and governance generally. He claims that the temporal horizons tend to change with this 'deadlinification of practice'. National civil servants experience that they are confronted with deadlines they cannot control, an experience of external direction, and that there is less time for preparation. Adaptation becomes the main strategy for coping: "The dead-line stories of European governance are spread throughout the national bureaucracy, forming a discourse of a complex system of temporally disciplining rules and norms" (Ekengren 1998a, p. 65). Europeanized policy-making challenges the national political time and may compete with national processes. To the least, the competing political times and the time stress leads to a disequilibrium that needs to be dealt with. Moreover, the preparation work at the national ministries tends to change character: "Due to the number of fora and working groups and the extent of simultaneous meetings, government positions are in a *constant* formation process" (Ekengren 1998a, p. 62).

The need for 'a continuous pressure and a certain pace' for the NAP process not to bottle up or lose direction, has been confirmed in my interviews with national officials (Sweden). Also the ETUC concluded that although the tight timetable had

posed practical problems the first year of NAPs, "it was an important factor in developing political momentum" (Foden 1999, p. 203). The spring summits, where new dead-lines are constantly introduced and arguments about 'being behind the schedule – of reaching the goal of becoming the world's most competitive economy till 2010 – are diffused in public, adds to this dynamic and reinforces pressure on individual government to adapt.

A Subtle Transformation of States

I have pointed to some mechanisms built into the basically practical and administrative work related to the European employment strategy, likely to fill a steering function both on policy thinking and administrative and policy practice nationally. Even if it may be too early to evaluate the full cognitive impact of the strategy, some things can be said about the likely impact of these discursive regulatory mechanisms.

The logic of the OMC is that the policy co-ordination is not a matter of external imposition of norms but of voluntary and gradual acceptance and implementation. A straight away implementation of common objectives is hardly be expected, but rather a gradual integration of new norms into present practices in the member states. My studies of the implementation of the EES in Sweden and Denmark (Jacobsson & Schmid 2002; Jacobsson 2002b) show that the EES still is not yet well integrated into the national and sub-national systems of labour market policy, but rather is the concern of a limited number of officials at national ministries, often working in international offices mediating between national capitals and Brussels. Implementing authorities and sub-national actors are insufficiently involved. Still, there is a remarkable member state compliance with the newly established procedures (reporting, peer review etc) of the EES. Member governments seem committed to the cooperation *procedures*.

So far the cooperation procedures have worked to put issues on the agenda (such as the need for an 'active' and 'preventive' approach, focus on employment rate rather than unemployment rate, the need for pension system reform, lifelong learning) and made possible a cooperation at EU level on these issues. The EES can be said to have fostered a normative consensus around common challenges, objectives and policy approaches. It has also fostered an integration of policy areas, in turn leading to improved co-ordination between national ministries, and a more long-term policy perspective. Moreover, the language and outlooks developed in the EU employment policy dialogue increasingly seems to colour national policy discourse. At an elite level, political and civil servant, the EES thus seems to have had an impact. Moreover, mutual review and critique has become increasingly *legitimate*. While authority over labour market policy remains with the national Parliaments, the treaty provisions and the new processes have made it legitimate for the Commission to play an active role in the process as well as for Member States to have opinions on each other's labour market policies (and economic and social policies). Thus, also in the absence of straight-away implementation of the common guidelines, it is possible – and reasonable – to argue that the EES, and thus the OMC, has had – and is having – an impact on national states, however a more subtle and long-term one.

The most effective form of political control is to make one's conception of the world hegemonic, to set the political agenda in such a way that ideology becomes conceived of as natural or normal (Shore 2000, p. 29, drawing on Gramsci). Ideological influence may follow from discourse – with the 'imported' language follows assumptions and perspectives, views on causality, etc. The focus on employability for instance implies a supply-side perspective on labour markets and a strong focus on the individual characteristics of unemployed (Jacobsson 2002). Likewise, with the focus on entrepreneurship and adaptability also follow assumptions about what is required for a well-functioning economy and labour market, e.g. reformed tax and

benefit systems, particular types of labour market flexibility etc. Even if there is not a total policy consensus among the member governments, the establishment of a common language and interpretative framework so far is a major achievement with the potential to transform member state practices. However, the relative importance of the EES in relation to a more wide-spread policy consensus is difficult to say, as are the exact consequences of this, which of course differ in various member states.⁶

Moreover, the regulatory mechanisms pointed to in this report have contributed to make policy actors thinking politics and policy with European frames of references rather than exclusively national ones. They have begun to rethink national policy in the light of 'common problems' and redefine it in terms of 'common concerns' and something that is legitimately the concern of other states and nationals. The European policy framework is not replacing, but adding to/complementing, the national one, constituting an alternative and increasingly legitimate framework that challenges the exclusiveness of national frames of references in some sensitive policy areas. Parallels can be drawn to the establishment of national parameters and political frames of references in the national integration projects.

The ideological influence by international organizations such as the EU or the OECD is by no means new. This report has aimed to direct attention at those regulatory mechanisms operating to foster a cognitive and ideational type of influence, through a combination of deliberation *and* discipline, learning (with various degrees of reflexivity) *and* force/pressure. The key argument has been that such mechanisms are systematically built

⁶ The requirements of the Growth and Stability Pact are accepted in principle by all member governments, at least the importance of sound public finances, low inflation etc. Part of this is a more general economic consensus. Likewise, activation policies have been strengthened in all member states. All EU member states have tightened their eligibility conditions for unemployment benefit, work incentives have been strengthened and work obligations been made more explicit. The role of training and life-long learning is widely acknowledged. Part of this is influences of wider discourses on the knowledge-based and competitive economy.

into the system of governance developed in the field of EU employment policy. Even symbolic politics are seldom merely symbolic.

References

- Biagi, M., 2000, "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*, 16 (2).
- CEC [Commission of the European Communities], 1993, *Growth, Competitiveness, Employment, the Challenges and Ways Forward into the 21st Century*, COM(93)700.
- CEC, 1996, *Benchmarking the Competitiveness of European Industry*. COM (96)463.
- CEC, 1997a, *Modernising and Improving Social Protection in the European Union*. COM(97)102.
- CEC, 1997b, *Benchmarking: Implementation of an instrument available to economic actors and public authorities*. COM (97)153.
- CEC, 1999, *Proposal for Guidelines for Member States' Employment Policies 2000*.
- CEC, 2000a, *Social Policy Agenda*. COM(2000)379.
- CEC, 2000b, *Structural Indicators*. COM(2000)594.
- CEC, 2001, *New European Labour Markets, Open to All, with Access for All*.
- Cram, L., 1997, *Policy-making in the EU*. London: Routledge.
- Crespo, E. & A. Serrano, 2001, "The EU's concept of activation for young people: towards a new social contract?". Paper presented at the seminar "Activation policies for young people in international perspective: monitoring the European Employment Strategy". 8-9 November, Brussels: ETUI.
- Czarniawska, B. & G. Sevón (eds.), 1996, *Translating Organizational Change*. Berlin and New York: Walter de Gruyter.
- De la Porte, C., 2001, "Is the Open Method of Coordination Appropriate for Organising Activities at European Level in Sensitive Policy Areas?", *European Law Journal*, 8 (1).
- De la Porte, C., P. Pochet & G. Room, 2001, "Social Benchmarking, Policy-Making and the New Governance in the EU". *Journal of European Social Policy*, 11(4).
- De la Porte, C. & P. Pochet (eds.), 2002, *Building Social Europe Through the Open Method of Coordination*. Brussels: PIE Peter Lang.

- Ekengren, M., 1998a, *Time and European Governance. The Empirical Value of Three Reflective Approaches*. Stockholm: Department of Political Science.
- Ekengren, A., 1998b, *The New Title on Employment in the Amsterdam Treaty. A Future-Oriented Model for Integrating Europe*. Masters thesis.
- Ekengren, M., 1999, "The Welfare State, European Integration and the Distribution of Powers in the European Union - the Need for a Fourth EU Pillar?", paper presented at NOPSAs Conference, Uppsala, 19-21 August 1999.
- Ekengren, M. & K. Jacobsson, 2000, *Explaining the Constitutionalization of EU Governance: The Case of European Employment Cooperation*. SCORE Research Report 2000: 8.
- ERT, 1996, *Benchmarking for policy-makers. The way to competitiveness, growth and job creation*. Report by the European Round Table of Industrialists, October.
- Foden, D. & L. Magnusson (eds.), 1999b, *Entrepreneurship in the European Employment Strategy*. Brussels: ETUI.
- Foden, D. & L. Magnusson (eds.), 2000, *Contested Territory. Entrepreneurship in the European Employment Strategy*. Brussels: ETUI.
- Foden, D., 1999, "European Employment Policy: Progress without too Narrow Confines". In E. Gabaglio & R. Hoffmann (eds.) *The European Trade Union Yearbook 1998*. Brussels: ETUI.
- Goetschy, J. & P. Pochet, 1997, "The Treaty of Amsterdam: A New Approach to Employment and Social Affairs?". *Transfer*, 3 (3).
- Goetschy, J., 1999, "The European Employment strategy. Genesis and Development". *European Journal of Industrial Relations*. 5 (2).
- Goetschy, Janine (2001) "The European Employment strategy from Amsterdam to Stockholm: Has it reached its cruising speed?", *Industrial Relations Journal*, 32 (5).
- GOVECORG, 2000, "EU Governance by Self Co-ordination? Towards a collective 'gouvernement économique". GOVECORG project outline, www.govecor.org.
- Hansen, P., 2000, *Europeans Only? Essays on Identity Politics and the European Union*. Umeå University: Department of Political Science.

- Hodson, D. & I. Maher, 2001, "The Open Method of Coordination as a New mode of Governance: The Case of Soft Economic Policy coordination". Forthcoming in *Journal of Common Market Studies*, 39(4).
- Höjer, Henrik, 2001, *Svenska siffror. Nationell integration och identifikation genom statistik*. Gidlunds.
- Jacobsson, K., 1999, *Employment Policy in Europe: A New System of European Governance?*. SCORE Research Report 1999: 11.
- Jacobsson, K., 2001, "Employment and Social Policy Coordination. A New System of EU Governance". Paper for the Scancor workshop on "Transnational regulation and the transformation of states". Stanford, 22-23 June 2001.
- Jacobsson, K., K. M. Johansson, M. Ekengren, 2001, *Mot en europeisk välfärdspolitik? Ny politik och nya samarbetsformer i EU*. Stockholm: SNS Förlag.
- Jacobsson, K., 2002, "A European Politics for Employability. The Political Discourse on Employability of the EU and the OECD", in: Christina Garsten & Kerstin Jacobsson (eds.) *Learning to be Employable: New Agendas on Work in a Globalizing Labour Market*. Houndmills, Basingstoke: Palgrave, (Forthcoming).
- Jacobsson, K., 2002b, The Methodology of the European Employment Strategy: Achievements and Problems, URL: www.govecor.org
- Jacobsson, K., & H. Schmid, 2002, "Real Integration or just Formal Adaptation? On the Implementation of the National Action Plans for Employment", in C. de la Porte & P. Pochet (eds.) *Building Social Europe Through the Open Method of Coordination*. Brussels: PIE Peter Lang.
- Jacobsson, Kerstin & Åsa Vifell, 2002, "Integration by Deliberation? Dynamics of Soft Regulation in the Case of EU Employment Policy", Paper for presentation at the ECPR 1st Pan-European Conference on European Union Politics, Bordeaux 26-28 September.
- Keller, B., 1999, "Aktueller Entwicklungen 'europäischer' Beschäftigungspolitik: Vom Weissbuch zum Beschäftigungskapitel". *Sozialer Fortschritt*, 48 (6).
- Keller, B., 2000, "The New European Employment Policy or: Is the Glass Half-full or Half-empty?". In R. Hoffman et al. (eds.) *Transnational Industrial Relations in Europe*. Dusseldorf.

- Kenner, J., 1995, "EC Labour Law: The Softly, Softly Approach". *The International Journal of Comparative Labour Law and Industrial Relations*.
- Kenner, J., 1999, "The EC Employment Title and the 'Third Way'. Making Soft Law Work?". *Journal of Comparative Labour Law and Industrial Relations* 15(1).
- Larsson, A., 1998a, 'Employment policy in the EMU: How to get the strategy to work?'. *Speech ETUC Conference*, June 24.
- Larsson, A., 1998b, 'The Welfare society: added value or excessive burden?'. *Speech PES Conference*, July 10.
- Mörth, U., 1997, *Policy Diffusion in Research and Technological Development: No Government is an Island*. Stockholm: Score, Report 1997: 3.
- Power, M. (ed.), 1997, *The Audit Society. Rituals of Verification*. Oxford: Oxford University Press.
- Ross, G., 1995, "Assessing the Delors Era and Social Policy", i S. Leibfried & P. Pierson (eds.) *European Social Policy. Between Fragmentation and Integration*, Washington, D. C.: The Brookings Institution.
- Sahlin-Andersson, K., 1996, "Imitating by Editing Success. The Construction of Organizational Fields". In B. Czarniawska & G. Sevón (eds.) *Translating Organizational Change*. Berlin and New York: Walter de Gruyter.
- Sciarra, S., 2000, "Integration through Coordination: The Employment Title in the Amsterdam Treaty". *The Columbia Journal of European Law*, 6 (2).
- Shelton, D. (ed.), 2000, *Commitment and Compliance. The Role of Non-Binding Norms in the International Legal System*. Oxford: Oxford University Press.
- Shore, C., 2000, *Building Europe. The Cultural Politics of European Integration*. London: Routledge.
- Shore, C. & S. Wright, 2000, "Coersive Accountability: The rise of audit culture in higher education", in: Strathern, Marilyn (ed.) (2000) *Audit Cultures*. London: Routledge.
- Snyder, F., 1993, *Soft Law and Institutional Practice in the European Community*. Florence: EUI Working Paper Law, Nr 3.
- Strathern, M., (ed.), 2000, *Audit Cultures*. London: Routledge.

Sutton, C. & J. Nylander, 1999, "Alcohol Policy Strategies and Public Health Policy at an EU-Level: The Case of Alcopops", *Nordisk Alkoholtidskrift*, vol. 16.

Thedvall, Renita, 2002 "Transparency at Work – The Politics of the Meeting", Paper presented at the SCORE Scientific Advisory Board Meeting, 18-20 August 2002.

Trubek, D. M. & J. Mosher "New Governance, EU Employment Policy, and the European Social Model", in: Jonathan Zeitlin & David Trubek (eds.) *Governing Work and Welfare in a New Economy: European and American Experiments*. Oxford: Oxford University Press (forthcoming).