

Sandra Kröger

# Soft Governance in Hard Politics

European Coordination  
of Anti-Poverty Policies  
in France and Germany

BUNDESTAG GRUNDGESETZ POLITISCHES SYSTEM EUROPÄISCHE UNION  
WAHLEN VERFASSUNG INTERNATIONALE BEZIEHUNGEN POLITISCHE THEO  
RIE PARTEIEN INSTITUTIONEN POLITISCHE KULTUR POLITISCHE ELITEN  
PARLAMENTARISMUS DEMOKRATIE MACHT REGIERUNG VERWALTUNG FÖDER  
ALISMUS POLITISCHE SOZIOLOGIE GLOBALISIERUNG POLITISCHE KOMMU  
NIKATION PARTEIENSYSTEM RECHTSSTAAT GERECHTIGKEIT STAAT POLI  
TISCHE ÖKONOMIE POLITIK BUNDESTAG GRUNDGESETZ POLITISCHES  
SYSTEM EUROPÄISCHE UNION WAHLEN VERFASSUNG INTERNATIONALE  
BEZIEHUNGEN POLITISCHE THEORIE PARTEIEN INSTITUTIONEN POLI  
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VS VERLAG FÜR SOZIALWISSENSCHAFTEN

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<sup>1</sup> German Research Community.

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## List of abbreviations

AAH	Allocation Supplémentaire Handicapés
ALG2	Arbeitslosengeld 2
ANPE	Agence National Pour l'Emploi
API	Allocation Parent Isolé
ASMK	Arbeits- und Sozialministerkonferenz
ASS	Allocation de Solidarité Spécifique
BAGFW	Bundesarbeitsgemeinschaft Freie Wohlfahrtspflege
BEPG	Broad Economic Policy Guidelines
BR	Bundesrat
BT	Bundestag
CAF	Caisses d'Allocations Familiales
CAI	Contrat d'Accueil et d'Intégration
CAP	Common Agricultural Policy
CEC	Commission of the European Communities
CEEP	European Centre of Enterprises with Public Participation
CES	Conseil Économique et Social
CMU	Caisse Maladie Universelle
CNIAE	National Committee for the insertion through economic activity
CNLE	Conseil National des politiques de Lutte contre la pauvreté et l'Exclusion sociale
CPE	Contrat Première Embauche
CSWP	Commission Staff Working Paper
DDP	Directly Deliberative Polyarchy
DG	Directorate General
DGAS	Direction Générale de l'Action Sociale
DPT	Document de Politique Transversale
DRESS	Direction de la Recherche, des Études, de l'Évaluation et des Statistiques
EAPN	European Anti-Poverty Network
EC	European Communities
ECHP	European Community Household Panel
ECJ	European Court of Justice
ECU	European Currency Unit
EMU	European Monetary Union
EPC	Economic Policy Committee
EES	European Employment Strategy
EMCO	Employment Committee
EP	European Parliament
EPCI	Établissements Publics de Coopération Intercommunale
ESF	European Social Fund
ESM	European Social Model
ETUC	European Trade Union Confederation
EU	European Union
EUSI	European System of Social Indicators
EU-SILC	European Statistics on Income and Living Conditions
FEANTSA	Fédération Européenne des Associations Nationales Travaillant avec les Sans-Abri
HALDE	Haute autorité de lutte contre les discrimination et pour l'égalité
HI	Historical Institutionalism
ILO	International Labour Organisation
IMA	Interministerieller Ausschuss



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IMF	International Monetary Fund
INSEE	Institut National de la Statistique et des Études Économiques
ISCED	International Standard Classification of Education
ISG	Indicator Sub-Group
Job AQTIV	Aktivieren, Qualifizieren, Trainieren, Investieren, Vermitteln
JR	Joint Report
JRI	Joint Report Inclusion
JUMP	Jugend mit Perspektive
KEG	Kommission der Europäischen Gemeinschaften
LOLF	Loi Organique relative aux Lois de Finances
Nak	Nationale Armutskonferenz
NARB	Nationaler Armut- und Reichtumsbericht
NAP	National Action Plan
NGO	Non-Governmental Organisation
NUTS	Nomenclature of Territorial Units for Statistics
OECD	Organisation of Economic Co-operation and Development
OMC	Open Method of Coordination
ONPES	Observatoire national de la pauvreté et de l'exclusion sociale
PAM	Principal-Agent Model
PNAI	Plan National d'Action Inclusion
PSD	Prestation Spécifique Dépendance
PR	Peer Review
RCI	Rational Choice Institutionalism
RMA	Revenu Minimum d'Activité
RMI	Revenu Minimum d'Insertion
SEA	Single European Act
SGP	Stability and Growth Pact
SI	Sociological Institutionalism
SOEP	Socio-Economic Panel
SPC	Social Protection Committee
TRACE	Trajet d'Accès à l'Emploi
UK	United Kingdom
UNICE	Union of Industrial and Employer's Confederations of Europe
UNIOSS	Union Nationale Interfédérale des Œuvres et Organismes privés Sanitaires et Sociaux
VAE	Validation des acquis de l'expérience

# 1 Introducing the Lisbon Strategy and the OMC

For several decades it was expected that the Western-type welfare state would do away with poverty, and indeed until the 1980s this was an observable tendency in the member states of the EU. Since, however, poverty figures have been on the rise again (Kowalsky 1999: 52), and many have been speaking of “new poverty”, addressing not only income poverty but also urban decline and violence, ethnic minorities, homelessness, young unemployed, rural poverty, handicapped, single parents or elderly people. In 1975 there were estimated 38 million poor in the EU (CEC 1980). Twenty years later the number had risen to 55 million, and in 2005 the EU counted 75 million poor<sup>2</sup>. Since the mid-1970s the EU addressed these “new” forms of poverty in the form of poverty programmes which, in the context of absent EU competences, attempted to promote analysis, network-building, exchange of information and mutual learning (Kröger 2007a; Rojas 1999). With such a programme approach, the Commission tried to influence national and European debates and policy development. The programmes consisted of small budgets, exchange of information, data collecting and improvement, enhancing mutual learning. They addressed a small policy community of academia, NGOs and politicians. These activities, however, came to a preliminary halt in 1996 when the United Kingdom and Germany went to the European Court of Justice to stop the implementation of a fourth programme. They were hostile to the poverty language of the EU, as they felt that their minimum income systems had eradicated (extreme) poverty (Nilssen 2006; Veit-Wilson 2000). Despite this preliminary stop, by way of the poverty programmes the Commission was successful in lifting the issue of poverty up the European agenda, in framing the term social exclusion, in setting up anti-poverty networks and in gathering expertise in programme development and implementation (Bauer 2002; de la Porte 2005; Halvorsen and Johansson 2005; Kröger 2007a; Leibfried and Pierson 1998). EU competences in the field, however, did not increase until 1997 when the fight against poverty and social exclusion was recognised to be of common concern in the Treaty of Amsterdam.

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<sup>2</sup> According to the widely used 60% median income indicator, see CEC 2006b. Of course this goes hand in hand with successive enlargement rounds.

The difference between economic and social integration has been described as negative and positive integration (Scharpf 1999). While negative integration refers to market-making activities which remove trade barriers and which seek to establish the free movement of capital, services, individuals and goods, positive integration refers to market-correcting policies and “the reconstruction of a system of economic regulation at the level of the larger unit” (Scharpf 1999: 45), in this case the EU. Scharpf argues that negative integration has been the “main beneficiary of supranational European law” (ibid.: 50), making economic and financial integration institutionally privileged areas of policy-making (Chalmers and Lodge 2003; de la Porte and Pochet 2003; Radaelli 2003a; Scharpf 2002; Tucker 2003). The potential of actors to bring about measures of positive integration is restricted, since such measures generally require approval by the Council of Ministers and, increasingly, by the European Parliament and thus a high degree of consensus among the actors involved. Yet, opposition of national governments and other actors to such positive integration has been the rule thus far. The EU’s problem-solving capacity is therefore “limited by the need to achieve action consensus among a wide range of divergent national and group interests” (Scharpf 1999: 71). Conventional ways of integration thus seemed foreclosed for a European anti-poverty policy. At the same time, negative integration has real consequences for the member states’ ability to autonomously organise and secure welfare and thus for the living conditions of their citizens (Leibfried 2005; Leibfried and Pierson 1998).

The Community Method largely being perceived as being inappropriate for market-correcting policies by member states while still politically perceiving the need to commonly address the issues of poverty and social exclusion, it was decided in 2000 to introduce the Open Method of Coordination (OMC) and to apply it to the field of poverty and social exclusion. The OMC belongs to the wide array of so-called soft law which in contrast to the Community Method is not binding. It starts out from the assumption of structural diversity, strategic uncertainty and the need for permanent revisability of policies. It grounds on common political objectives, the implementation of which is completely left to the national governments. This implementation is somewhat monitored by the European Commission and the Council. The OMC was perceived by heads of state and government as an instrument which could contribute to increased effectiveness – through mutual learning processes and monitoring – and legitimacy – through the participation of all relevant actors – of the EU. To study whether the OMC inclusion has contributed to these declared goals is the object of the here presented work. Before evaluating this question, however, this introduction will be used to recall major recent steps in the development of a European social policy as well as the Lisbon process and the OMC in particular.

It was since the late 1980s, not least due to the efforts of then Commission President Jacques Delors and his environment, that the struggle for a European social policy unfolded real dynamics. This struggle soon became associated with the notion of the European Social Model (ESM) which since has been used in political, descriptive, analytical and normative ways (Aust et al. 2002; Demertzis 2007; Jepsen and Pascual 2005). The terminological construction aimed at describing the socio-political heritage of the EU as being different from those of the USA and growing “tigers” in far-East such as Japan – as well as from the market model defended by the Thatcher administration. And this heritage, so the conclusion, was worth being protected. Second, its aim was to add a social dimension to the European Community (EC) in which market integration by far outscored social integration. More recently, the term ESM has become even more politicised and usually been associated to the need of its modernisation. This modernisation is usually deemed necessary in the light of perceived common demographic, economic, social, cultural and international challenges.

The second major result of Delors’ efforts was the institutionalisation and legalisation of a European Social Dialogue. From 1991 onwards the legal framework was established by the Social Protocol (art. 138 and 139). In particular it obliged the Commission to consult the social partners prior to the adoption of a legislative proposal. The social partners could then either just comment on the proposal or decide to engage in negotiations which may end in collective agreements which are a) turned into Council directives and thereby become binding law or b) implemented by the social partners in autogestion (Falkner 2000; Pochet 2007; Smismans 2007).

However, there were also developments which decreased the chances for a European social policy. Most notably, from the early 1990s onwards member states insisted on the principle of subsidiarity as one of the structuring principles of the EU. The principle, stemming from Catholic social thought, refers to the relationship between the individual and the communities to which it belongs. It demands that everything the individual can do on his/her own should be done by her- or himself, next by the smallest community to which (s)he belongs. If, however, the individual is incapable to do so, the larger community will have a responsibility to assist (Kohl and Vahlpahl 2005). This tradition of thought resonated strongly in Southern and Western parts of Germany. After World War II and together with the Allies’ desire to not have a strong centre of power in Germany subsidiarity became one of the major organizing principles of the country. Later on and in the process of European integration, the German *Länder* were keen on defending their competences just as the British government defended the principle against the enlargement of EU competences and the loss

of national control. Resting on these influences, the Treaty of Maastricht states that

“The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.”

“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.”

“Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty” (Treaty of Maastricht art. 3b, now art. 5).

Despite this structural and political barrier to further integration, the European Commission became very active in the early 1990s with regard to a European social, in particular an employment policy, as shown by different Communications and White papers (CEC 1993, 1994, 1998, 1999, 2000a, 2005d). In these and other contributions the Commission supported the idea of social policy being a productive factor, arguing that it might contribute to economic growth and job creation (Wendon 1998). It increasingly supported the idea of supply-sided activation strategies and centred its ambitions on the so-called modernisation of the social protection systems. Knowledge-based society, demographic changes, life-long learning, training, globalisation, growth, competitiveness and sustainability became the catch-all words mostly employed in order to defend the necessity of this so-called modernisation, described as being politically without alternative. To the difference of its anti-poverty programmes, the ideas mirrored in the mentioned documents gained prominent status in European social policy discourses, as they resonated better with national discourses than those of the previous programmes. The main effect of these documents was that an EU-wide debate around social protection was initiated and that this debate became ever more employment-centred. The central idea was to rebuild the welfare state around work, estimating that paid work is the safest way out of poverty. The goal is to be reached through a reduction of fraud, and the enforcement of work responsibilities through punitive sanctioning in the case of non-compliance<sup>3</sup>.

By 1997, when the European Employment Strategy (EES) was introduced, a majority of member states found that activation based on training and life long learning promoted by the state while at the same time being coupled with making work pay strategies was the best way to achieve (full) employment, while the primary goals of public policy were low inflation and a balanced budget. If

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<sup>3</sup> For a critical review, see Levitas 1996 and 1998.

the concept of activation gained multiple supporters, this was due to its compatibility with both social democratic “third way” policies and more neo-liberal approaches to social policy. An “EU-wide interpretative framework for social policy” had evolved (Teague 2001: 9; Duina and Oliver 2004), rendering consensus around a common strategy possible.

The recognition by member states that there was a need to deal commonly with a common challenge – structural unemployment – materialised in the institutionalisation of an employment title in the Treaty of Amsterdam in 1997 (Begg and Berghman 2002). The employment title became the legal basis of the EES, allowing the EC to coordinate actions in the field. However, the principle of subsidiarity was also confirmed in the Treaty of Amsterdam in order to “re-assure uneasy Member States that their legal and political distinctiveness would not be threatened by the legal modernization of the EU” (Teague 2001: 13). The Treaty also integrated the Social Charter as well as the Social Protocol of 1991 into EC law. Since, articles 136 and 137 provide the legal basis for social policy *support and coordination* through the EC. Article 136 identifies the fight against social exclusion as one of the objectives of the EC. It states that the latter shall support and complement the activities of the member states. Article 137 empowers the Council to adopt measures designed to encourage cooperation between member states aiming at the improvement of knowledge, the development of exchanges of information and good practices, the promotion of innovative approaches and the evaluation of experiences. The Commission has a preparing and a coordinating function, whereas it cannot enact binding guidelines and decisions. Thus, anti-poverty policy by and large remains in the competences of member states. Still, articles 136 and 137, however weak they may be, provided the legal basis for the introduction of the OMC inclusion in 2000.

While the poverty programmes had a discursive influence on the OMC inclusion (Kröger 2007a), a procedural influence comes from the EES (Goetschy 1999) which was the EU’s first official experiment with soft governance. The EES organises the coordination of national employment policies, mutual learning processes and management by objectives (Trubek and Mosher 2003). Member states agree unanimously on political guidelines which they implement in accordance to national specificities. If they do not implement the agreed guidelines, soft peer pressure through naming and shaming strategies is theoretically foreseen. Progress is generally monitored through joint reports, indicators and peer reviews (Barbier 2004a). The member states shall “take the guidelines into account” in their employment policies (Art. 128, 3), but there are no sanctions if they do not follow the guidelines and recommendations. In 2003 the EES was evaluated and subsequently re-organised in a three-yearly cycle and became associated to the Broad Economic Policy Guidelines (BEPGs).

The EES follows previous experiences, with harder modes of governance in the field of fiscal (Growth and Stability Pact, GSP) and economic (BEPGs) policy coordination (Goetschy 2004; Salais 2004). Indeed, the European Monetary Union (EMU) had and has important consequences on labour market policy because the range of available policy options for members of the EMU is limited. The EMU constrains the national labour market policies in several ways, namely 1) It is no longer possible to foster employment by means of competitive devaluation because EMU entailed an increasingly centralized monetary policy for the EU; 2) EMU and the adoption of the GSP prohibit large public deficits and hence attempts to combat unemployment by means of public sector job creation; 3) Community competition law weighs upon employment by increasingly limiting certain types of state aid in specific sectors such as social services (Goetschy 2004). The GSP considerably reduces the *marge de manoeuvre* for national governments, particularly in terms of deficit spending. Specific rulings of the ECJ have furthermore decreased national autonomy over social protection schemes (Leibfried 2005; Scharpf 1999; Schulte 2001) and made coordinated action in the field necessary<sup>4</sup>.

In the period of the mid to late 1990s the average poverty rate across the then 15 member states was 17% in 1995 and 15% in 1999. On the whole, in 1997 18% of the population or more than 60 million people were living in households whose income was below 60% of the national equalised median income. Half of this population had been living below this relative poverty threshold for three successive years (de la Porte 2005). These are the central macro, meso and micro developments which forewent the introduction of the OMC inclusion.

1999 was a decisive year for the development of the OMC and its frame, the Lisbon Strategy. At the micro level a few Commission officials continued to be very active in promoting a European anti-poverty strategy. Particularly Maria Rodrigues, at the time advisor to Portuguese Prime Minister Guterres, was active across the EU convincing the capitals of the need of increased action in the field of social policy (de la Porte 2005). At the meso level both the Commission and the European Anti-Poverty Network (EAPN) held major conferences in the first half of 1999. In the second half of 1999 Finland held the presidency of the EU and made social affairs one of its top presidency priorities. At the Labour and Social Affairs Council in November 1999 it was decided to establish a high-level working group on social protection, made up of two national delegates per member state and two officials from the Commission, in view to operationalise common action in the field of social protection and social inclusion. More pre-

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<sup>4</sup> For a detailed account of the pros and cons of a European social policy, see Büchs 2007; Offe 2003; Scharpf 1999; Schelkle and Mabbett 2007.

cisely, it should work on the four fields specified by a communication of the Commission in July 1999: to make work pay, to combat poverty and social exclusion, to render pension systems economically and socially sustainable, and to render quality health care accessible to all (CEC 1999). The informal group was officially endorsed by the Helsinki European Summit in December 1999, and the group took up its work one month later, meeting monthly.

In the first half of 2000 the Portuguese held the presidency of the EU. As its predecessor, Portugal at that time was led by a social-democratic majority and was keen on further developing the social dimension of the EU, pushing for its further legal institutionalisation. Portuguese Prime Minister Guterres, just as his advisor Rodrigues, engaged in activism across the EU in order to find consensus on a new European global strategy into which the social dimension should be integrated. The document that later on became the Lisbon strategy circulated and Guterres visited the capitals several times (de la Porte 2005; Sundholm 2001). While the substance of the strategy seems to have met relatively broad agreement, the method met more opposition, member states fearing the public exposure and competitive aspects of the OMC. Particularly strong opposition came from the German government. The Presidency, however, reached consensus by emphasizing the learning nature of the method and its openness to national adaptation (Sundholm 2001). The German resistance was broken by building EU-wide support for the second German candidate (Horst Köhler) for the Presidency of the International Monetary Fund that chancellor Schröder was very keen on<sup>5</sup>. The Commission at that point of time was politically weak, also due to its resignation in summer 1999, and not involved in the design of the Lisbon strategy and particularly the OMC: "Certain people in the Commission were involved in partly informal expert groups. But there also was a lot of surprise, in the Commission: Where does *that* come from?" (Commission official, June 2005).

It was at the Lisbon Council in March 2000 that the EU endorsed a new European global strategy, baptised the Lisbon Strategy (Rodrigues 2004). It can be seen as the peak of earlier efforts to coordinate and balance European economic and social policies. Politically, a vast majority of social-democratic led governments increasingly felt the need to compensate for economic and financial integration and pushed for social affairs to move up the European agenda. Additionally, member states perceived a need to agree on political strategies (and institutional developments) *before* Eastern enlargement. While not planned

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<sup>5</sup> Coordinator of EU-macro-policies in the German Federal Ministry of Finance (1999-2000), March 2007. More concretely, Schröder told Guterres that he would accept the Lisbon strategy if Guterres would organise EU-wide support for Köhler so that the American resistance against a second German candidate could be broken.



in the context of an intergovernmental conference, all these developments, through the activities of the Portuguese Presidency, culminated in the Lisbon Strategy, the central message of which can be found in the fifth paragraph of the Lisbon Conclusions:

“The Union has today set itself a new strategic goal for the next decade: to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion. Achieving this goal requires an overall strategy aimed at:

- preparing the transition to a knowledge-based economy and society by better policies for the information society and R&D, as well as by stepping up the process of structural reform for competitiveness and innovation and by completing the internal market;
- modernising the European social model, investing in people and combating social exclusion;
- Sustaining the healthy economic outlook and favourable growth prospects by applying an appropriate macro-economic policy mix” (Lisbon Council Conclusions, para. 5).”

The Lisbon Strategy served and serves different goals. First, it defends a new economic paradigm which is based on innovation and technological progress, the goal of which is the accelerated realisation of the internal market (Goetschy 2004). It perceives shortcomings of the labour market – long-term unemployment, too low an employment rate particularly amongst women and older workers, and under-development of the service sector – as the main sources of insufficient competitiveness and growth and sets out to adapt the European labour market to more flexibility through structural reform (Ferrera et al. 2000). It suggests the encouragement of research, the development of information technologies and the establishment of a favourable climate for innovation, inter alia by removing obstacles to the realisation of the internal market and the liberalisation of transport and energy markets, while the limit to public debts imposed by the GSP and the demographic changes were used to justify a re-calibration of social protection schemes and labour markets.

Second, by lifting social policy up to the top of the European agenda, it seeks a re-calibration of economic and social policy (Ferrera et al. 2002; Goetschy 2004). It does so by “reconciling” economic and social policies which are seen as interdependent and mutually re-enforcing: a triangle of economic growth, employment and social cohesion (Begg and Berghman 2002). Social policy is perceived as a productive factor rather than a hindrance to economic growth (Berghman et al. 2003: 26), yet with an ever narrower focus on supply-sided employment policies.

Third, it affirms the existence of a particular European Social Model while at the same time calling for its “modernisation” through the flexibilisation of labour markets and the reform of social protection systems (Goetschy 2004).

The theoretical context of reference is the concept “of an active welfare state based on employment” (Berghman et al. 2003: 15; Trubek and Trubek 2003), the main policy objectives of which are an increase of employment rates, activation of people and “making work pay” as well as (lifelong) investment of employees into their human capital (Barbier 2004b). The concept rests on the idea that “increased growth with more and better jobs should reduce social exclusion” (Mayes 2002: 195).

In view to promote these different goals while at the same time respecting the principle of subsidiarity, it was decided to introduce the OMC<sup>6</sup>. This soft governance instrument, according to the Lisbon Conclusions, has three main goals: Contributing to the convergence of member states’ performances, to the modernisation of the ESM, and to greater social cohesion (European Council 2000a; Ferrera et al. 2002; Téo 2001; Vandenbroucke 2002). Of these three goals, it is the wing “social cohesion” that is of interest for the here presented work, previously often referred to as social exclusion or anti-poverty policy:

“The number of people living below the poverty line and in social exclusion in the Union is unacceptable. Steps must be taken to make a decisive impact on the eradication of poverty by setting adequate targets to be agreed by the Council by the end of the year. (...) The new knowledge-based society offers tremendous potential for reducing social exclusion, both by creating the economic conditions for greater prosperity through higher levels of growth and employment, and by opening up new ways of participating in society. At the same time, it brings a risk of an ever-widening gap between those who have access to the new knowledge, and those who are excluded. To avoid this risk and maximise this new potential, efforts must be made to improve skills, promote wider access to knowledge and opportunity and fight unemployment: the best safeguard against social exclusion is a job. Policies for combating social exclusion should be based on an open method of coordination combining national action plans and a Commission initiative for cooperation in this field” (European Council 2000a, para. 32).

The next paragraph calls for “continued dialogue and exchanges of information and best practice, on the basis of commonly agreed indicators”, for the mainstreaming of “inclusion” policies into other policies, for the development of “priority actions addressed to specific target groups” and a regular reporting mechanism (para. 33). Three months later, at the European Council in Feira, it was decided to apply the OMC to social exclusion and poverty. The Conclusions established that the high-level working group on social protection should incite “cooperation between member states through an open method of coordination combining national action plans with a community programme to

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<sup>6</sup> “Open”, then, has been associated to the flexibility of the method which allows it to be adapted to national contexts and traditions by help of means that member states are free to choose, to openness to a variety of actors, to openness to revision at EU-level and to becoming hard law (Sundholm 2001; Téo 2001; Wincott 2001).

combat social exclusion” (European Council 2000b, para. 36), and the creation of indicators was officially encouraged.

The efforts to consolidate the process were then continued by France which held the EU Presidency in the second half of 2000, leading to the adoption of common objectives, of the reporting system and the decision to develop indicators at the Nice Council in December 2000 (European Council 2000c, para. 20; Pochet 2003). The high-level working group was baptised Social Protection Committee (SPC) and as such integrated into the Nice Treaty. The OMC inclusion was institutionalised, even though its treaty basis remained very weak – the Nice Treaty also stipulates that harmonisation of national laws in the field of social exclusion is not permitted. In March 2001 the Stockholm Council asked “the Council to improve monitoring of action in this field by agreeing on indicators for combating social exclusion by the end of the year” (European Council 2001a, para. 29). At the Laeken Council in December 2001, and under the Belgian Presidency, member states adopted 18 commonly agreed indicators, very much pushed for by the Belgian Presidency throughout 2001. The institutionalisation of the OMC inclusion at the EU had reached its preliminary peak.

Some researchers have argued that the “space which the OMC inclusion occupies is constrained by the European Employment Strategy”<sup>7</sup> (Armstrong 2003: 13) or, more broadly, found that in the context of the Lisbon Strategy social policy is subordinated to the economy and to the goal of competitiveness instead of being seen as a goal in its own right (Barbier 2002; Carmel 2003; Schäfer 2002), that social policy is used to manage “the economy, and in particular the labour market” (Carmel 2003: 14) even though they are not all as clear as Chalmers and Lodge who speak of the “colonisation of the welfare state by the economic policy-making process” (Chalmers and Lodge 2003: 13). Others interpret the Lisbon Strategy as an ideology aiming at legitimating political reform, providing roadmaps for action and legitimating certain actions while delegitimizing others, thus rendering the overall space for political action smaller (Tucker 2003: 10-12; Carmel 2003; Dehousse 2003; Ferrera et al. 2002; Maier et al. 2003). Radaelli goes towards the same direction when speaking of a “master discourse” of competitiveness embedding the social OMCs: “Today, the OMC is eminently a legitimising discourse. It provides a community of policy-makers with a common vocabulary and a legitimising project – to make Europe the most competitive knowledge society in the world” (Radaelli 2003a: 8).

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<sup>7</sup> Member states have been asked, after the first round of NAPs, to adapt the “employment” part of the NAP inclusion to the employment strategies established by the NAPs of the EES in the second round.

The idea behind the OMC is that member states have to reflect and develop their respective policies, document them and coordinate them “towards the achievement of targets defined at a European level” (Berghman et al. 2003: 12). Specifically, the following steps were intended:

- “1. Implementation of the strategic goal will be facilitated by applying a new open method of coordination as the means of spreading best practices and achieving greater convergence towards the main EU goals. This method, which is designed to help Member States to progressively developing their own policies, involves:
  - fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;
  - establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different 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 organised as mutual learning processes.
2. A fully decentralised approach will be applied in line with the principle of subsidiarity in which the Union, Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership. A method of benchmarking best practices on managing change will be devised by the European Commission networking with different providers and users, namely the social partners, companies and NGOs” (Lisbon Council Conclusions, para. 37).

These general instructions were later operationalised through concrete instruments. *Common objectives* are the starting point of an OMC inclusion cycle. At the Nice Council four common objectives (not guidelines as in the EES) were agreed upon for the social inclusion process in December 2000: 1) To facilitate participation in employment and access to resources, rights, goods, and services for all. This objective includes traces both of the British approach at social exclusion – full employment and activation – and the French but also Scandinavian rights-based approach; 2) To prevent the risks of exclusion; 3) To help the most vulnerable. This sort of targeting follows the tradition of affirmative action and stems from the Anglo-Saxon tradition while being opposite to the universal integration approach of France and the Nordic countries and 4) To mobilise all relevant bodies (Council 2001a). The vagueness of the objectives was probably the very reason for the support from member states, the Commission and NGOs (Armstrong 2003; Berghman et al. 2003: 91). The main tension that appears in these objectives is the rights-based approach of the French and Nordic tradition of social integration vs. the targeted approach of labour market integration of the Anglo-Saxon tradition, reflecting different ideological traditions (de la Porte 2007; Mabbett 2004).

The common objectives provide overall guidance for the *National Action Plans (NAPs)* which should provide the basis of intended processes of exchange

and learning. By these plans member states disclose their policy approaches in the field of poverty and social exclusion. Ideally, member states pay attention to all four objectives in a balanced way. If possible, quantitative targets should be set so that developments can be assessed over time. Annexed to the NAPs, there should be examples of so-called good practices, i.e. policy approaches or programmes which domestic actors evaluate as being successful and which therefore might be of interest for other member states. In the case of the OMC inclusion it was decided that the cycle should be biannual, implying that NAPs should be drafted every other year. The drafting of the NAPs lies with the coordinating ministry, usually the Ministry of Social Affairs, whereas overall responsibility for the NAPs lies with the respective government. As the fourth Nice objective calls for the mobilisation “of all relevant bodies”, the drafting should ideally include a broad range of actors. Since the second round of NAPs the commonly agreed indicators have also been annexed to the NAPs.

All NAPs will feed into the Council’s and the Commission’s biannual *Joint Report* (JR), drafted by the latter. In its first part there is a general appreciation of policy developments and perceived common challenges, while the second part lists so-called *country fiches*. These originally 3-4 pages long *fiches* are prepared by the geographic desk of the Commission and then discussed or even negotiated with the respective national delegations. Once a consensus has been found for the *fiches* of all member states, the JR may be adopted by both the Council and the Commission and thus reaches official status. Theoretically, the JRs are the occasion for the Commission to monitor and evaluate member states’ practices and performances and therefore they are a centre piece of the overall strategy, as they are the only publicly available document where naming and shaming could be practised and where recommendations could be made. However, member states have not accepted this sort of shaming to happen in the JRs or if they have, this did not have any further impact on their policy development.

As already mentioned, *indicators* were also developed in the context of the OMC inclusion, in particular the Belgian EU-Presidency and its advisory group around Tony Atkinson pushed this process. By December 2001 the Employment and Social Affairs Council adopted 18 commonly agreed indicators, divided into primary and secondary indicators, member states being free to add tertiary indicators where they deem it appropriate. The indicators are annexed to the NAPs. Their primary function is to measure the progress of policy outcomes in the member states. Theoretically, another function is their use for benchmarking. However, benchmarking has been rejected by member states and therefore is not implemented.

Furthermore, there was a *Community Action Programme against Social Exclusion* which ran from January 2002 to December 2006, with a budget of 75 million Euros. The aim of the programme was to support and facilitate the implementation of the OMC inclusion at both EU and member state levels. The major part of the budget was associated to the development of comparable indicators – in the context of the EU-Statistics on Income and Living Conditions (EU-SILC), a second part of the budget from 2004 onwards was used for peer reviews, and a third in order to support networks such as EAPN and the dissemination of results, i.e. by way of yearly roundtables with central actors. The Commission was responsible for the implementation of the programme. However, it was overseen and supported by the Social Exclusion Programme Committee, made up of national delegates, and could only act upon its consultation and with its approval. As just mentioned, the Action Programme was used to organise and finance a *peer review programme*, the main aim of which is to encourage and support mutual learning processes. The overall goals of the peer reviews are 1) To contribute to a better understanding of member states' policies, 2) To facilitate the transfer of policies and institutional arrangements and 3) To improve the effectiveness of policies both at domestic and EU levels by contributing to learning processes (CEC 2005a: 3). Every year there are 6-8 PRs, the topics of which as well as the participating countries are selected by the European Commission in close cooperation with the member states (see chapter 5.3). After 2006 the programme has been financed by the follow-up PROGRESS programme<sup>8</sup>.

### *The actors*

*Member states* are the most powerful actors with regard to the OMC inclusion, both at the national and the EU-level. They draft the NAPs, adopt or veto the Joint Reports, decide on and provide the indicators (or not), decide about progress, stagnation or even the abandonment of this OMC. They decide how much consultation they will organise and which external inputs they will incorporate into the drafting of the NAPs and the implementation of policies. They also decide whether the NAPs should undergo parliamentary scrutiny before being sent to the Commission. It is left to their choice if sub-national public authorities participate in the process. The same holds true for private actors, the social partners and NGOs. At EU-level the OMC inclusion is institutionally led by the Council of Ministers of Social Affairs which has the final say when deciding

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<sup>8</sup> Stands for Community Programme for Employment and Social Solidarity.

about developments and changes of the OMC inclusion. The delegates of the member states are also the central drivers of the two committees which work on the regular development of the OMC inclusion: The Social Protection Committee (SPC) and its Indicator Sub-Group (ISG).

Before being called *SPC*, for about one year this group existed as the High-Level Group on Social Protection. The Council in Feira officially established the SPC (Council 2000), while the Nice Council in December 2000 included the SPC into the Treaty (article 144). The Feira Council mandated the SPC to focus on the following fields: “To make work pay and provide secure income, to make pensions safe and pension systems sustainable, to promote social inclusion and to ensure high quality and sustainable health care” (Council 2000, art. 4). The SPC has an advisory status, prepares reports and formulates opinions at the demand of the Council, the Commission or on its own initiative and acts as a liaison mechanism between the Council and the Commission (Armstrong 2003; Borrás and Jacobsson 2004). It consists of two senior representatives per member state “who are charged with preparing the business for the Council of Ministers of Social Affairs” (Atkinson et al. 2002: 5; Ahonen 2001: 8). The SPC elects a chairperson who holds office for a two years, non-renewable period. The chairperson is supported by an office consisting of the Commission, two elected vice-presidents and two further vice-presidents, one representing the country currently holding the presidency of the Council and another the succeeding presidency. The committee's secretariat is provided by the Commission. Meetings take place 8-10 times a year. With regard to the participation of different actors, article 144 states that the committee should establish “appropriate” contacts with social partners. There is no official role for civil society organisations in the SPC (see Council 2000). Its *Indicator Sub-Group* (ISG) was established at the Nice Council in December 2000, with the mandate to develop indicators. The ISG functions according to the same rules and procedures as the SPC. However, and to the difference of the SPC, the ISG is a direct result of the OMC process. As the SPC, the ISG does not meet openly. Periodically representatives from other backgrounds, such as the OECD, academia or NGOs, are invited to a particular topic.

The *European Commission* has a coordinating and monitoring role, acting “primarily as a facilitator for exchanges” (de la Porte 2002: 40), identifying so-called good practices and promoting their acceptance (Atkinson et al. 2002: 6). It studies and analyses the NAPs, it discusses the *country fiches* with national delegations before drafting the Joint Report, provides the secretariat in both the SPC and the ISG, through which it has a privileged role as far as information gathering, possibilities of agenda-setting and steering are concerned, and implements the Community Action Programme.

The role of *national parliaments* for EU anti-poverty policy has been weak (Duina and Oliver 2004; Duina and Raunio 2007; Leibfried 2005; Scharpf 1999). In the framework of the OMC, national parliaments did not play a significant role. Their consultation and involvement depended on government decision, and most chose not to consult, while some consulted the respective parliament or the respective social policy committee after the NAP had been adopted by the cabinet and been sent to Brussels, as was repeatedly the case in Germany. No official role is intended for the European Parliament (EP). The *ECJ*, while being an important actor for the development of European social policy through its case law, is not involved in the implementation or development of the OMC inclusion (Borrás and Jacobsson 2004), due to the latter's non-binding and political nature.

Finally there are *non-state actors*, namely the social partners, private welfare organisations and other social NGOs. In EU politics they often do not enjoy participation rights. Therefore, if they are able or not to influence policy development depends mostly on the good will of the legally involved parties. In the context of the OMC inclusion they have no formal participation rights.

To summarize it briefly: When the OMC inclusion was introduced with the Lisbon strategy in March 2000, some perceived it as a means of supporting positive integration, for others it was a means of "modernising" welfare states in the sense of making labour markets more competitive. Either way, the assumed goal was to be reached through mutual learning processes, and one of the aims of this study is to evaluate whether the OMC inclusion was supportive of such processes. The other goal of the OMC was to contribute to increased legitimacy of the EU via increased participation of all relevant bodies, and the contribution of the OMC inclusion to this goal will be evaluated as well. How this will be done will be laid out in the third chapter. Before, however, relevant existing literature will be reviewed.



## 2 State of the art

Some researchers think that EU social policy is hardly developed, they criticise the absence of a social policy and respective entitlements comparable to those in national environments and posit that EU market regulation undermines domestic social regulation (Offe 1998; Scharpf 1999). Decreased competences of national welfare states should be met with increased competences at EU-level (Kowalsky 1999; Schmid 2002). Besides socio-economic and judicial reasons given for a stronger integration, there are quite a few who also introduce political and legitimacy-related arguments. Along these lines, questions of effectiveness and legitimacy are interrelated and can only be solved together, while the acceptance of the EU can only be secured through a “social EU”. Differences exist, however, about the preconditions to be met in order to develop a stronger EU social policy (Offe and Preuß 2006; Scharpf 2007).

Others posit that today despite the lack of a coherent approach to social policy there exists today a European social policy. Here, some would insist rather on market-creating social policy developed by the Court (Leibfried 2005), some would focus on more recent governance procedures and their assumed effects on domestic policies (Zeitlin et al. 2005), while still others would point to the institutionalisation of social policy at EU-level over time (Pierson 1996; de la Porte 2005).

A third group does not think that more positive EU social policy is necessary and desirable. Here one can find intergovernmentalists such as Moravcsik and Majone. According to Majone, the EU can be seen as a “regulatory state” (Majone 1996) in which regulatory policies are at the centre. Others think that the typical features of established (continental) welfare states can only be secured if social policy remains a national prerogative, as the EU-level would be too dominated by the logic of competitiveness (Streeck 1995). Finally, there is a branch of literature that analyses in how far the EU can provide a social space that goes beyond social policy and more broadly focuses on social identities and norms. Here, social policy is part of a broader political project (Fehér 2007; Habermas 2003).

In the context of social integration it is widely acknowledged that economic and social integration progressed in an unbalanced way (Scharpf 1996). Different contributions have shown the capacity of member states governments

to restrict the ambitions of the Commission to develop a social policy that would resemble national ones (Briechle 2007; Kröger 2007a, 2007b; Streeck 1995; Wendler 2007). A second range of authors, recurring to rational choice institutionalism, addressed the strategic behaviour of the Commission which allowed her to unfold influence beyond its legal competences through problem-definition, agenda-setting, broker qualities or strategic coalition-building (Lamping 2007; Pollack 1997), be it as a purposeful opportunist (Cram 1993, 2001), a policy entrepreneur (Möllmann 2007; Wendon 1998), or an agent that influences discourses and can thereby become an agenda-setter (Bauer 2002). However, these sometimes over duly optimistic interpretations compete with more reserved evaluations (Wendler 2007; Nilssen 2006). A third stream, finally, in line with historical institutionalism, points to the incremental development of a European anti-poverty strategy, arguing that the Commission has developed influence beyond its formal competences (de la Porte 2005; Daly 2006b).

As this work is written in an integrationist perspective – can an effective and legitimate European anti-poverty policy be developed? – this chapter will review the relevant European integration theories before addressing more in particular the concepts that have been used with regard to the analysis of the OMC. Traditional European integration theory can be divided into two competing camps. While intergovernmentalism sees European integration as the result of the minimum consensus found amongst member states and interprets European integration as the result of cooperation in the face of unsatisfying individual (economic) performances of member states, (neo-) functional theory attracts the attention to functional, political and cultivated spill-overs, often beyond the initial control of member states and with other decisive actors, namely European ones or influential domestic non-state actors, interpreting European integration as a gradual process towards the realisation of a political community.

According to intergovernmentalism<sup>9</sup>, European integration and its “strong supra-national institutions” (Moravcsik 1993: 507) are the products of the interests of the (most important) member states and their governments which recognise the benefits of long-term cooperation in the face of economic interdependence. Liberal intergovernmentalism combines national preference formation with a bargaining theory of international negotiations and a functional theory of institutional choice. Actors are rational and have fixed and exogenous preferences. International cooperation is a way of seeking mutual benefits in the face of negative external effects of unilateral actions, and delegation binds all parties to negotiation outcomes. Member states are the main actors in decision-making, attempting to secure national sovereignty, implying that the integration

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<sup>9</sup> For an overview of the different intergovernmentalist branches of European integration theory see Schimmelfennig 2004.

process evolves around the smallest common denominator. Rules and institutions exist to stabilize expectations, reduce transaction costs, increase transparency, provide and / or facilitate monitoring, provide for sanctioning mechanisms and settle disputes (Moravcsik 1998). National preferences – which are dominated by economic interests – are first aggregated at the domestic level, taking into account the different interests of different actors. However, these different actors and interests are assumed to not play an important role beyond the nation-state, once member states start to negotiate at the supranational level. In the second stage, agreements reflect the relative power of each member state, whereas the supranational institutions have little or no influence on the outcomes. Finally, member states opt in favour of “strong supranational institutions” (Moravcsik 1993: 507) because they recognise the benefits of long-term cooperation in the face of economic interdependence. Supranational institutions are set up in order to overcome problems of collective action and to ensure the efficiency of cooperation. The Commission is seen as an actor providing any information necessary for decision-making, as a neutral monitor and arbiter whose capabilities of shaping public policy are quasi inexistent (Moravcsik 1993; Majone 2001). What may look like Commission autonomy is in fact hidden obedience in the face of anticipated sanctions (Moravcsik 1993). From this perspective, European integration strengthens the nation state in two ways. First, it increases the problem-solving capacity and legitimacy of central governments by providing effective common problem-solving mechanisms. Second, since inter-governmental decision-making rules prevail at EU level, national governments control the distribution of additional resources and decision-making competencies (Hoffmann 1966; Moravcsik 1993). Soft governance, from this perspective, is mere symbolic politics (Moravcsik and Nicolaidis 1999: 62) in order to avoid a complete deadlock.

In contrast, neofunctionalism as developed by Haas was teleological insofar as it assumed a development from economic integration via integration in bordering policy areas and a political integration towards a supranational community (Haas 1958; Schmitter 1969). The teleological development is brought about through different kinds of spill-over. Spill-over can either be functional (with integrated policies pressuring neighbouring ones due to interdependence), political or cultivated. Two assumptions are central to neofunctionalism. First, politics are a group-based activity and are pursued and influenced by a variety of actors and in a plural environment. While member states are important, they do not decide on their own over the direction and the extent of integration; supranational institutions and other supranational and national actors are accorded an important place. Second, agency is important. Political spill-over is a product of pressure on governments both by supranational actors such as the Commis-

on and / or sub- or supranational actors such as particular interest groups for which the European institutions provide opportunities to influence the policy process and bypass national politics or increase domestic pressure through lobbying EU institutions (Marks 1993; Stone Sweet and Sandholz 1998). In the end, policies end up being integrated which originally were not intended for integration by national governments (Schmitter 2004). Cultivated spill-over happens when actors deliberately decide to fuse into a political community. If they are able to defend their interests depends on their strength and strategies. The model thus suggests that the process of European integration slowly but surely erodes the nation-state. In this model, member states are considered important actors, but they are not in total control of the development of integration which is essentially influenced by the supranational institutions. Variants of neofunctional theory such as policy entrepreneurship approaches are even more sceptical towards the principal's possibilities to control the agent and stress the 'broker' qualities of the Commission in the initial phase of transnational policy projects (Bauer 2002; Schmidt 2000). Related concepts of purposeful opportunism claim that the Commission's bureaucratic skills are evidence of its independence (Cram 1993). From this perspective, the Commission is not a neutral body but often acts as a partisan, favouring certain policies over others or "more Europe rather than less" (Kassim and Menon 2002: 8).

Besides these two grand theories, different kinds of institutionalism have emerged since the early 1990s, the common denominator of which is that institutions matter (Hall and Taylor 1996; Thelen and Steinmo 1992)<sup>10</sup>. A first variant is *rational choice institutionalism* which shares central assumptions with liberal intergovernmentalism and focuses on intentional, strategic interaction of rational, goal-oriented actors. It follows intergovernmentalism in its assumption of rational actors which pursue stable interests and preferences and which cooperate in order to reduce transaction costs. Institutions shape actors' behaviour in setting rules that all have to comply with and which therefore serve as an instance of predictability and stability. They emerge as a result of purposeful action of political actors that seek to maximize their expected utilities over political outcomes and matter in two ways. First, they provide rules for interaction, information about actors' (current and probable) behaviour, reduce uncertainty, increase predictability and stability, provide enforcement mechanisms and thereby solve collective action problems (North 1984). Second – depending on the author – they influence or determine the result of interaction by shaping actors' orientations. With regard to the EU, its institutions offer new political opportunity structures that change existing power constellations in the member

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<sup>10</sup> For an overview of the different kinds of institutionalism in European integration theory, see Pollack 2004.

states. However, there are competing interpretations whether this change leads to the strengthening, weakening or transformation of the state.

Since the mid-1990s increasing attention has been paid to delegation, agency and agenda-setting, most importantly in the context of the *principal-agent model* (PAM) which seeks to combine the ultimate primacy of member states with empirical observations of Commission agency (Princen 2005; Smyrl 1998). Pollack has been the central defendant of the PAM, exploring the conditions under which supranational institutions are credited with authority and can autonomously influence member states (Pollack 1997; Schmidt 2000). The two main questions of the PAM are: Why do member states delegate power to supranational institutions and what happens with this power once it has been delegated? The answer to the first question comes very close to intergovernmentalism, as the rationale for delegation is seen in overcoming problems of collective action, monitoring compliance, lowering transaction costs, providing expert and credible regulation and assuring a certain degree of policy stability and predictability of other actors' behaviour (Pollack 2004), but also to shift the blame for unpopular policies to a non-elected power, to displace responsibility away from the domestic area so as to increase chances of re-election (Kassim and Menon 2002). In contrast to Moravcsik, however, and with regard to the second question, Pollack claims that the principals can never fully control agents and that the latter will exploit this situation to advance integration. He assumes that the agent is in a position to accumulate and exploit information asymmetries. The most important factors in order to do so are differences in the preferences of the member states, the institutional rules of decision-making, the amount of information and knowledge of the member states and of the Commission and the possibility of coalitions between the Commission and non-state actors in the member states (Pollack 1997). One of the main advantages of the PAM is that it does not systematically privilege one institution or actor over the other, even though it is biased towards intergovernmentalism.

*Historical institutionalism*, second, addresses institutions from a long-term perspective and analyses their embeddedness in particular historical, social and political environments, as these shape actors' preferences (Green-Pedersen and Haverland 2002). It attracts attention to the issue of path dependency and historical embeddedness of political processes<sup>11</sup> and emphasizes that actors cannot control, in the longer run, the institutional development of the EU, as institutions take on a life of their own. Governments may stick to the first choice, due to uncertainty about other choices, due to the bindingness of international treaties or because of their political short-sightedness, thereby creating path dependen-

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<sup>11</sup> For a review of the literature and in particular the German case, see Lessenich 2003.

cy. Historical institutionalism seeks to bridge the gap between rational choice institutionalism and sociological institutionalism by connecting agency and structure, constructivism and rational choice (Beyeler 2003; Börzel and Risse 2003: 66; Thelen and Steinmo 1992: 2). There is a macro-sociological stream of historical institutionalism with a comparative perspective (Immergut 1998; Thelen 1999) where contextuality and contingency are stressed. Here, institutions shape actors' behaviour and influence their relations, the political opportunity structure, actors' perceptions of their interests and available strategies (Hall 1986). Another strand draws more on rational choice, dealing with the imperfections in political markets by lowering transaction costs (North 1990).

With regard to the EU, historical institutionalism is considered in two ways. The first strand addresses the evolution of EU sectoral policies that contradict initial preferences of member states. This is done in order to show how the European institutions produce path dependencies and what consequences these path dependencies may have (Pierson 1996). From this perspective, the supranational organs are "not simply instruments in the hands of the member states, rather, they develop (...) autonomous activities" (Leibfried and Pierson 1998: 425, translation SK) which may significantly differ from the interests of their founders (Pierson 1996: 127; Cram 2001; Pollack 1997; Schmidt 2000). While starting out from intergovernmental grounds, historical institutionalists show that member states are constrained by the institutional setting of the EU.

The second strand addresses the impact of EU policies on domestic institutions. This literature concentrates on the interplay between domestic institutions, actors and policies, their European "counterparts" and the way both influence each other and contribute to the emergence of new formal and informal institutions, administrative structures, decision-making procedures, norms and practices (Ladrech 1994). This literature is also known as Europeanisation literature (see below). Its central assumption is that European institutions interact with domestic institutions and influence the latter in one way or another, depending on the domestic point of (institutional) departure.

Finally, *sociological institutionalism* challenges the fundamental assumptions of rational choice institutionalists regarding the role of institutions and the formation of preferences of actors. Here, institutions include not only formal organisations and administrative structures but also informal rules, procedures, arrangements, practices and ideas (Hall 1986). Institutions do not only constrain and/or enable specific choices of actors, they also shape choices and preferences (March and Olsen 1989; Olsen and Peters 1996; Powell and DiMaggio 1991). Centrally, sociological institutionalism posits that actors' preferences are not fixed or exogenous. Instead, preference formation is seen as a dynamic and ongoing process shaped by institutions, actors and their environment (Berger

and Luckmann 1993). Social context, the role of ideas and knowledge, the role of collective ways of understanding interaction and society and a “logic of appropriateness” (March and Olsen 1984: 741) are given large room. This does not preclude that the interaction between actors and institutions is rational, rather it suggests that rationality is socially constructed. Increased socialization, then, is likely to bring about common ways of understanding and shared values between actors. This enables actors that face similar problems to search for common solutions by experimenting and/or imitating models that have proven to be successful elsewhere (March and Olsen 1989; Rose 1991). The central idea is that of socialization. Actors internalise rules and ideas in the course of socialisation and learning processes in which interests and identities are permanently re-defined (Börzel and Risse 2003: 66), particularly through the intervention of “norm entrepreneurs” (Börzel and Risse 2003: 67). They are not utility optimizers but want to satisfy their environment and therewith increase their own legitimacy, and their behaviour thus depends on their interpretation of a situation. The established actors may therefore not always be the most effective.

### *The Europeanisation literature*

There has been a shift, in the 1990s, in European integration theory, from the analysis of how and why member states transfer competences to the EU (or not) to the analysis of the impact this integration had on member states. This shift in focus mirrors political developments that had taken place. Until the late 1980s the principle of ever more integration and harmonisation was hardly questioned. The integration process was strongly elite-driven and largely ignored by the broader media and public. The fall of the Iron Curtain freed Europe from the Cold War system opposition, opening the doors for debates about the presence and the future of the EU. Secondly, the intergovernmental conference preparing the Maastricht Treaty (1991-1992) with its project of a monetary union entrenched the largest public (self-centred) debate thus far seen in the EU. The dominance of economic integration over social integration was increasingly perceived and not always welcome, as mirrored in the vote of the French citizens in their referendum about the Maastricht Treaty. In the same period, right-wing extremist parties started to be increasingly successful in regional and national elections, generally strongly appealing to anti-European resentments. In this broader context – reflected also in the institutionalisation of the principle of subsidiarity in the Maastricht Treaty – research started to turn to the effects that European integration had so far had on member states’ policies, politics and politics. The respective literature is widely known as Europeanisation literature.

Europeanisation has been understood in a number of ways, such as the sharing of power between national governments and the EU (Andersen and Eliassen 1993), de jure transfer of sovereignty to the EU level (Lawton 1999), a process by which domestic policy areas increasingly become subject to European policy-making (Börzel 1999), the extension of the boundaries of the political space beyond member states (Kohler-Koch 1999) or the emergence and development at the European level of distinct structures that formalize interactions among actors, and of policy networks specializing in the creation of authoritative European rules (Risse et al. 2001).

In its early stage, the term Europeanisation denoted the transfer of competences, institutions and ideas from the domestic to the European level<sup>12</sup>. The goal was to explain the transfer of competences to the EU-level or, more broadly, the creation of specifically European institutions and structures, thereby adopting a 'bottom-up' perspective (Börzel and Risse 2000; Cowles et al. 2001; Featherstone and Radaelli 2003; Héri-tier 2001; Ladrech 1994; Radaelli 2000). However, the terminological distinction from European integration remained unclear.

In a second stage, Europeanisation denoted the impact European integration had on the member states' policies, processes, and institutions: How does European integration affect domestic policies, politics, and polities? (Börzel and Risse 2003; Caporaso and Jupille 1999). Now Europeanisation is seen as a "process by which domestic policy areas become increasingly subject to European policy-making" (Börzel 1999: 574)<sup>13</sup>. Radaelli notes that Europeanisation refers to processes

"of (a) construction, (b) diffusion, and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies" (Radaelli 2003b: 30),

stressing processes through which EU dynamics and developments become "incorporated in the logic of domestic discourse, identities, political structures and public policies" (Radaelli 2000: 4, 2003b; Cowles et al. 2001).

A third perspective seeks to establish the double-sidedness of the process. Member states depart from a given point which is later on likely to influence the degree and sort of influence integration has at the domestic level:

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<sup>12</sup> For an overview over the different generations of Europeanisation literature, see Bache 2003.

<sup>13</sup> Later, Börzel acknowledged the doubled-side nature of the process, with member states first transferring competencies to the EU which then in turn influence on their own policies and practices (Börzel 2001).



„We can only estimate the practical effect of any EU policy if we know where the member states started their process of adaptation. In other words, establishing in a detailed manner both the status quo ante in the member states and the demands embedded in any European Directive is crucial“ (Falkner 2003: 3; Citi and Rhodes 2006; Zeitlin 2005).

Today the mainstream of Europeanisation research asks to which *extent* and *how* policies and politics are Europeanised and what *nature* Europeanisation takes on. *Extent* refers to the degree of compliance with EU law and procedures. Several authors have shown that the transfer and implementation of the latter vary significantly (Falkner et al. 2005). A concept increasingly used in order to explain to which extent Europeanisation occurs is that of “fit” and “misfit” (Börzel and Risse 2000; Cowles et al. 2001). The concept focuses on the idea of adaptational pressure, assuming that Europeanisation is most likely to occur if there is a significant, yet not tremendous degree of “misfit”. If there is a “fit”, there is no need for adaptation. In the case of total “misfit” the European pressure for adaptation is not strong enough and does not lead to adaptational pressure (Börzel and Risse 2003). *How* Europeanisation impacts on member states has been addressed in terms of rational choice and sociological institutionalism, as laid out above. Defenders of rational choice insituttionalism emphasise new political opportunity structures for rational, goal-oriented actors to pursue their interests. Defenders of sociological institutionalism concentrate on processes of persuasion through collective learning processes by which new norms are internalised. Both approaches, however, must not be mutually exclu-sive (Börzel and Risse 2003). The *nature* of Europeanisation processes has been discussed as being characterised by inertia, absorption, transformation and retrenchment (Guillén and Clifton 2004). Inertia refers to the absence of change, absorption denotes adaptation without significant changes both in domestic institutions and in discourse, transformation means the fundamental change of behaviour, institutions, policies or processes in order to meet EU law, requirements and / or policies, and retrenchment means that national policies, in reaction to EU pressure, become less “European” because resistance against EU pressure is initiated. So far, the concept of Europeanisation has almost exclusively been associated to hard law processes. It remains unclear whether the concept can usefully be applied to soft governance processes.

## 2.1 The governance literature

Even more so than the Europeanisation literature, the governance literature has been a “veritable growth industry” (Kohler-Koch and Rittberger 2006: 27; Comella 2006). Once more, it is important to see this rise in a larger context, name-

ly the fall of the Iron Curtain, bringing about – at least at the surface – less attention to ideologies and more attention to procedures and effective policy-making; a perceived loss of political state authority and financial capacity, and the perceived possibility to fill in the gap through more decentralised steering mechanisms; the turn from a drive towards harmonisation in the EU towards looser coordination; and the continued increase of forms of benchmarking and peer pressure in both the economy and politics.

Schneider has argued that conceptual vagueness is at the origin of successful terms (Schneider 2004: 25), an evaluation shared by Comella who notes that the concept is used for too many different purposes:

“The more ground it claims, the more it has to stretch to accommodate within it the multifaceted institutional arrangements and decision-making procedures that populate the Union. Inevitably, the language is vague and the guidance to interpret specific situations and set them against other possible conceptual frameworks scarce. The model cannot be proven wrong by virtue of the amplitude and malleability of its terms, but it cannot be proved right either” (Comella 2006: 24).

The discussion of governance can either relate to empirical observations of the changes in state-society relations. The perception is that these have moved from hierarchical to more vertical relationships in overlapping political arenas (Hooghe 1996; Marks et al. 1996). In an increasingly complex world traditional state government is deemed insufficient to cope with complexity. Less hierarchy is observed, a greater mix of public and private actors (or only private actors), mutual interdependency and mutual influence, steering through self-regulation and within networks (Jachtenfuchs 2001, 2005; Joerges and Neyer 1997; Joerges et al. 2001; Kohler-Koch 1998; Trubek and Trubek 2005). The state, it is assumed, can “no longer assume a monopoly of either expertise or of the resources necessary to govern” (Newman 2003: 3). Or it refers to the conceptualisation of coordination processes within and across political system(s), stretching beneath and above the nation-state. Kohler-Koch and Rittberger added a third dimension where governance is associated with the benchmark of “good governance”, a normative notion that has particularly attracted scholars since the Commission’s White Paper on European governance (CEC 2001b) which stimulated the academic – much less so the political – debate at the time.

Within the EU the concept of governance started to attract increasing attention since the early 1990s. The EU has been described as a system of “multi-level governance” (Marks et al. 1996), pointing to the atypical structure of the EU, ongoing interaction, interdependency and negotiation between different levels of policy-making (local, regional, national, supranational) where power is contested and not hierarchically distributed but permanently reorganised. From

another perspective the EU is characterised as “network governance” (Kohler-Koch 1999; Börzel 1997). Policy networks vary according to membership, constellation of interests, degree of horizontal and vertical interdependence, stability and continuity as well as the distribution of resources among the various participants. Their functioning is restricted by various factors, such as institutional rules, organisational structures, informal routines, and the mere structure of the network. Member states retain a good amount of their control, and decisions are still taken hierarchically, but they cannot do their business as they used to – in relative isolation. Members of the same network are woven into a common frame, sharing ideas and concepts which can subsequently shape policy development and implementation in other institutional arenas than the original ones. Europeanisation may happen through the dissemination and interaction within and between networks (Kohler-Koch 1998, 2001). The emerging Euro-polity leads to a transformation of hierarchical mechanisms of coordination to non-hierarchical, to horizontal patterns of interactions between public and private actors at different levels of government. From this perspective new forms of corporate governance that emerge at the EU level transform key principles upon which national states are based, such as sovereignty, statehood and territoriality (Héritier et al. 1994; Jachtenfuchs 1995; Kohler-Koch and Jachtenfuchs 2003).

A literature stream that has wrongly been less present than the governance and the OMC literature is the literature dealing with the democratic legitimacy of the EU. Legitimacy can be understood as a generalized degree of trust of the addressees of political decisions in the political system (Offe 1998). It focuses on ‘government by the people’, implying that political choices and procedures can be considered legitimate if and because they can be derived from the authentic preferences of the constituents (Scharpf 1999). The legitimacy debate in the EU has mainly assumed that the EU would become (more) legitimate if it were transformed into a classic (national) democratic model, most often referred to as the parliamentary model (Smismans 2004). However, in the context of the governance debate it has increasingly been claimed that legitimacy in the EU cannot simply be equalled with traditional parliamentary democracy. Here, particularly the issues of participation, deliberation, transparency and openness have been stressed (Kohler-Koch and Rittberger 2007). The debate between these – and more – camps struggles with different issues.

First, the debate is still rather new and terminological and conceptual clarity are often simply missing (Eriksen and Fossum 2007; Follesdal 2004; Hix 1998). Second and more profoundly, this debate brings together two highly controversial debates which if taken separately are already far from being settled, together they form an “explosive” mixture: the debate about norms and

forms of democracy and democratic legitimacy, and the debate about the nature (and the *finalité*) of the political system of the EU. The latter, amongst many other terms, has been qualified as a “regulatory state” (Majone 1996), a “objet politique non-identifié” (Schmitter 2000), a “polity in formation” (Schmitter 2007) or as a “mixed polity” which has yet to reach its final stage (Wessels 1996). The former debate relates to different ways of perceiving the essence of democracy. It is thus disputed whether democracy is an all-embracing concept or whether it should be limited to procedural, institutionalised rule-giving. Are legitimacy and effectiveness equally important? Is a strong demos needed in order to constitute a political system and what makes for the constitution of such a demos (Kohler-Koch and Rittberger 2007)? Does a democracy have to guarantee certain social rights? Democracy can be addressed from many different angles, all of which include a normative judgement on democracy, on what it is and what it should be (Beetham 1991; Lord 2007; Scharpf 2007). With regard to the EU, conceptualisation is particularly difficult, as additional questions must be addressed: Should the EU be a democracy at all? Does the EU need a proper democratic theory at all? Does it need its own legitimation and if so, how would it get one? From the member states, from the EU institutions, from a common political identity? On the ground of which normative yardsticks? Would this not be an absurdity given that it does not have a demos? There are no definite, commonly accepted answers to these questions.

There is a cleavage between those who perceive of the EU as an international organisation and those who (rather) see it as a federal system. For the former, the democratic deficit is merely an optical illusion, and the EU is not in need of its own legitimacy. The institutional checks and balances that the EU offers are perceived as being at least as thick as in member states, while main policies continue to depend upon the agreement of democratically accountable national governments and therewith domestic checks and balances. Civic participation and accountability are, and should remain, primarily national institutions and practices (Moravcsik 2002). Moravcsik refuses idealistic standards which one would not find realised in any of the member states. The EU, in his view, is not in need of stronger democratic legitimation as it derives its legitimacy from the legitimacy of its democratically elected members (Moravcsik 1993). From another perspective, Majone defends the idea that the EU is an economic and a regulatory community, the efficiency of which would be undermined or at least jeopardized by the involvement of other actors than the respective experts and increased politicisation (Majone 1996, 2002). Other perspectives tend to agree that the EU is in need of its own democratic legitimacy, either because individuals should be able to see themselves as – and actually be – the authors of law (Habermas 1998) or because the EU makes

laws that affect the allocation of life chances and political values (Lord 2007; Scharpf 2007). However, they come to different conclusions regarding the way in which this could be achieved.

From a first perspective it has been argued that the legitimacy of the EU could in certain cases be provided for by its output only (Scharpf 1996) and that in the EU “the democracy account is overdrawn for the sake of efficiency” (Wessels 1996: 58). From this perspective the legitimacy of the EU would be harmed if the EU could not be said to perform effectively. This perspective is not pursued any further, as both effectiveness and legitimacy are evaluated in the present work.

From a second perspective, conceptions of liberal democracy construct their model(s) around equal citizens and the idea of democratic control of elected representatives by the people, assured by institutionalised procedures and rights, judicial review, checks and balances and the separation of powers (Dahl 1999a; Held 1995). They assume that legitimacy is strongly related to the legality of parliamentary and governmental action which should protect the rights and liberties of the citizens. Legitimacy is additionally linked to transparency, a precondition for accountability and public debate. Parliamentary action can (or should, depending on the model) finally be anchored in previous societal consultation processes which are ultimately articulated in the parliamentary decision-making process. Participation is functional, as a means to control or limit power and ensure popular sovereignty. The increasing influence of experts is seen with scepticism or refusal, as it endangers the political equality of citizens, rendering some more equal than others and thereby challenging the notion of political rights of equal citizens in democracies (Kohler-Koch and Rittberger 2006).

With regard to the EU, this perspective mostly concentrates on EU institutions (Bohman 2007; Eriksen and Fossum 2007). The perceived democratic deficit should be addressed through major constitutional changes. Securing European democracy via strong institutions is perceived as the best way of domestically securing democracy. The focus has particularly been on the EP which would not have sufficient influence<sup>14</sup>. But other issues are targeted as well: the decision-making process within the Council which would act beyond public control, its qualified majority voting which can outvote democratically elected governments, the Commission which would have too strong powers given that it is an unelected actor, or the Court which would have expanded its competences

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<sup>14</sup> For others it is part of the problem, as participation in European elections has traditionally been low and not about European issues and as the proportions of the MEPs do not correspond to the size of the European nations. From this perspective there are structural limitations to the scale of representative democracy (Dahl 1999a).

beyond its original mandate. Often, from this perspective, the EP and a reformed Council would be at the centre of the institutional system while the Commission would become an accountable cabinet preparing and implementing EU laws. In this model European democracy and its norms and institutions should reproduce the logic of national institutions at EU-level (Hix 1998; Hix and Follesdal 2005; Magnette 2003) which inevitably leads to a comparative evaluation (Scharpf 2007: 5), asking whether the EU lives up to the standards once developed in the context of nation-state democracies.

From a third perspective, the perceived democratic deficit of the EU should primarily be compensated by additional instruments to those provided for by parliamentary democracy both at EU and member state levels. Different territorial and political units may have their own legitimacy, and the norms for different units of legitimacy need not be the same. Other ways of producing and justifying legitimacy are identified (Scharpf 2007; Schmitter 2007). Suggesting that it is the interaction between the different units of the multi-level system that justifies the process of European integration, Schmitter sees deliberative governance practices as those which are most likely to bring about incremental improvement for European democracy (see also Eriksen and Fossum 2007; Magnette 2003; Magnette et al. 2003; Weiler 1999). The important point here is that according to this perspective democracy needs to follow different paths at the European level than at member state level, and the overall direction of this path seems to be that of deliberative democracy as a complement to other forms of democracy (Magnette 2003).

The deliberative approach is strongly influenced by social constructivism which holds that a) institutions and social actors mutually influence and constitute each other and that b) actors follow a “logic of appropriateness”, implying that they do not primarily seek to maximise and optimise their benefits in interaction but instead act according to those prevailing and internalised norms that constitute their social environment (Berger and Luckmann 1993; Risse 2000, 2004). Here, actors search for solutions profitable to all, securing that minorities are not overruled (Héritier 2003).

The concept of directly deliberative polyarchy (DDP), as proposed by Cohen and Sabel a decade ago, has been particularly influential in the governance and OMC literature. Stemming from the context of American federalism, DDP is sceptical both towards the interventionist state and its capacity to adapt to quickly changing environments as well as towards a neo-liberal laissez-faire state. Variety and complexity are seen as main structural features, as is the continuous need to adapt to changing environments and to collaborate with others. Political steering is seen to be better achieved through ongoing local and cross-sectoral learning processes amongst concerned actors than through centralized,

hierarchical regulation. Individuals treat each other as free and equal and decisions are reached through a deliberative process in which participants exchange and justify their arguments in the light of the common good. In the course of the learning processes, in which experimentation has a prominent role and which is monitored through the state, preferences can be altered as participants become convinced of other arguments than their own. DDP is thus clearly rooted in constructivist theory, claiming that actors must cooperate in order to construct shared social meaning and come to policy solutions accepted by all. These solutions will then be centrally pooled and diffused so that poor performers are exposed to public criticism:

“Ideally, then, directly-deliberative polyarchy combines the advantages of local learning and self-knowledge with the advantages and discipline of wider social learning and heightened political accountability that result when the outcomes of many current experiments are pooled to permit public scrutiny of the effectiveness of strategies and leaders” (Sabel and Cohen 1997: 313-314).

The state’s main task is to support and foster learning processes among the different local units by gathering and disseminating information, by distributing resources and by contributing to peer pressure through the identification of good and bad performers, thereby supporting a benchmarking process. The state also provides the necessary institutional safeguards in order to secure that the equality of citizens is respected.

Deliberative democracy calls for a general shift in responsibilities and competences away from the state and towards civil society (Eriksen 2001). It attracts more attention at the political participation of citizens than liberal democracy. Participation and public deliberation are intrinsic goals, through which a public sphere and commonly acceptable norms are permanently re-created, thereby finding solutions to conflicts that inevitably arise in pluralist societies (Gutmann 1993; Habermas 1998). The public sphere is central insofar as it provides the arena where actors can share their views and opinions as free and equal. Subsequently formulated opinions feed into the political process and can thereby influence politics and policy development. While defenders of this approach usually perceive a democratic deficit in the EU, they do not call for stronger institutions and control mechanisms in order to alleviate it, but stipulate that particularly governance processes, organised as bottom-up learning processes, could and do contribute to the alleviation of the democratic deficit.

Another deliberative theory which has influenced the debate about legitimacy in the EU stems from Habermas. According to his theory, deliberative democracy means that collective decisions ground on arguments from those governed by the decision. The concerns of citizens must be incorporated into

policy-making and in particular this should happen through public deliberation. Those whose interests are involved should have an equal and effective opportunity to make their own interests known in public, through mass media or voluntary associations. Public deliberations will then serve as a filter for the further political and parliamentary process. Normative requisites for the democratic process, according to Habermas, are transparency of the policy process, public debate, participation, learning and responsiveness to the concerns of all citizens as well as to constitutional values (Habermas 1998).

A fourth perspective focuses on the interaction between the EU and member states and thus addresses a vertical relationship (Eriksen and Fossum 2007). Domestic policy-making processes and their institutionalised checks and balances are perceived as part of the EU's legitimacy. This perspective is more interested in evaluating in how far the process of European integration has affected domestic policy-making. European politics would allow national executives to escape democratic control or leave national parliaments and even courts with little to decide (Duina and Oliver 2004; Duina and Raunio 2007; Scharpf 1999). Therefore, particular emphasis is put on safeguarding the democratic nature of domestic institutions and processes.

A fifth perspective concentrates on the absence of a European demos and considers this to be the main locus of the democratic deficit. While some conclude that this cannot be changed in the foreseeable future, others suggest the development of precisely such a European demos, mainly through a European public debate through which a common political project and identity could emerge (Eriksen and Fossum 2007; Habermas 2003; Hix and Follesdal 2005). Still, as of now, a large majority of scholars believes that there is no common identity in the EU and that there are major obstacles in the way of acquiring one, such as the lack of a common language, no Europe-wide media, no Europe-wide political parties and truly European elections and no political leaders with Europe-wide visibility and accountability (Scharpf 1999; 2007).

## **2.2 The OMC debates**

The debates that have developed around the OMC relate to the previously reviewed literature without, however, always connecting to its theoretical insights. These debates by and large revolve around the issues of effectiveness and legitimacy. With regard to the former, a first debate has opposed defenders and opponents of so-called soft law and hard law. While hard law is associated with the Community Method, goes along with legal bindingness and comes in the form of the Treaties and secondary sources (directives, recommendations and



decisions), soft law is commonly associated with voluntaristic, non-binding guidelines and objectives which nevertheless may have practical effects (Snyder 1994), as exemplified in governance processes such the EES or the OMC. Defenders of hard law hold that soft “law” cannot prevent a race to the bottom, that it contributes to an uneven development of integration throughout the EU (Smismans 2007), that it increases the democratic deficit of the EU by not granting institutionalised participation rights to parliaments, courts and societal actors, that hard law is needed in order to balance negative integration (Scharpf 2002), and that only hard law can assure compliance in an international environment. Defenders of soft “law” argue with its perceived capacity of dealing with structural diversity, its appropriateness in cases of political uncertainty due to its openness to revisability, its lower transaction costs and its help with avoiding political deadlock, its openness towards more societal participation, and its possible “hardness” due to longer-lasting, ideational impacts while hard law would often not be as hard as presumed (Abbott and Snidal 2000; Falkner et al. 2005; Goetschy 2004; Jacobsson 2004; Maher 2004; Snyder 1994; Trubek et al. 2005). From a political economy perspective, soft “law” allows member states to play a double game: While they can blame the EU for unpopular reforms if need be, EU pressure is not binding and “at home” allows them to pursue what is perceived as a national social policy (Schelkle 2003; T elo 2001).

The difference between constraining law which binds rational actors and non-binding law which is assumed to transform identity, ideas and interests of actors again reflects the deeper division that exists in international relations (theory) between rationalism and constructivism discussed above. While some scholars find that social policies are still very much governed by the Community Method (Leibfried 2005), particularly the defenders of the newer mode(s) of governance consider OMC-like processes and instruments the successor of the Community Method, perceived as outdated and too hierarchical (Scott and Trubek 2002: 1). Trubek and Trubek have argued for a synthetic approach of hard and soft “law” in order to grasp their “hybridity”(Trubek and Trubek 2005).

Conceptualizing the OMC with regard to effectiveness has mostly drawn on a few concepts which shall be briefly presented. *Lessons-drawing* includes the search for information about policy programmes adopted elsewhere, the identification of the main instruments and cause-effect relationships between constituent parts of these programmes, the resources required, and the evaluation of transferability is one of the concepts mentioned (Rose 1991; March and Olsen 1989). Rose argues that lesson-drawing may draw either on success or on failure stories and that institutional models are not imitated or automatically transferred from one institutional and organisational framework to another. “Shopping” around for new models requires a process of scanning programmes

and evaluating the effects of their possible application in a given institutional and organisational framework (Rose 1991: 7). Another concept referred to is *policy transfer* (Dolowitz and Marsh 1996) which is supposed to lead to the design of better policies. While lesson-drawing is completely mandatory, policy transfer may also be enforced. Policy transfer is defined as “a process in which knowledge about policies (...) in one time and/or place is used in the development of policies (...) in another time and/or place” (Dolowitz and Marsh 1996: 344). The concept of policy transfer assumes that different territorial entities face the same challenges or struggle with the same or at least comparable problems and are therefore interested in “processes and conditions of transfer of policy goals, structures and content, policy instruments, administrative techniques, institutions, ideology, ideas, attitudes and concepts” (Büchs 2003: 8). Other concepts include *shaming*, a social sanction which operates through the fear of being publicly shamed. In order to avoid public shaming, the expectation is that member states will seek to comply with European agreements, will seek to be “good” performers. Finally, *benchmarking* is evoked now and then. It also is an instrument of soft pressure which rests on expectations of persuasion and moral pressure.

*Learning* is clearly the dominant topic in OMC literature. It has been defined as „a relatively enduring alternation in behaviour that results from experience“ (Hecl 1974: 306). Hall defines social learning as a „deliberate attempt to adjust the goals or techniques of policy in response to past experience and new information. Learning is indicated when policy changes as a result of such a process“ (Hall 1993: 278). He differentiates between first, second and third order learning, third order being the most fundamental kind of learning which affects overall goals. Learning, however, in his model is only but one element of a multidimensional explanation of change. Also, it must not necessarily improve policy choices or performances (Bandelow 2003; Hemerijck and Visser 2003).

The assumption of learning derives from a sociological institutionalist approach (Goetschy 2003; Jacobsson 2004; Trubek and Mosher 2001) which in turn draws on insights from organisational learning (Dolowitz and March 2000) and deliberative democracy (Sabel and Cohen 1997). It defends that an impact may be brought about through the sharing and comparison of experiences, information and results among actors from multiple backgrounds and with diverse viewpoints. Such settings, where actors would deliberate policy solutions, would facilitate the erosion of existing understandings and barriers and open the door for new solutions. The key discourse(s), in turn, would establish key policy principles and ways of understanding causal links (Jacobsson 2002). In the context of the OMC deliberation amongst actors is perceived as the key to enhance

such learning processes (Borrás and Jacobsson 2004; Jacobsson 2004; Scott and Trubek 2002).

Hemerijck and Visser have drawn the attention to several potential barriers to learning in a supranational context such as the EES. Learners may not be able to convince their fellows of the lessons learned; they might not be governing, so that lessons learned cannot be implemented or learners might be replaced by others; they might decide not to change a policy because of what they have learned; they might face severe administrative and / or political inertia. Overall, they suggest, politics “hardly satisfies the ideal conditions of a learner friendly environment” (Hemerijck and Visser 2003: 16). They also emphasise that social learning, i.e. communicative learning from one’s own failures, might stand on stronger grounds and produce more lasting results than learning from success stories from abroad. Overall, all approaches perceive a low probability of significant political change just through the inflow of new information and ideas (Bandelow 2003).

As mentioned, the OMC literature has very much been dominated by the idea of learning (Begg and Berghman 2002; Berghman et al. 2003; de Búrca and Zeitlin 2003; de la Porte and Pochet 2002; Eberlein and Kerwer 2004; Ferrera et al. 2002; Hemerijck and Visser 2001; Jacobsson 2004; Joerges 2001; Trubek and Mosher 2003; Overdevest 2002; Trubek and Trubek 2005; Wincott 2003; Zeitlin 2005; Zeitlin and Sabel 2007) and / or as a normative tool to define a new social paradigm (Armstrong 2003; Nedergaard 2005; Wessels 2003). Often enough the respective scholars were directly linked to the political process at EU-level, as exemplified in the debates around the Draft of the European Constitution (de Burca and Zeitlin 2003; Tsakatika 2004; Moravcsik 2005) and diverse reports that some scholars have written for EU-Presidency conferences (Atkinson et al. 2002; Berghman et al. 2003; Marlier et al. 2005; Ferrera et al. 2000; Kvist and Saari 2007; Vandenbroucke 2002). While this body of literature made far-reaching claims about the potential and the de facto impact of the OMC with regard to its effectiveness, it tends to rely on secondary literature rather than engaging in field work. As importantly, this literature did not attempt “to subject the OMC and other new modes of governance to systematic, variable-based analysis” (Citi and Rhodes 2006).

While the large majority of OMC-related research adopted the learning assumptions, it by and large did not connect to the learning literature outlined above that exists independently of the OMC and which specifies the conditions under which supranational learning processes are likely to happen. An exception to the rule is a study by Hemerijck and Visser who identified a set of reasons why learning processes as intended in the context of the social OMCs might not lead to any policy change. The authors define learning as a domestic process

which is mostly advanced by failures and thus grounds on the principle of trial and error (Hemerijck und Visser 2003: 24; see also Radaelli 2003b: 42). In their view, a design for learning processes should live up to the following rules: 1. To define clear standards and goals which can serve as a basis for the evaluation of success and failure; 2. To have the possibility to make controlled guidelines in order to be able to exclude alternative causal hypotheses; 3. The measurement of the influence of policies which ground on traditional law and 4. Clear and rapid feedback with respect to the correctness of political prognoses (Hemerijck and Visser 2003: 16). Where this framework is missing, there might be room for subjective learning, but the relationship between strategies and their effects would remain unclear. Reasons why learning might not happen include the assessment that learning is neither a sufficient nor a necessary condition for policy change; that learning from other countries is only but one possible factor amongst others for change, and not necessarily the most important one; that there is no reason to believe that learning necessarily improves performances, particularly if it does not rely on one's own experiences. They also noticed that "poorly developed evaluation methods tend to stand in the way of effective learning" (Hemerijck and Visser 2003: 17), as do political, administrative, institutional and cultural differences.

The empirical evaluation of the effectiveness of the OMC has been rather vague, as empirical research was not based on variables. There are authors which conclude that the OMC, particularly in the form of the EES, is a forum for learning processes (Nedergaard 2006). However, there are increasing voices that find that the OMCs "have not reached their true potential" yet (Radaelli 2003b: 44; Barbier 2007) with Radaelli noting that it is "striking to observe how little the OMC has delivered on its promises" (Radaelli 2003a: 39). These criticisms are often associated with the proposal to link softer to harder modes of governance (Scharpf 2002; Héritier 2003; Rhodes 2005; Trubek and Trubek 2005). More concretely, the absence of quantified and qualified targets (Salais 2004), a lack of evaluation of national policies and measurable objectives, rendering monitoring difficult, very limited time for peer reviews (Chalmers and Lodge 2003), and the very limited extent of cross-national learning and bottom-up learning (Radaelli 2003b) were pointed out to. With regard to the national level, the difficulty of incorporating the OMC processes in domestic policy-making cycles (Armstrong 2005b; Friedrich 2006; Kröger 2006a), the focus on past and present activities in the NAPs rather than the development of new, integrated approaches (Berghman et al. 2003), the tendency of NAPs of being "over-enthusiastic about the current situation" (Radaelli 2003b: 13), the difficulty of highlighting good practices, and the data that member states present, rendering comparison of results difficult (Chalmers and Lodge 2003) have been

highlighted. The lack of openness can be said to have prevented a greater politicisation of the process, thereby not contributing to the effectiveness of the only soft instrument of sanctioning, namely peer pressure through naming and shaming (Kröger 2005a). From a different perspective it has been argued that the EES and therewith the OMC is favouring certain, supply-sided policies over others (Büchs 2007; Salais 2004).

Besides the issue of effectiveness, the legitimacy of the OMC has also attracted the attention of scholars, even though later and to lesser extent. The very introduction of the OMC has been associated with the EU legitimacy crisis (Borrás and Jacobsson 2004; Goetschy 2004). Some expected that the OMC would increase transparency and democratic participation (de la Porte and Pochet 2002; Rodrigues 2001). However, focusing on issues of legitimacy may also happen from an instrumental perspective, estimating that the involvement of a broad range of actors will render loyalty to the decisions taken and effective implementation more likely. Also, making many actors participate is an easy way of spreading new policies which in turn could be connected to making policies more effective, not more legitimate. Thus, what may look like a support for legitimacy may just as well be support of effectiveness (Büchs 2008). The literature about the legitimacy of the OMC has been more guided by theory than the literature interested in its effectiveness. Still, there are not many scholars who have tried to operationalise their research design.

The literature dealing with the legitimacy of the OMC has mostly been inspired by directly deliberative polyarchy which insists on local learning processes, participation of all concerned actors (Sabel and Cohen 1997, 2003) and the link of this participation to decision-making (Eberlein and Kerwer 2004). The yardsticks from this perspective are participation (as direct participation by concerned actors), public debate, bottom-up learning and responsiveness to the arguments of actors. Accordingly, the few scholars who have developed variables for empirical research have focused on participation, deliberation (Borrás and Conzelmann 2007; Bursens and Helsen 2005; Kröger 2007d; Nanz and Steffek 2005; Rudulova 2007) and, to a lesser degree, on representation and accountability (Bursens and Helsen 2005; Kröger 2007d).

The focus on participation is natural, as participation is explicitly mentioned in the OMC template, even though it is not specified there any further. All those affected by decisions should have the opportunity to contribute to the policy process, even though in the EU this principle is typically realised by way of stakeholder representation (Kröger 2008). The focus on deliberation seems to be more inspired by theory than by the OMC template. It refers to the way in which political decisions are reached, and in this case it should be through equal

and open discussion, a process of reason giving, examining and evaluating the arguments that are put forward. Different from the promises and threats of bargaining, deliberation rests on arguing and its claims of factual truth and/or normative validity.

Many scholars have perceived a lack of openness of the OMCs (Berghman and Okma 2002; de la Porte and Pochet 2003; Friedrich 2006; Hemerijck 2004; Kröger 2007d; Radaelli 2003a; Smismans 2004, 2006; Wessels 2003), seeing OMC processes as being more closed than hard law processes (Jacobsson and Vifell 2007; Natali 2005). OMCs would not live up to the deliberative ideal (de la Porte and Pochet 2003; de la Porte and Nanz 2004; Goetschy 2003; Hooghe and Marks 2001; Kohler-Koch and Rittberger 2007; Kröger 2005b, 2007d; Natali 2005; Peters and Pierre 2004; Radaelli 2003b): “There is a gap between the vagueness of the discourse of participation and the actual participation” (de la Porte and Pochet 2003: 30). Deliberation processes would tend to be “deliberation between elites for elites” (de la Porte and Pochet 2002: 300). Wessels concludes that

“the civil society is not involved, the public is disinterested; national parliaments are not aware or at best marginally involved; the EP remains an outside commentator, accountability is blurred. (...) The claim of this mode of governance to be superior is at best just an illusion” (Wessels 2003: 24).

Social partners and NGOs would hardly take part (Amitisis et al. 2003; de la Porte and Pochet 2003), actors would not be equal, economic and financial actors would dominate the coordination processes (Barbier 2004b), harming the principle of equality of citizens (Peters and Pierre 2004) and asserting existing power structures (Chalmers and Lodge 2003; Kohler-Koch and Rittberger 2006). The fear exists, then, that OMCs may become executive politics in disguise (Borrás and Conzelmann 2007) and favour “the interests of the nation-states as the dominant players, even though it is conceptualized as providing greater power to the structurally less powerful subnational actors” (Peters and Pierre 2004: 88; Schäfer 2004: 16). This would go hand in hand with insufficient or absent transparency (Arrowsmith et al. 2004; de la Porte and Pochet 2003; Wessels 2003; Zeitlin 2005; Jacobsson and Vifell 2007) and lead to OMCs being dominated by informal networks which „tend to expand their ambitions far beyond their original purpose“ (Berghman and Okma 2002: 6) and by experts who are not accountable in the regular democratic process (de la Porte, Pochet and Room 2001; de la Porte and Pochet 2003; Dehousse 2003; Goetschy 2004; Kröger 2007d; Wessels 2003; Zeitlin 2005): “The relations between actors involved (...) are not sufficiently exposed to public scrutiny, or to the scrutiny of the legitimate, democratic, and representative bodies” (Papadopoulos

2005: 10; de la Porte and Pochet 2003; Kohler-Koch and Rittberger 2006; Radaelli 2003). Actors would therefore lack political legitimacy (Kohler-Koch and Rittberger 2007; Kröger 2007d). The sum of these shortcomings would add up to a real democratic deficit (Goetschy 2004; Hartwick and Meyer 2002; Wessels 2003) or, more severely: „This type of technocratic deliberation, however, has nothing to do with democracy” (Radaelli 2004b: 28), since “committee deliberation is a type of elite deliberation which hardly fulfils all the requirements of deliberative democratic theory“ (Jacobsson and Vifell 2007: 69).

But this is not yet the complete list of criticism of the OMC. A repeated fear is that in the absence of sanctions „the whole process could conceivably degenerate to a biennial ritual of `dressing up existing policies’” (Ferrera et al. 2002: 14; Dehousse 2003) without any obvious influence on policy outcomes – while increasing the number of democratically not accountable circles (Kohler-Koch and Rittberger 2007). The decentralised instrument of the OMC, it is argued elsewhere, is too weak to make up for the lacking political will of the political elites (Dehousse 2003; Kröger 2006a). The OMC would take place in the same situation of positive and negative integration and therefore just that what can be reached would be limited (Scharpf 2002). For others, the instruments of the OMC (benchmarks, indicators, evaluation, etc.) cannot achieve a reduction of poverty and social exclusion (de la Porte and Pochet 2003). Finally, the OMC would fail miserably both in legitimacy and effectiveness and may even have negative effects, “ranging from futility (the absence of any noticeable impact), jeopardy to perversity” (Chalmers and Lodge 2003: 14).

### 3 Research framework

There are four shortcomings in the existing OMC literature which will be addressed first in this chapter. Afterwards, the research design of this study will be laid out.

The first shortcoming relates to the evaluation criteria of the OMC. Studies have by and large concentrated on either the effectiveness *or* the legitimacy of the OMC. Whereas legitimacy presupposes the trust and solidarity which are necessary to accept general rules without a general feeling of being exploited, effectiveness assures that policies contribute to collective problem-solving (Offe 1998; Scharpf 1999). I suggest that it is necessary to address both in order to come to a thorough conclusion concerning the potential and possible effects of the OMC. First, this is so as both are official expectations articulated in the Lisbon strategy, namely contributing to an *effective* social policy by way of learning and contributing to a *legitimate* social policy via participation. The Portuguese presidency underlined that the aim of the OMC is “to organise a learning process at European level in order to stimulate exchange and the emulation of best practices and in order to help Member States improve their own national policies” (European Council 2000a: 6). Member states are thus encouraged to learn from past policy successes of other member states and to use this information when dealing with domestic policy challenges. The OMC seeks to institutionalise regular consultations among concerned actors at various governance levels and thereby extends learning towards wider social learning by pooling information about experiments in a bottom-up process. Therefore, effectiveness should be evaluated in terms of learning. The OMC template also seeks to increase the legitimacy of European policy-making and it does so by putting a particular focus on the broad participation of actors: “The development of this method in its different stages should be open to the participation of the various actors of civil society” (Council of the European Union 2000b: 6) and “action depends to a large extent on the initiative of the actors in civil society, the social partners, enterprises, associations, regions and the citizens in a European civil society, which we must continue to build” (Council of the European Union 2000a: 22). The active participation of a variety of actors at the different governance levels was thus judged crucial as a means to increase the legitimacy of the instrument and the EU more generally.



Depending on the perspective and the perceived role of the EU, some do not perceive a democratic deficit (Majone 1998; Moravcsik 1993, 2002; Scharpf 2007). Others characterise the EU as a system *sui generis*, to which other or at least additional mechanisms of legitimacy-building should apply (Eriksen 2001; Kohler-Koch and Rittberger 2007). Others again think that the EU is in need of more institutionalised safeguards of democratic legitimacy (Eriksen 2001; Kohler-Koch and Finke 2007; Smismans 2004). It may be questioned why, if non-binding, legitimacy is an issue at all with regard to the OMC. However, there are a number of reasons why the legitimacy of the OMC should be assessed. The first has just been laid out above: because increasing the legitimacy of the EU is one of its main goals. Second, the OMC inclusion is a political process in which norms and values are chosen and interpreted which are directly linked to the living conditions of citizens. Thus far, the definition of what constitutes a public good and the redistribution of the respective good have been highly controversial and therefore were highly politicised. And precisely because of the controversial nature of social policies, publicity of the respective debates and representation of the diverse interests therein are crucial for these policies to be accepted as legitimate – while the absence of such a debate and representation and thus legitimacy would increase the democratic deficit the EU seeks to decrease by way of the OMC. And since the declared aim of the OMC inclusion is to contribute to policy learning in the field of redistributive policies, the legitimacy of the instrument must be assessed. It is not relevant, from a theoretical point of view, if the OMC fulfils the expectations and *de facto* impacts policy development. The mere ambition of the OMC to do so suffices for its legitimacy to be evaluated. Third, the legitimacy of the OMC inclusion must also be assessed, as the process can be used by member states to enforce certain reforms against domestic resistance while obscuring their previous consent to a given European policy. Such a strategy has significant effects on the overall acceptance of the EU, and of politics more generally. Fourth, the legitimacy of the OMC should be assessed, as it may be a predecessor of hard law and may be used for the interpretation of law by law courts or the European Commission. Thus, it can serve as a normative reference to (other) actors in other contexts and therefore needs to be evaluated with regard to its legitimacy (Borrás and Conzelmann 2007). A final reason for assessing both effectiveness and legitimacy is that both are interconnected, each can contribute to the creation of the other, but neither can be created independently of the other (Büchs 2007; Offe 1998).

The second shortcoming of the literature is that it has analysed either yardstick only at the domestic level. It has thus taken the EES or OMC inclusion (or other OMCs) as a fix point and addressed how these processes were eventually

implemented in the member states. Such an approach conceives of OMC processes as top-down processes that are not embedded in time and space. In contrast, I argue that OMCs should be analysed as two-way processes (Sundholm 2001) in which it is important where member states stand at the moment of uploading policies to the EU-level, as this will impact their future download in the course of implementation (Barbier 2004; Citi and Rhodes 2006; Zeitlin 2005). What was uploaded in turn will impact the implementation, the general logic being weak upload, weak impact, strong upload, strong impact (Kohl and Vahlpahl 2005; Radaelli 2003b).

The third shortcoming is related to the issue of influence. The overwhelming majority of OMC-related research has tended to neglect this issue. Most studies – focussing on effectiveness – look at national policy change and make a connection to an existing OMC as if there were a direct causal chain between a soft governance technique and domestic policy change. Under OMC circumstances, however, influence and compliance are extremely hard to measure, as common objectives are broad and not binding (Büchs 2007; Kröger 2007c, 2009). The vagueness of guidelines and objectives implies that any member state can describe policies which are in line with these objectives, without needing to change or add existing policies. The non-bindingness implies that change of legislation is not necessary and that implementing the OMC may take on quite different forms, such as programme development, institutional and / or ideational changes, or no changes at all. However, these changes may very well be the result of a variety of other factors which are not connected to the OMC and therefore should not be attributed to it (Kohl and Vahlpahl 2005; Trubek et al. 2005). It is likely that in the absence of bindingness the OMC will not induce direct policy and legislative changes. Respective changes and even more so particular policy performances (unemployment rates, etc.) should therefore not be connected to the OMC (Citi and Rhodes 2006; Kohl and Vahlpahl 2005; Borrás and Greve 2004). The consequence in any event is that hypotheses about the influence of the OMC inclusion at member state level need to be very cautious, if there should be any hypotheses at all, as the implementation chain is long and vulnerable (Jacobsson 2004).

Fourth and finally, it is astonishing how much the OMC literature has avoided the development of variables for empirical research (Citi and Rhodes 2006). This is particularly true for the effectiveness-related literature which has equalled effectiveness with learning without, however, providing a definition of learning and variables along which to detect such learning (Zeitlin 2005). By the next step, it will therefore be developed what effectiveness and legitimacy might mean in the context of the OMC inclusion. Taking into account the remarks above about being cautious with establishing influence between an OMC at EU-

level and domestic policy development, conceptualising precisely effectiveness needed to depart from known routes. It is therefore not evaluated by evaluating policy development and respective performances. Instead, this study consequently sticks to what can directly be associated to the OMC inclusion, and will not go any further than that. Different activities and factors that are necessary preconditions of policy change are addressed in order to evaluate effectiveness (Trubek and Mosher 2003). Bearing in mind these remarks, effectiveness and legitimacy have been operationalised as follows.

### 3.1 Evaluation criteria for the OMC inclusion

*The precision of information.* If organising a learning process, and with regard to information, two things are crucial. First, it must be clear what should be learned and that it must be learned. In the present context this refers to the learning levels as defined by Hall (1993). Should a policy paradigm be learned at all, or, at the other end of the line, are we dealing with rather weak learning in the form of e.g. administrative learning about the implementation of a policy? Second, the information which is supposed to lead to the larger learning process must be precise (Lodge 2007; Trubek and Mosher 2003). This is particularly true in the context of such diffuse concepts as social exclusion and social inclusion which, when uploaded to the EU, both lost in analytical value and therewith made common action possible at all (Kröger 2007a). While the multi-dimensional, dynamic, relative, agency-centred nature of the concept is by now widely acknowledged as reflecting situations of poverty, the concept as such remains vague, difficult to operationalise, and additionally must be contextualised as situations of poverty differ in space and time. This is why it is decisive that the information available in the OMC inclusion is precise, so that the room for interpretation in the national context is limited (or inexistent). Precise information will furthermore render evaluation and monitoring easier or, more precisely: possible at all. As a consequence, common objectives of the OMC, indicators, targets and good practices as such need to be addressed as well as their translation into the NAPs and in the JRs. The need for precise information has been referred to as standard-setting, meaning clear knowledge of what one would like to achieve and an infrastructure that provides the means of achieving this goal (Lodge 2007). In a supranational context it is of course additionally important that the information is available in a language that the involved actors sufficiently master. It has been shown that language may pose serious difficulties for supranational learning processes, be it for simple communication, be it for the deeper understanding of political concepts and the functioning of institu-

tions (Barbier and Letablier 2005). With regard to the OMC, in any event knowledge of (foreign) language(s) is essential, as many documents only appear in English and / or French.

*Organisational capability building* as a probable predecessor of future policy outputs (Radaelli 2003; Borrás and Greve 2004). Scharpf used the concept of institutional capabilities and thereby meant “the specific institutional conditions that either facilitated or impeded the adoption and implementation of effective policy responses” (Scharpf 2000: 21). Institutional capabilities are thus those elements of a general or particular system that enhance or reduce the system’s likelihood to respond to challenges. Yet, Scharpf does not specify these elements any further. March and Olsen, when dealing with the functioning of democratic governance, speak of “political capabilities” (March and Olsen 1995). Governance

“involves developing capabilities for appropriate political action among citizens, groups, and institutions. Acting appropriately and learning from experience, however, require not only a will but also ability. Capabilities define potentials to affect politics, to exercise rights, and to influence the course of history” (March and Olsen 1995: 46).

They then identify “four broad types particularly relevant to governance: rights and authorities, political resources, political competencies, and organizing capacities” (ibid.: 92). While it is not clearly noted, these types of capabilities seem to refer at least partly to the implementation process of policies which is not addressed in this study while some aspects are dealt with under the criterion of legitimacy. In the context of the OMC inclusion, organisational capability building evaluates whether the OMC encourages the creation (or adoption) of those organisational structures which are likely to make the fight against poverty more effective. It should be seen as the development of those environments which are favouring 1) the preparation of policies and 2) mutual learning processes. The preparation element mainly relates to domestic structures because it is at the national level that policies are prepared, while the learning element relates to the ability to monitor and evaluate previous experiences and new information and to provide intentional feedback. If I chose to speak of “organisational capability building” and of “organisational environment” instead of “institutional capability building” and “institutional environment”, then this is meant to make clear that this variable is related to a more restricted context than the broad notion of “institution” can transport if understood as rules, norms, and ideas.

In the present context these organisational environments relate to both the European and the national levels. At EU-level they relate to the treaty basis, the degree of institutionalised dialogue, resources and support for learning pro-

cesses. A treaty basis provides the legal framework of cooperation and is a permanent point of reference both for those who oppose and who are in support of cooperation in a given policy field. The existence of a permanent committee indicates the consolidation of a topic at the EU-agenda and regularly allows mandated members to further consolidate a process. Resources are essential for any sort of policy. Here, resources are primarily associated to money. Support for learning processes refers to the appropriate instruments and structures which should foster learning. At EU-level these are the indicators and the newly set-up European Statistics on Living Conditions (EU-SILC) as well as the peer review programme. At national level organisational capabilities in the context of the OMC inclusion refer to resources, to the way the OMC inclusion is incorporated into existing policy-making structures, to increased interministerial cooperation in order to develop coherent policies, to the place where the process is located in the ministerial hierarchy, and to the development or improvement of relevant and timely data. Thus, in the empirical analysis, organisational capability building appears in different forms, depending on whether the European or the national area is addressed.

*Monitoring* is the next variable. The political expectation towards the OMC is that it contributes to effectiveness through learning, and that learning may be supported by periodic monitoring, evaluation and peer review. Learning by monitoring and by benchmarking is not that new an idea (Arrowsmith et al. 2004; Sabel 1994). The concept of learning rests on the idea that common goals can be reached in a decentralised way. While the idea of learning has been omnipresent both in politics and in academia, the idea of monitoring and of benchmarking has attracted considerably less attention. Still, the literature interested in organisational learning and benchmarking processes directs its attention towards the existence of more or less independent bodies which evaluate whether procedural (Sabel and Cohen 1997) or substantial (Arrowsmith et al 2004; Sabel 1994) goals have been met. Sabel, in his “learning by monitoring”, investigated Japanese firms in order to evaluate how learning *and* monitoring could be reconciled as two necessary features of the same goal to increase competitiveness. While learning is necessary in order to create trust and to internalise decisions as one’s own, monitoring is necessary in order to identify weaknesses, to evaluate whether the goals set have been reached and whether new goals need to be set. The firms accept monitoring by the state, as they expect it to increase their competitiveness (Sabel 1994). Thus, not only is a monitoring agent needed but also must the objects of monitoring – in this case the member states – be willing to submit themselves to monitoring and peer review and to adjust their behaviour accordingly (Lodge 2007). Arrowsmith et al. stress that the success of bench-

marking depends on two critical factors: Learning on the one hand, and control and coercion on the other (Arrowsmith et al. 2004: 313), concluding that the absence of control mechanisms weakens the potential of benchmarking. There needs to be an independent body which identifies objectives (or at least helps to identify them), evaluates whether these objectives have been met, and if not for which reasons, and helps to adjust actors to the objectives and to develop these further. Monitoring therefore serves different functions, namely the control of past agreements as well as concise guidance for future developments. If, in contrast, no independent monitoring is assured, the evaluation can be distorted and critical review sanctioned as involved actors might threaten to quit the process if being publicly pointed at. Evidently, the European Commission needs to be evaluated here.

*Receptivity of the OMC by involved actors.* In the light of lacking bindingness of the process, receptivity at EU and particularly at domestic level is particularly important (Citi and Rhodes 2006). It refers to the acceptance of the OMC by the relevant actors or to the way these actors make usage of the OMC (Jacquot and Woll 2003). It is evident that in the light of lacking enforcement mechanisms the success or failure of the OMC depends on its acceptance by the relevant actors and their willingness and capacities to transform it into a relevant policy-making instrument. The first question is whether actors are aware at all of the OMC inclusion. The second question is how actors respond to the OMC inclusion, the NAPs, peer reviews, target setting, indicators, common objectives, benchmarks. Are these elements used in a pro-active or in a passive way or are they even rejected? Did actors participate in the process or not? To which conclusions do they come in their official statements and in individual interviews about the effectiveness and the legitimacy of OMC inclusion? In other words, is this OMC accepted or not, is it perceived as a useful instrument or not? This variable is mainly addressed in the sixth chapter which exclusively deals with the evaluation of OMC inclusion by the involved actors.

Since *learning* is such a dominant feature in the OMC template, actors have additionally been asked whether they personally learned something and whether they thought that the OMC inclusion process was supportive of learning processes. However, learning does not figure as a independent variable. The hypothesis (1) is thus that the more the single preconditions for learning are fulfilled both at European and national level(s) the more likely will learning processes be and thus the higher the overall effectiveness of the OMC inclusion.

The hypothesis (1) is thus that the more the single preconditions for learning are fulfilled both at European and national level(s), the higher is the overall effectiveness of OMC inclusion.

The need of democratic legitimacy, as explained above, also holds true for non-binding instruments such as the OMC. The following operationalisation of legitimacy seeks to incorporate norms and standards that are present in both liberal and deliberative democracy, even though in different ways. Such a pragmatic approach should allow, in the end, for an assessment of the democratic quality of OMC inclusion in the light of either theory. Before disclosing the variables, the main features of both models of democracy shall be briefly recalled.

In both models political equality is the core norm. However, both go different ways in reaching and securing it. Conceptions of liberal democracy construct their model around free and equal citizens and the idea of democratic control of elected representatives by the people, assured by institutionalised procedures and rights, judicial review, checks and balances and the separation of powers (Dahl 1999a; Held 1995). They assume that legitimacy is strongly related to the legality of parliamentary and governmental action which should protect the rights and liberties of the citizens. Legitimacy is additionally linked to transparency, a precondition for accountability and public debate. Parliamentary action can (or should, depending on the model) finally be anchored in previous societal consultation processes which are ultimately articulated in the parliamentary decision-making process. Participation is seen rather functionally, as a means to defend interests which are pre-defined, to control or limit power and ensure popular sovereignty. Responsiveness is linked to the final outcome and to how different interests are represented there. The political system must ensure basic freedoms such as the freedom of association and of opinion, so as to allow for a competition of ideas and interests. The increasing influence of experts is seen with scepticism or refusal, as it endangers the political equality of citizens, rendering some more equal than others and thereby challenging the notion of political rights of equal citizens in democracies. It is the parliamentary framework that creates reliable forms and arenas of interest representation not least because there exist institutional safeguards through which parliamentarians can be held accountable for their activities. Additional participation from this perspective is only meaningful if it can directly be linked to decision-making and if it has a detectable impact on the final outcome.

The deliberative model of democracy, influenced by social constructivism, is based on the idea of reciprocal justification via reasoned arguments amongst individuals which consider themselves free and equal (Sabel and Cohen 1997). It calls for a general shift in responsibilities and competences away from the state and places much stronger emphasis on participation of the citizens. Participation is not instrumental but an end in itself, through which a public sphere and commonly acceptable norms are permanently re-created, thereby finding solutions to conflicts that inevitably arise in pluralist societies (Gutmann 1993; Ha-

bermas 1992). The opinions articulated in the public sphere subsequently feed into the political process. Responsiveness is linked in particular to the argumentative exchange of reasons. The power of the better argument should decide which reasons make it to the final outcome. State institutions provide the necessary institutional safeguards in order to secure that the equality of citizens is respected. From this perspective the benchmark of democracy is the openness of the public discourse and a communication structure that fuels the exchange of convincing arguments and furthers reciprocity. Both models consider policy processes to be democratic if a connection can be established between decision-making and those submitted to the respective (delegated) decisions. After this review the models will now be translated into variables for empirical research<sup>15</sup>.

Participation will be evaluated in terms of *access* to the policy process (Steffek and Nanz 2007). Access means that citizens will have an opportunity to make their opinions and interests known in different phases of a decision-making process (de la Porte and Nanz 2004). In liberal democracies this implies participation rights, particularly in the context of general elections through which the sovereign elects its representatives who will subsequently reign in his name, guided through principles of parliamentary work and control. Communitarian, deliberative and participative conceptions of democracy have accentuated the role and significance of more decentralised ways of participation through which citizens express their ideas and interests and thereby become the real sovereign of their lives (Sabel and Cohen 1997; Saurugger 2004). From this perspective the possibility to directly access a policy-making process becomes vital, not only for elected representatives but for all people potentially concerned by the final policy (Héritier 2003). In the present context access will refer to the participation venues that existed in the context of OMC inclusion, they may be in parliament or outside of it.

*Representation.* Even though the link between representation and democracy is a rather new and not an intrinsic one (Pollack 2007), it is nowadays commonly made. Representation shall firstly refer to the presence of specific actors in the policy-making process. Commonly, in the context of political representation, three kinds of representation are differentiated (Rittberger 2007; Smismans 2004). Territorial representation is based on territorially organized elections and constitutes the major basis for political legitimacy in Western-style democracies. Functional representation rejects the idea of an omnipotent state and acknowledges individuals as bearers of different identities and belonging to

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<sup>15</sup> Other examples of theory driven variables for empirical research include Friedrich 2007; Radulova 2007; Steffek and Nanz 2007.



different social groups. These different identities and belongings are represented through separated venues of interest representation in order to assure their inclusion into the political process. Finally, scientific or technical representation has dramatically increased over the last decades to the point that Dahl characterises contemporary democracy by the “quasiguardianship” through scientific experts (Dahl 1989: 335; Fischer 2007). To these three kinds of representation and in the context of the OMC inclusion a fourth will be added, namely administrative or bureaucratic representation. This seems necessary, as in this particular case administrative staff appears as a central implementing actor.

However, in the context of deliberative democracy, pure presence of representatives is insufficient for representation. As Kohler-Koch notes, “representation is not a role conferred on actors but emanating from discourse. To make it happen”, she notes, one needs “a friendly institutional environment that gives room and opportunities for building a public space” (Kohler-Koch 2008: 11). At least two conditions need to be met. Crucially, in order to assure representativity, debates should gather actors from different institutional, organisational and ideational backgrounds so that a broad variety of views are present. Second, for these views not only to be present but also to be represented, *deliberation* is essential. Deliberation is not limited to the presentation of points of views but includes interactive communication in which actors exchange ideas in the search for a common good and a solution acceptable to all (Sabel and Cohen 1997) and therewith pass the proof of the discussion (Manin 1996). Therefore, all actors must be given the opportunity to contribute to a specific debate in such a way that they can make their view sufficiently clear. Deliberation refers both to the setting of a consultation and to the nature of (public) discussion. Measuring the notoriously slippery concept of deliberation is difficult, and different suggestions have been made (Cohen 1997; Eriksen and Fossum 2000; Nanz and Steffek 2005). For *this* purpose, because most of the OMC inclusion happens behind closed doors and because parts of the deliberative concept are dealt with under other headings (access, learning), it will be evaluated whether the settings of the access venues allow for deliberation to happen or not.

*Accountability* is a key feature of democracy which demands that those who exercise public power can be controlled in their function, ultimately by the people (Stewart 1992). It assures that exercising public power is conditional, that politicians must be responsive to critical feedback, and in the case of dubious or erroneous behaviour take the blame and suffer the consequences (Arnall and Wincott 2002; Bovens 2007; Papadopoulos 2006). Accountability is therefore a central mechanism for checks and balances of power. This does not become less true in the case of governance processes where the various actors are mostly not

democratically mandated but are nevertheless acting in a field of public interest. In the context of governance processes such alternative safeguards are usually associated with a functioning public sphere (Kohler-Koch and Rittberger 2007) and linked peer pressure. Four aspects of accountability can be noted.

Transparency refers to access to information (Deckmyn 2002) and undoubtedly constitutes one of the preconditions of accountability. What is at stake is the public access to information throughout the different stages of a policy process (Deckmyn 2002; Nanz and Steffek 2005; Vesterdorf 1999). It has been argued that transparency not only encompasses the right of citizens to have access to information but also, more pro-actively, the duty of different kinds of actors to "ensure that information about policy and actions is provided in an accessible fashion" (Curtin et al. 2007: 8) and understandable for citizens. One could say that the more transparent an organisation or institution is, the more it is willing to expose its actions to public scrutiny and involvement, thereby increasing the likelihood of deliberation and the possibility to hold actors responsible, implying that transparency is a necessary but not sufficient precondition of accountability. Through transparency a wide public debate becomes possible. Public debate implies that deliberation of involved actors should occur in a public sphere. Usually, in Western democracy this refers to both the parliament and the mass media, but at a smaller level local citizens' assemblies are also an example of public debate. Public debate is crucial, as it is here that all the relevant reasons and political alternatives can be exchanged and discussed. Only through public debate can a democratic political body arrive at a consensus or at least a political majority about right or wrong. Third, there should be mechanisms that assure responsiveness of accountability holders to public debate and external input. From the perspective of liberal democracy, this is usually reached through elections and courts, from the deliberative perspective, public naming and shaming strategies are foreseen. Particularly from the perspective of deliberative theories of democracy the concerns of affected citizens should be included into the policy governance process and only the power of the better argument should be decisive. Thus, no particular reasons should be favoured. Finally, there should be the possibility to sanction wrong-doings, assuring that political power is conditional and dependent upon the approval of the sovereign. In the liberal model this is usually assured through parliamentary control mechanisms, in the deliberative model public peer pressure, developed amongst others through benchmarking, is assumed to force actors to correct their behaviour.

The hypothesis (2) is thus that the more the single variables of legitimacy are fulfilled both at European and national level(s), the higher is the overall legitimacy of OMC inclusion.

### 3.2 Comparative framework

In this study there were two choices to be made, one relating to the chosen policy field, one to the member states chosen. A first reason to choose this OMC was that in 2003 there were no (published) in-depth studies yet about the OMC inclusion, in particular with regard to France and Germany. Second, the normative reasons for the case choice follow those assessments that argue that integration has weakened the capacity of European welfare states to conduct the policy of their choice (Offe 1998; Scharpf 1999). It also agrees with those who establish that European harmonisation if not integration is necessary in order to counterbalance the effects of negative integration (1) and to re-gain political decision-making power over the development of the welfare state (2). Both positions ground on a normative conception of democracy, even though the first one is more related to effectiveness and the second one more to legitimacy. The first one defends that democracies should secure that citizens can participate in the regular life of the society they live in. If the nation-state's capacity to do so is restricted due to the effects of negative integration, then the EU should be the guarantor of these rights. Empirical evidence (Eurobarometers) seems to suggest that a more pro-active role of the EU against poverty would add to its overall legitimacy. The second one defends that if more traditional, nation-state-based actors of democracy have been weakened in the course of European integration and even due to European integration, then this loss of power should be compensated. This does not necessarily imply that it should (and can) exclusively be compensated at the European level. Instead, there are reasons to believe that institutional safeguards for the democratic quality of the policy-making process should be located at both European and national levels. Without such safeguards that secure that the citizens can at least co-determine European policies and that the EU does not further harm the democratic quality of domestic policy-making, the future of the EU seems bleak and the one of right-wing extremist parties splendid. And while there is no underlying assumption in this work that the EU should move towards a political community as predicted by neofunctionalism, a return to the Community of Coal and Steel is also not considered an option.

Finally, it was necessary to increase cases by way of increasing the number of member states and not through increasing the number of OMCs. Analysing different social OMCs – such as the EES, the OMC inclusion and the OMC pensions, for example – was not an option. If analysed within the same country, the cases would not have been independent from one another, as it is possible that the different social OMCs influence one another due to the same European origin. For instance, coordination in the OMC inclusion could be brought about due to already existing coordination structures for the EES; a focus on labour

market inclusion could follow the same pattern. In short, the specific European influence could not be isolated anymore. Therefore, and in order to detect the specific logic that rules the field of European inclusion policy (Lowi 1972), the number of cases was increased by choosing several member states. The alternative would have been to choose OMCs in completely different policy fields, but such a choice would have contradicted the particular interest in the organisation of European welfare as outlined above.

The other cases of this work are France, Germany and to a lesser extent the EU – lesser insofar as in the context of OMC inclusion member states are the main actors. The interaction between these two different levels is vital to a proper understanding of the process and its results, and therefore the European level must also be addressed in depth.

It is common to differentiate between most similar and most different research designs (Przeworski and Teune 1970; Lijphart 1971). The most similar system design is attracted by differences. It therefore looks for similar cases in which different results can be observed and must be explained. In such a design the researcher is particularly interested in understanding and explaining the single cases. If, in contrast, one is interested in similarities of the dependent variable, one will search for cases in which the independent variables will be most different. In such a design the choice of cases is strongly associated to the theory that the researcher seeks to test and less to the cases as such (Trampusch 2000). However, these models are ideal-types which can rarely – if at all – be found in the real world, in particular within the EU in which all members must have integrated the *acquis communautaire* before becoming a member. Also, the usefulness of clear-cut dependent and independent variables in Europeanisation studies can be questioned (Olsen 2002). If one conceptualises, as laid out above, the OMC and more broadly Europeanisation processes as two-way processes in which different levels mutually influence each other, then sticking to the model of clearly defined independent variables might instead prevent thorough empirical investigation and might miss crucial aspects of the interactive process.

When developing the research design one must define which variables matter with regard to the object of study. The OMC is an instrument which seeks to influence, through mutual learning processes and thus in a discursive manner, the development first of ideas, then of anti-poverty policies in member states. Therefore, the existence of a social exclusion discourse and related policies and institutions, the actor constellation and the readiness to concede competences to the EU in the field of anti-poverty policy stand out as particularly important. When assessing these factors for France and Germany, one will find important differences, pointing in the direction of a most different case design. In France

we find a strong tradition of (anti-) social exclusion discourse, policies and institutions, while the reference to social exclusion in Germany is of recent nature and even a poverty discourse has only spread since the 1980s. In France, despite different waves of decentralisation, the competence structure still strongly favours the centre. Furthermore, associations such as social NGOs as well as intermediary structures more generally traditionally enjoy a weak position in the political system of France. In contrast, Germany has a federal political system and social NGOs enjoy constitutionally guaranteed rights with policy implementation. Finally, it is argued here that France has traditionally been more inclined towards social integration in the EU than Germany. All three aspects will now be considered in more detail.

The OMC has often been characterised as being a discursive technique, an instrument to foster ideational and cognitive change. True or not, it can be expected that the availability of a discourse that matches the European one facilitates the domestic adaptation and incorporation of the OMC inclusion. Such a discourse is indicative of a high politicisation of anti-poverty issues which should be fertile ground for a European strategy. France has a tradition of a rights-based social exclusion discourse – which eventually led to the social exclusion act of 1998. French actors even succeeded with uploading it to the EU. France equally disposes of recognised institutions – both political and technical – which deal with poverty and social exclusion.

In line with a republican notion of citizenship, French citizens associate their social model with the notion of solidarity, promoted through the Republic. The social model is perceived as being universal, providing all citizens on French territory with full and comprehensive social rights, access to social services, and calling for extensive state intervention. Poverty (or, alternatively, social exclusion), as a consequence, is not perceived as being due to individual failure but to a collective failure to integrate. Therefore, the collective body owes support to the poor or excluded. More concretely, the exact term “social exclusion” emerged in France in the 1960s. It first appeared in the report *Les dividendes du progrès* (Massé and Bernard 1969) and Klanfer’s work *L’exclusion sociale* (Klanfer 1965). However, the popularisation of the term occurred through Lenoir’s publication *Les Exclus. Un Français sur dix* in 1974. Lenoir did not advance a precise definition of the concept but defined as excluded all those who had fallen out of the social insurance system. After Lenoir social exclusion became associated with the notion of individual inadaptation in the face of societal change but also with the structural origins of exclusion, leading to an ever increasing number of excluded which are not limited anymore to the “old poor” (Goguel d’Allondans 2003: 27). In the course of the 1970s the term began to be associated with a spatial dimension, implying that the excluded

were living within specific boundaries which isolated them from the rest of society. However, it was in the 1980s, in a period of economic and social crisis and restructuring – rising unemployment, urban segregation, fundamental changes in family life – and an increasing crisis of the welfare state, that the notion of social exclusion attracted increased attention (Silver 1994) and increasingly mobilised associations who pled in favour of a war against exclusion. Increasing academic attention went along with the increasingly visible phenomenon of poverty, rupture and disintegration, leaving ever more French citizens at the margins of economic development (Paugam 1996: 9), therewith increasing political pressure to act against this mass phenomenon. De Haan notes that the popularity of the term in France is also due to the “unpopularity in France of the (British) concept of ‘poverty’”. This was discredited because of its association with Christian charity, the *ancien régime*, and utilitarian liberalism“ (de Haan 2000: 23). The concept soon became associated with broader connotations, such as the processes of the rupture of social ties, a dynamic process of social disqualification (Paugam 1993, 1996) or disaffiliation (Castel 1995), leading not only to material poverty but as importantly to the breakdown of relationships between individuals and the broader society.

From academia the term social exclusion made its way into politics where it culminated in the social exclusion act of 1998. Before, however, and with regard to anti-poverty policy, the *Revenu Minimum d'Insertion* (RMI) was voted unanimously in 1988 (Legros 2004a). The RMI is a tentatively universal policy (people under 25 with no children and recently arrived foreigners are not entitled) and is based on the assumption of a collective duty to integrate the weak. For the first time ever in France a minimum level of income security for individuals is linked to the obligation to sign a *contrat d'insertion*, by which the recipient agrees to adhere to an individualised programme promoting his/her integration, thereby establishing a contractual relationship between the individual and society (Vail 2005). The RMI is managed by local family funds but paid for by state (tax) revenues, while the département is responsible for the integration of the recipients (Jenson 2004b). It has been argued that the division of competences implies a “new conception of solidarity and social insurance” and reinforces “the contrast between insiders and outsiders in the labour market” (ibid.), the latter enjoying less protection than the former, and making outsiders more vulnerable to reform, as they do not have a strong interest representation such as the social partners (Mandin and Palier 2002; Palier 2003). Between 1990 and 1999 the mere number of recipients of the minimum income schemes increased from 2,862 to 3,188 millions, while the number of recipients of RMI increased from 422.100 in 1990 to 938.500 in 2001 (Adjé and Pétour 2004: 146). In 2004, 7% of the French population aged over 25 were recipients of the

RMI, while in 2003 45% of the recipients had been receiving the RMI for three years and more (Jamet 2007: 8). While the RMI assures pure survival for the recipients, it does not prevent from poverty<sup>16</sup>.

The next major development with regard to anti-poverty policy took place in 1998, when an encompassing law against social exclusions was adopted by the French government<sup>17</sup>. Real numbers of French living in poverty and being dependent on public aid had continued to increase, the insufficiencies of the RMI had become apparent, lobbying activities through social NGOs had also increased. Last but not least, this action mirrored the priority given by the then-in-place French government of the *gauche plurielle* to the struggle against poverty and exclusion. A particular feature of the French approach is that it is based on rights (and access to these rights), additional features being the multi-dimensional approach and partnership between all actors, those in difficulties included. The focus on rights is straight forward in the first article:

“Tackling forms of exclusion is a national imperative based on respect for the equal dignity of all human beings and a priority focus of all national public policies. The purpose of this act is to ensure effective nationwide access for all to fundamental rights in the spheres of employment, housing, health protection, justice, education, training, culture, family and child welfare” (1998 act against the exclusions, art. 1).

A central goal is to universalise access to these rights through informing about and implementing them, to avoid second class citizenship and related stigmatisation. The rights-based approach implies an understanding of the interdependence of rights, with denial of one right possibly leading to denial of another right. For example, the right to vote is based on the existence of a stable, regular residence; homeless people are thus deprived of this essential political right. The anti-exclusion law remedied this situation by allowing the homeless to give as their home address either a social action center or an approved association of their choice. Evaluation of the law against exclusion, provided for by the law itself, reinforces the requirement that fundamental rights be attainable. The law also set up bodies designed to ensure consistency between the measures taken in the various sectors involved. Therefore, and with the aim to support knowledge creation about social exclusion, the National Observatory of Poverty and Social Exclusion was established, as had long been requested by the various non-for-profit associations.

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<sup>16</sup> For an evaluation of the RMI, see Jamet 2007.

<sup>17</sup> As Silver notes, the law encompasses at least ten spheres: employment, training, social enterprise, social minima, housing, health, education, social services, culture, and “citizenship” (e.g. helping the homeless to vote) (Silver 1998).

Finally, the 1999 act creating a universal right to health insurance (Caisse Maladie Universelle, CMU) constituted a third major step of French anti-poverty policy, entering into force in January 2000. The law guarantees free health care for all those with low income (less than 533,60 Euros a month) and shows an ambition to bring the poor under the umbrella of common law. It generalizes health security to all legal residents of France and ensures supplementary coverage for the poorest persons who are exempt from advance payment (Adjé and Pétour 2004: 112). It also secures complementary health insurance to those who are already covered by the basic system but cannot afford secondary coverage and is largely financed by the state (Vail 2005).

While these three initiatives – RMI, anti-exclusion law and CMU – are major developments of a comprehensive anti-poverty policy, there have also – and in parallel – been developments of retrenchment and of re-organisation of social policies. The French social protection system, as others, has been increasingly put under pressure since the early 1990s by growing structural unemployment, permanent fiscal deficit, high non-wage costs and the demands of the European Single Market and the common currency. Due to the need to find consensual solutions amongst the social partners – with a highly diversified field of trade unions<sup>18</sup> – when attempting to reform, to a high mobilizing capacity of trade unions, to the general feeling that the state ought to protect its citizens from social risks (Palier 2002) and to increasing situations of political blockades due to situations of cohabitation in which the President and the Prime Minister have “opposed” party affiliations<sup>19</sup>, changes have not been easy to bring about, even if the direction of reform did not differ significantly between the right and the left (Mandin and Palier 2002). At the turn of the century the main poverty-related challenges in France were unemployment, working poor, poverty among immigrants, young people and monoparental households, high school drop-out rates as well as homelessness and insufficient available social housing (Adjé and Pétour 2004; Brousse 2004; CNLE 2006; Jamet 2007; Julienne and Pétour 2004; Palier 2002).

In Germany the duties of the individual and its social environment are traditionally more emphasised than in France. The underlying idea, going back to Catholic social theory and its defence of the principle of subsidiarity, is that all activities should be dealt with at the smallest possible unit: if possible, by the individual alone, then by the family, then by the close social environment to which the individual belongs etc., the state being the most comprehensive community. While the principle of subsidiarity thus perceives the smallest social

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<sup>18</sup> There are five main trade unions with different political orientations.

<sup>19</sup> Since 1986 France has known three periods of ‘cohabitation’: 1986-1988, 1993-1995 and 1997-2002.



units as responsible for social welfare, it also creates an “obligation on the part of the larger communities to assist and support the individual and the smaller communities if and to the extent they cannot help themselves” (Kohl and Vahlpahl 2005: 4-5).

Contrasting with France, there is no tradition of a social exclusion discourse in Germany. Until the mid-1990s poverty was not a publicly widely acknowledged problem because most Germans, including the political elite, thought that it had been resolved in Germany (Cosser 1992; Hanesch 2001; Leibfried and Voges 1992; Schultheis 1996). It was therefore less politicised than in France and virtually a non-issue in public discussions, very well illustrated by the notion of “shameful poverty”, indicating that people sought to hide their poverty so as to not be publicly pointed at and stigmatised. But it should also be noted that Germany, since 1962, disposed of a social assistance scheme which was indeed a protection against severe poverty that did not exist in France. The law was supposed to provide small-scale residual benefit and was characterised by two principles. The first one was the principle of subsidiarity, implying that social assistance would only be granted if an individual were unable to live by other means, including family and / or social benefits. The second principle was individualisation, implying that assistance would be provided on a case-by-case basis, following the assessment of needs by the regions and local communities. Besides social assistance, there has been little in terms of federal anti-poverty policy until the turn of the century, due to both ignorance of increasing poverty and lack of competences (Vail 2005). Since the change of the federal government in 1998 two reports on poverty and wealth have seen the day<sup>20</sup>.

As in France, recent retrenchment policies have introduced less emphasis on the guarantee of the achieved living standard of workers through wage earner-centred policies and an increased conditionality of benefits upon the individual efforts to be mobile and flexible when seeking and accepting work. Governments since the mid 1990s, in particular those of chancellor Schröder, have acted in favour of activation policies (Clasen 2005). They sought to preserve the core of social insurance, particularly with regard to the long-term unemployed, while increasing the pressure to seek and take up available work: “Whoever is able to work but refuses an appropriate job should have his support cut. There is no right to laziness in our society”<sup>21</sup>. This accentuation clearly materialised in the JOB AQTIV act, standing for Job-Activation, Qualification,

<sup>20</sup> Nationaler Armuts- und Reichtumsbericht (NARB), 2001 and 2005, both counting over 350 pages and gathering scientific analyses as well as political advice. Andreß and Kronauer note that the idea to also report on wealth, not only on poverty, met considerable political resistance (Andreß and Kronauer 2006).

<sup>21</sup> Chancellor Schröder, *Der Spiegel* 21, 21 May 2001, 96-97.

Training, Investment, and Placement which entails elements of coercion as well as an effort to expand employment opportunities and which entered into force 1 January 2002. The law decided the restructuring of the federal labour agency's job-placement services, adopted a contractual stance towards the unemployed with the aim to reduce unemployment rolls and benefit expenditures, increased conditionality and expanded subsidies to employers so as to reduce their non-wage labour costs (Vail 2005). These developments were continued in the following years by the Hartz laws I-IV, the central piece of which is Hartz IV which integrates the former social assistance with unemployment assistance for which it hardened the eligibility criteria, increased the conditionality for receipt etc. – as discussed above for the French case<sup>22</sup>.

In 2003 13.5% of the people living in Germany fell beneath the 60% poverty threshold which then amounted to 939 Euros a month, 1.4% higher than five years earlier. In East-Germany it is more than seven per cent higher than in the Western regions. Generally, the risk of being poor increased in almost all segments of the population, while being highest among the unemployed (with 40.9 % three times as high as the risk of the entire population). Besides the unemployed, single parents faced a particularly high risk of poverty (35.4 %), as did migrants who increased from a fifth to a fourth amongst the immigrant population (NARB 2005). If there is an essential difference between the two member states, then it is the fact that in France, up until the late 1990s, there has been an increase in welfare policies, whereas in Germany, since the mid-1990s, retrenchment can be seen as a key feature (Vail 2005).

France and Germany have in the 1990s been marked by similar developments which set the general framework of their social policy, even though there are significant differences when it comes to concrete numbers and policy responses in single policy areas. With regard to the labour market, both countries have experienced a stagnation of employment and relatively high structural unemployment rates putting the insurance systems and the state under pressure which became increasingly indebted. While the compensation expenditures such as unemployment and minimum income insurances are on the rise, wage-related contributions decrease, leading either to increasing deficits – a possibility that is less available since EMU – or the cut in social expenditures. So-called atypical forms of labour and the erosion of traditional minimum incomes progressed, and risk and reality of in-work poverty and of discontinued employment biographies increased. Sociologically, the age structure changes towards an ageing society, particularly in Germany, implying higher costs for the health system, and increasing pluralism due to lasting and diversifying immigration. Finally, socio-

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<sup>22</sup> Other Hartz laws created temporary employment agencies, provided new funding for activation programmes, promoted self-employment and restructured the federal labour agency.

spatial segregation was on the rise, disadvantaging those living in poorer neighbourhoods with less or insufficient infrastructure and lower education levels. Both governments have tempted to consolidate their budgets and have supported growth and employment, particularly through the lowering of labour costs. Unemployment, as in other member states, has been the most significant challenge.

These developments, as in other countries, have resulted in a turn towards active labour market policies, i.e. the reduction of non-wage labour costs through subsidizing employers' share of social contributions, harsher eligibility conditions for unemployment compensation, tightened restrictions on unemployment benefits and penalization of deviant behaviour, liberalized labour market regulations so as to encourage hiring and ease firing, encouragement of part-time jobs, temporary employment, and early retirement programmes, developments that in both member states began in the early 1990s (Vail 2005).

The idea of activation is linked to a discourse on 'rights and duties'. The idea of a new welfare relationship between the citizen and the state can be summarised as follows: access to welfare benefits is conditional on certain duties the citizen has to meet, above all the duty to work. The idea of social rights, which has been coupled to the notion of citizenship, is giving way to a principle of reciprocity. The needy shall receive aid, "but only in return for some contribution to the society" (Mead 1997: 221). Related to the activation paradigm has been '*targeting*', which posits that welfare measures as far as possible should reach those individuals in most need of help, however rendering rights conditional and applying them on a case-to-case basis (Bradshaw and Hatland 2006), which may contradict the principle of universality (Kildal and Kuhnle 2005).

The second variable is the political system of France and Germany and the opportunity structure it offers for interested actors to push or veto a process (Börzel and Risse 2003). It is assumed that a political system with strong veto players will face more difficulties when introducing a new policy process than a political system with few and weak veto players. Equally, actors who have other channels to make them heard are likely to not invest as much as actors which do not have access to other interest representation channels. One can assume that it should be easier in France to introduce the OMC inclusion which remains highly centralised, in particular with regard to EU policies and politics, and where NGOs traditionally only dispose of weak institutionalised channels for influencing on policy development (Brandsen et al. 2005).

The competency structure is important in so far as it largely frames the resources political actors can mobilise in order to influence policy-making. In France, ever since the French Revolution, a strongly centralised administration guaranteeing equal rights for equal citizens has been prevailing, while (particular) interest representation is seen with suspicion and as a threat to the equality

of citizens (Kröger 1998). While there have been several waves of decentralisation<sup>23</sup>, the balance between state and society remains largely unchanged, giving the latter a very low institutionalised profile. One of the goals of decentralisation was to put an end to the high fragmentation of social services and their complex competency structure, to provide better responses to local problems and to democratise local politics (Balme et al. 1999; Thévenet 1999; Jenson 2004a; Joel 2002). Concretely, the RMI, since 2004, is paid by the state but organised by local authorities, while the political responsibility is with the *département*.

With regard to the social protection system, the state has a supervising role (*tutelle*). The government sets out the basic principles of the system and seeks to ensure the system's financial stability. Since 1996 the parliament annually votes the social security budget, deciding on the overall budget of the social protection system and securing the government an important intervention option which it has increasingly used since the late 1990s (Jenson 2004; Mandin and Palier 2002). The social protection system is mainly organised by the social partners (Palier 2002). However, the latter are not present in the context of the OMC inclusion.

The shift of competencies from the central to the regional and local levels has produced closer ties between public and private actors, connecting them in locally varying alliances – depending on the capacities of actors and their resources and networks (Malin and Palier 2002), also bringing about a “renaissance of the non-profit sector” (Bahle 2003: 12) through contracting-out social care, which has become an important feature particularly of the care of the elderly and children (Hantrais 1996; Mandin and Palier 2002). While these developments mark a shift in the relationship between state, départements, local authorities, market and society, giving the latter two more responsibilities (Mandin and Palier 2002), public authorities remain in a powerful position, as they are able to choose from a variety of service providers, while the legal position of NGOs has remained weak. Jenson comes to the conclusion that changes in the French welfare organisation and provision particularly relate to a new relationship between the state, regional and local public authorities as well as civil society which increasingly organises social services. These relationships are characterised by increasing negotiation and contractualisation and an increase of the importance of local services markets (Bode 2006; Jenson 2004a, 2004b).

The active role played by the state is also reflected by the existence of the Direction Générale de l'Action Sociale (DGAS) as well as the Direction de la Recherche, de l'Évaluation, des Études et des Statistiques (DREES) which was

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<sup>23</sup> Since 2003 the first article of the Constitution reads “France is an undivided, lay, democratic, and social republic. Its organisation is decentralised”.

created in 2000 by the then Minister of Social Affairs, Martine Aubry, in order to work on issues of social exclusion. The French statistical system is dominated by the INSEE, a national body producing information collected in the course of surveys on representative samples. Additionally, the various ministries have developed knowledge tools for their own needs, often in close collaboration with the services of the INSEE (Legros 2004a).

Another actor created by the state is the *Conseil National des Politiques de Lutte Contre la Pauvreté et l'Exclusion* (National Council of Policies Against Poverty and Exclusion, CNLE). The CNLE is an advisory board, thus a political body, for the public authorities. It was set up by the 1988 act establishing the RMI, but de facto it only constituted itself in 1992 and was politically reinforced by the 1998 act against social exclusion. It is made up of public, elected representatives, representatives of the administrations, particularly of the DGAS, associations and qualified members<sup>24</sup>.

Finally, with regard to actors created by the state there is the *Observatoire National de la Pauvreté et de l'Exclusion Sociale* (ONPES, National Observatory of Poverty and Social Exclusion) which was created by the above mentioned law of July 1998 against social exclusion. The role of the ONPES is to commission studies and to disseminate their results. It does not advise the public authorities but writes a yearly report for the Prime Minister and the parliament and is also at the disposal of the DGAS; to say that it is not very distant from politics. The Observatory has 21 members (seven automatic, seven from associations and seven from academia) and a president. It freely decides its work programme.

The NGO landscape is widespread in France and far from being as structured and organised as its German counterpart. NGOs are organised on an ideological or religious basis, supported by public financing, and are much more issue-specific than in Germany. The disorganised landscape became a little more organised in 1994 when the collective ALERTE was created after six major NGOs received the attribute “grande cause nationale 1994” by Prime Minister Balladur<sup>25</sup>. These NGOs created the network ALERTE which has since grown to 38 associations. When commenting on national policy-development, the network functions under the heading ALERTE, when communicating to-

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<sup>24</sup> More precisely, the CNLE is made up of one member of parliament, one member of the Sénat, six members of the devolved territories (two for the regions, two for the départements and two for the majors), eight members of charity organizations and eight members by qualification, being mostly researchers. These last 16 members have to be nominated by the respective minister in charge of exclusion policies. In 2005 the CNLE has been extended to members representing the social partners and the Social and Economic Committee, the declared aim being a greater mainstreaming of policies against social exclusion.

<sup>25</sup> Secours Catholique, Secours Populaire, Emmaüs, ATD, Armée du Salut, SETTON.

wards the EU, since 2003 that same network operates under the name of EAPN-France.

A remarkable recent report by the CNLE analysed the interaction of different government levels in the field of poverty and social exclusion (CNLE 2006). While the OMC and thus the European dimension were briefly mentioned in the report, they were not dealt with any further than that. The report is remarkable insofar as it is overtly critical, which is very unusual for such a high-level institution, particularly a French one. The report discusses a number of recent changes and their observed consequences in the field of anti-poverty policy. Generally, it admits that the CNLE – *the* political consultative body with regard to anti-poverty policy in France – has not been capable of drawing a graph of who has which competences in the field of anti-poverty policy in France. This would be due to a too complicated implementation chain, because the same policy can be governed by several levels and because many measures involve actors at different levels. This cohabitation of actors, levels and policies would lead to shortcomings in responsibility, instruments, governance and partnership, while a multitude of programmes and legal texts would make the confusion complete. Five levels of competences – state, regions, departments, public establishments of intercommunal cooperation (EPCI) and local communities – would simply be too many and the division of competences amongst the levels would not contribute to their responsible implementation. The multitude of legal texts would be a handicap for the implementation of policies insofar as it would contribute to a discontinuity of policy development. People would always be waiting for yet another act or its interpretation, while the readability of policies would decrease over time: “Hardly has one understood a policy is it already being replaced by the next one. This does not allow for control of law: too much law kills the law. The responsibilities of the single levels are not sufficiently established” (CNLE 2006: 9). Additionally, programmes and legal texts would run for different periods of time, further complicating their implementation. The report finds that the state is not capable of living up to its role: there would be too few resources with the central administration, leading to a lack of control of state action. The absence of evaluation instruments and administrative cultures would stand in the way of transsectoral policies (CNLE 2006: 14), while lack of information about situations of poverty, particularly at the local level, would also stand in the way of effective reactions. Partnership between the different levels and actors would hardly work and often be conflictual, eventually leading to a “war of competences” (CNLE 2006: 17). More fundamentally, the report regrets that anti-poverty policies are not a political priority and subordinated to short-term electoral goals.

In Germany the administration of social policy happens within a decentralised federal system in which the state traditionally has a low overall involvement in social policy (Seibel 2003). The federal state is the guarantor of social rights and as such participates in the general development of social policies, while regions and self-governed local public authorities develop, manage and in principle finance social policies. Legislative competencies are “in principle with the Länder unless the constitution stipulates the competence for the federal level or declares shared competencies” (Müller 2002: 41), which is the case for social policy (art. 74 Basic Law). The regions participate in federal policy development through the *Bundesrat*, the second chamber which is constituted by the 16 federal states (Derlien 2000). Furthermore, *Länder* (federal states) tend to increase their own efforts to influence the decision-making process directly through direct interest representation in Brussels (Hassim 2003: 88). All 16 German *Länder* have permanent representations in Brussels, the size of which varies considerably. This strategy is also attractive for NGOs.

The local municipalities are responsible for securing “a social balance in living conditions” (Hanesch 2001: 1) by securing the social infrastructure either through direct provisions or delegation to the six welfare associations which account for about half the social provisions in Germany<sup>26</sup>. The six large welfare organisations in Germany exist at federal, regional and often at local level, depending on the size of the local community. They are not issue-specific welfare organisations. The two largest social NGOs are those of the Catholic and the Protestant Churches which are among the largest employers in Germany. The six large welfare organisations are organised by the *Bundesarbeitsgemeinschaft der freien Wohlfahrtspflege* (BAGFW) and as such are members of a variety of more and less institutionalised working bodies against poverty, amongst which there is the advisory board of the federal government which accompanies the OMC inclusion process. A larger but politically weaker federation is the national poverty conference<sup>27</sup> which exists since 1991 and was created as the German member of the EAPN (Toens 2006). It is the structure that is used when communicating towards the EU, even though at least for the OMC inclusion process most inputs will exclusively stem from the EU working group inclusion of the BAGFW. The high degree of incorporation of the large welfare organisations into the social protection system and anti-poverty policies, which goes back to the 19<sup>th</sup> century (Heinze et al. 1997; Schmid 1996), makes these welfare associations crucial partners of the state, regions and local public authorities in poli-

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<sup>26</sup> Diakonisches Werk der Evangelischen Kirche in Deutschland, Deutscher Caritasverband, Deutscher Paritätischer Wohlfahrtsverband, Arbeiterwohlfahrt, Deutsches Rotes Kreuz, Zentrale Wohlfahrtsstelle der Juden in Deutschland.

<sup>27</sup> Nationale Armutskonferenz (nak).

cy development and implementation (Bäcker et al. 2000; Bode 2006; Pfenning and Bahle 2002; Toens 2006), implying a high degree of consultation in the course of policy development and implementation. Since the mid-1990s, however, the position of social NGOs has been weakened due to unification (there is no NGO landscape in former East-Germany that would provide social services, leaving the bulk of social services to local authorities) and due to a new family policy accelerated by the Constitutional Court which called for a kindergarten place for all children aged three to six, to be available by 1999. As NGOs were unable to respond to the huge demand within a short time period, local authorities stepped in, becoming an important actor in the field. Finally, rulings of the ECJ have strengthened private service providers, both within and outside the national frontier, which are increasingly competing with the large social NGOs on the welfare market (Leibfried 2005; Schulte 2001).

In Germany there is thus a highly decentralized public sector co-existing with a highly organized non-profit sector integrated through strong regions and federal peak associations. Power relations between public and private sectors are thus more balanced and in any event different from those in France where a strong state deals with a fragmented non-profit sector, whereas in Germany local communities deal with a highly organized and internally closely cooperating non-profit sector.

The third variable is how integration-friendly member states are in general, but in particular in the field of social policy. In France the concepts of „nation“ and “national identity” are strong sources of collective integration. These notions were for a long time associated to the notions of French uniqueness, to a *mission civilisatrice* that France believed to have across the world and to the idea of being economically autarque. While not being a particularly active pro-European member state, France nevertheless fought for the safeguarding of its own levels of social regulation by encouraging higher standards in the rest of the EU during the negotiations leading to the Treaty of Rome in which, however, Germany could impose its resistance (Rhodes 1999; Scharpf 2002). The reason why France engaged at all in integration was that it was perceived as a possible solution to the “German problem”, the *leitmotiv* being control (of Germany) through integration. Additionally, a European (unification) project was seen as a step towards a Europe being independent from the USA. During the 1960s under de Gaulle and the 1970s under Pompidou and Giscard d’Estaing, while tempting to take a slightly more pro-active position, France kept a relatively low profile with regard to the integration process, characterised as “liberal nationalist” (Marcussen et al. 1999: 618; Wurm 1995).



It was only after the coming into power of Mitterrand in 1981, the incompatibility of his Keynesian economic policy with the requirements of the European monetary system and the following *politique de rigueur* that a profound change of the definition of French national identity took place. As the new economic policy did not correspond to the political identity of the left, guiding socialists adjusted it to the EC and redefined French identity as part of a collective European identity. This change was conceived in a way that the new conception of national identity resonated with existing identity constructions. The left began to point at the common European heritage, projecting the past as the future of France: “France is our fatherland, Europe is our future” (Mitterrand, *Le Monde*, 4 September 1992). French Socialists who had always defended the “civilising mission” now extended it to the EU, as in their eyes “all European nation states were children of enlightenment, democracy and Republicanism” (Marcussen et al. 1999: 621; Schmidt 2002). In short, if France on its own would not be capable of exercising influence and defending its national and social model, then these goals would be pursued through the EC (Rhodes 1999). The political right, albeit a little bit slower, adopted the same course, as can be seen by the following statement by Chirac in the context of the referendum on the Maastricht Treaty in 1992:

“The European Community is also a question of identity. If we want to preserve our values, our way of life, our standard of living, our capacity to count in the world, to defend our interests, to remain the carriers of a humanistic message, we are certainly bound to build a united and solid bloc . . . If France says Yes [to the Treaty of Maastricht], she can better reaffirm what I believe in: French exceptionalism” (Chirac, *Libération*, 11 September 1992).

With the advent of German unification in 1990 the French drive towards integration gained a new *élan*. Once more, fears of uncontrolled German power were the motor of accelerated integration. Mitterrand only conceded to unification once the German chancellor agreed to give up on the German currency in favour of a common one. Today political elites can promote European ideas which resonate well with the notion of French exceptionalism (Cole and Drake 2000; Magnussen et al. 1999: 628).

This holds particularly true with regard to social policy. Since the negotiations for the Treaty of Rome French elites have been arguing in favour of stronger social integration and a stronger regulatory framework than their German counterparts, in order to protect the French social model and existing constitutional rights (Rhodes 1999; Scharpf 2002). However, Germany successfully resisted these early ambitions. The more profound reason can be found in deeply entrenched visions about the (functioning of the) market, the degree of solidarity that the state should assure and, by a second step, the role to be played by the

EU. In particular since the mid-1980s there have been different attempts by French politicians to project the French social model onto the EU or in any case to develop a European social regulatory framework in order to avoid a race to the bottom. The most prominent attempts are the Social Dialogue, the Social Charter and the discussions around the European Social Model, both strongly supported by Mitterrand and Delors. But also less prominent examples opposed the two member states, e.g. the fight about maximum working hours or about atypical working conditions, the intergovernmental conference leading to the Treaty of Maastricht or the introduction of an employment chapter in the Treaty of Amsterdam, pushed by Jospin, very much opposed by Kohl. All three cases opposed France and Germany in terms of the degree of regulation vs. flexibilisation that governments fought for. If Germany nevertheless decided, in the course of integration, to not always block French initiatives, then this is due to the Franco-German bilateral relationship which should not be harmed (Rhodes 1999).

Two structural features of the French political system were supportive of a European social ambition in particular<sup>28</sup>. For once, even though the French welfare system is generally classified as continental, a coordinated or regulated capitalism, it also shares features with more Latin models, e.g. the traditional weakness of trade unions which were not in a position to mobilise against governmental initiatives at EU-level<sup>29</sup>. Second, the traditional centralisation of the French polity and its static nature made it easier for governments of both the right and the left to intervene in the field of social policy at EU-level (Rhodes 1999).

The relationship between post-war *Germany and the European integration process* differed fundamentally from the French case. Since the late 1950s Thomas Mann's verbatim that "we do not want a German Europe, but a European Germany" rapidly became consensus among German elites and was increasingly shared by the larger public insofar as it was interested in the EC. European integration was perceived as the best and the fastest way out of international isolation, with liberal democracy, a social market economy and Christian values as its foundation (Hrbek et al. 1999; Magnussen et al. 1999; Schmidt 2002). German unification changed nothing here – besides the discussion around the common currency where opinions of elites and the larger public diverged.

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<sup>28</sup> As known, this discursive ambition often is in sharp contrast to the transposition and implementation of EU law in France (Falkner et al. 2005).

<sup>29</sup> Additionally, the strongest French trade union, due to its Marxist tradition, has traditionally opposed the EC to the point of even being excluded from the European Trade Union Confederation (ETUC) (Rhodes 1999).

While European integration is thus generally strongly supported – as exemplified by the speech by Secretary of State, Fischer, in 2000 – German governments have been less ambitious with regard to social integration. Since the beginning of the EC Germany has pledged against social integration (Rhodes 1999; Scharpf 2002) and has never given up on this resistance as shown, by way of examples, by the resistance against a fourth poverty programme and the fourth equal opportunities programme, against the Social Chapter of the Treaty of Maastricht, against an employment title or by the sharp resistance against the Commission’s Green Paper on Services of General Interest. Germany refers to the principle of subsidiarity and stresses that the bulk of social services are provided by local authorities, churches and charities, and that their role has constitutional status and therefore cannot be submitted to EU competition law.

With regard to the OMC, the German government in particular fears that the European Commission is slowly but surely seeking to extend its competencies in the area of social policies, an idea that is totally and repeatedly rejected:

„The OMC holds risks for the protection of national competencies. It should not mutate to a vehicle for system comparison but help to find answers for concrete questions. The ministry refuses an inflation of common objectives and indicators. It should be checked regularly whether a sneaky erosion of national competencies can happen” (Federal Ministry of Health and Social Affairs 2004: 45).

Additionally, in Germany there is a strong rejection of everything that has to do with quantified target setting at the European level, ranking, and naming and shaming strategies<sup>30</sup>: “It is not acceptable to us if the useful, necessary and openly qualitative comparison is overlaid by a factual grading or even some sort of ranking”<sup>31</sup>. It is in this general framework of reluctance to resistance that the OMC inclusion was implemented in Germany.

If compared with France, the political system of Germany offers more veto players or in any case stronger ones. In particular the regions and local authorities have continuously resisted a transfer of social policy competences to the European level. While the unions have generally taken a pro-European stance (Rhodes 1999), they were large organisations in which consensus-finding is slow and difficult, thereby rendering a more pro-active role with regard to the EU difficult, in particular since unification in 1990. Finally, to the difference of

<sup>30</sup> See the opinion of the German government (9.3.2005) on the communication of the Commission of 9 February 2005 – CEC (2005) 33 final. This evaluation was confirmed by all interviews conducted with the civil servants as well as by a German participant of a peer review.

<sup>31</sup> Ulrike Mauscher, Parliamentary Secretary in the Ministry for Work and Social Order, at the meeting of the Conference of Regional Ministers of Work and Social Affairs (ASMK) in November 2001.

France, EU German policies are not centrally coordinated. Ministries, in this case economic and social affairs ministries often disagreed over the position to take with regard to European social policy, and are free to openly voice their opinions – as any other ministry on any given topic with EU relevance. This lack of coordination can be interpreted to reflect a lack of ambition with regard to the governance of the EU. Overall, the position of German governments has been that social standards are best defended at home, rendering a minimum of European legislation possible but no more necessary.

It has thus become clear that in respect of central features of the functioning of the OMC France and Germany are guided by different rationales, norms and institutions, rendering the comparison of these two member states a worthwhile enterprise.

### 3.3 Sources and methods

To answer the research questions, different sources were used for this study. Primary sources are of two kinds. Interviews with actors from France, Germany and the EU-level were conducted. Added together, they form a very coherent picture of the OMC inclusion. In the French case, exclusively actors from the central government level were interviewed, as it was impossible throughout a longer period of time to find actors from the regions or départements who were knowledgeable about the process (Legros 2004b). More concretely, 13 interviews were conducted in France: two with different persons of the coordination staff of the Ministry of Social Affairs in January 2004 and September 2005, both at the same time delegates to the Social Protection Committee (SPC), the steering group of this OMC at EU-level; two with two different delegates to the Indicator Sub-Group (ISG) of the same ministry in January 2004 and September 2005; two interviews with that Sénateur who is at the same time the President of the Conseil National de Lutte Contre l'Exclusion (CNLE), the French consulting body with regard to the OMC process, in January 2004 and September 2005 and seven interviews with six representatives of national NGOs. All of these interviews were face to face and lasted between 60-120 minutes. There are no interviews with politicians, as these do not participate in the process.

In Germany the picture resembles but is not identical. Overall, 19 interviews were conducted. Four interviews were conducted at different times in 2005 with staff members of the coordinating ministry, three of which being delegates to either the SPC or the ISG. Seven interviews were conducted with bureaucratic representatives of the regions in fall 2005. While all 16 Ministries of Social Affairs were contacted, responses varied significantly from no res-

ponse at all via a response such as “we have no time for such an enterprise, please have a look at the decisions of the second chamber in order to know our view” to interviews with less reluctant bureaucratic representatives. The interviews conducted with representatives of regions come from the North, East, South and West of Germany as well as from different political majorities. Two interviews were conducted with representatives of the federal associations of counties and cities. Six interviews were conducted with different EU-officers of social NGOs. All interviews took place on the telephone and lasted between 30-90 minutes.

Furthermore, eight delegates to the SPC and seven delegates to the ISG were interviewed, all of which in 2005<sup>32</sup> and additionally eight delegates to the SPC answered to a questionnaire. Again, the choice of the interview partners was empirically defined by those being ready to be interviewed. This turned out to work in favour of delegates of old (Western) member states. Interviews were conducted on the telephone and lasted between 30-90 minutes. Furthermore, four officials from the European Commission were interviewed, namely the secretariat of the SPC and of the ISG as well as the official responsible for the peer review programme. Two persons working at the country desks covering Germany – important for the evaluation of the German NAPs and the report of the Commission – refused to be interviewed, while an official working at the French country desk gave only very restricted information. Furthermore, the director general of a European umbrella NGO was interviewed in August 2007. Next, I interviewed participants of peer reviews or alternatively sent them questionnaires which were returned by 27 people, while nine participants were directly interviewed (on the telephone or face-to-face). My inquiries concentrated on three particular peer reviews so as to gather as many voices as possible from these three peer reviews, namely in London, Berlin and Paris. Finally, two German researchers as well as an academic observer which at the time of the introduction of the Lisbon process played a political role in Germany were interviewed. Overall, this adds up to 55 interviews and 35 questionnaires.

The aim of the interviews was not, in a strict sense, to „measure“ the effectiveness and the legitimacy of OMC inclusion. Rather, a plausibilisation strategy was pursued, the aim of which is to reflect the political expectations of the OMC in the light of empirical evidence (Deitelhoff 2006). The respective material allows for process tracing (Checkel 2005) which appears as the only way to come to a valid assessment of the OMC. The interviews were semi-standardised and partly closed, partly open so as to allow for adaptation to the individual interviewees and their “knowledge base”. They were guided by the variables

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<sup>32</sup> For France and Germany domestic civil servants mentioned before and delegates to the SPC and ISG are identical.

laid out above, and thus questions subsequently focussed on information, capabilities, monitoring and learning on the one hand, and access venues, representation, deliberation and accountability on the other. Additionally, actors were asked what they perceived as the major advantages and the major inconveniences of the OMC inclusion and if they thought that it constituted an added value. Interviews were not recorded, as first tests showed that actors refrained from speaking openly if recorded. Notes that were taken during the interviews were afterwards typed and then sent to the interviewees in order to eventually have them edited and allowed for citation. The material which had already been structured along the different variables was then clustered and it is these clusters that are presented in the empirical chapters of this study. It should be noted, however, that not all interviewees were capable of answering all the questions, as they (often) lacked respective information and knowledge. Due to respective demands, a strict privacy policy is followed in this study.

The second sort of sources consists of official documents, such as Council Conclusions, Communications from the Commission, Joint Reports of both or decisions by the SPC at EU-level, NAPs from the national governments, decisions by the *Bundesrat* or communications and statements by the NGOs. All these sources became less over the time. No such sources exist from French sub-national actors, from the parties and unions in both member states and at EU-level. The third kind of source is evidently secondary, academic literature.

When analysing and interpreting the interviews and official documents one needs to be very cautious, and this is so for several reasons. First, the Euro-speak English may have severe and damaging consequences insofar as words are translated into Euro-speak which, by way of their simple translation, lose their precise meaning and may therefore be misunderstood. Second, and also in the context of Euro-speak, it is not uncommon that statements end up to be totally superficial, deprived of real substance, and it is important to differentiate bubbles from significant information. This point also relates to diplomatic understatement which one always finds in official documents, no matter of which source. It is important to recognise that official statements by the Council, the Commission, governments or NGOs represent both a compromise of internal diverging views and an attempt to nevertheless show that something is being done, that positive developments are on the way etc. while not necessarily covering one's own faults and failures and therefore providing a picture being sunnier than reality. Finally, all actors act within a political context and therefore defend strategic positions that are more or less in line with their institutional affiliation. Actors tend to use interviews to support a precise position, a precise interpretation of reality, in order to strengthen their own position. It is therefore crucial to be cautious with the material and to cross-check statements made in

order to come to a balanced picture (Barbier 2004b). The translations of the interviews have been done by the author.

## **4 The OMC inclusion at national level**

At national level, the OMC inclusion mainly operates via so-called National Action Plans Inclusion (NAP/incl.), baptised National Reform Programmes (NRPs) since 2006 in the context of the streamlined OMC social protection and social inclusion. As described, the main function of the NAPs is to lay out, in line with the common objectives, central anti-poverty policies and strategies. The NAPs provide the basis for supranational exchange of information, learning and monitoring through the Commission in order to move in the same direction. These plans and the respective developments at EU-level will now be assessed in terms of their effectiveness and their legitimacy.

### **4.1 Effectiveness**

The first round of NAPs/incl. was very loosely organised. While the OMC was introduced in March 2000, the concrete tool-box of the OMC inclusion was decided at the Nice summit in December 2000. It was decided that the first NAPs/incl. would be due in July 2001, leaving only seven months for governments to prepare, consult and draft the NAPs. For this first round, there were no commonly agreed indicators yet. Still, the SPC developed a common outline (SPC 2001a), followed by some, not by others. The outline recommended member states to structure their NAPs along a) major challenges; b) the strategic approach and main objectives for the period 2001-2003; c) policy measures; d) indicators and e) good practices. Common challenges or priorities had not been identified yet, leaving them up to the imagination and creativity of governments and in particular the leading ministries. This situation resulted in quite different NAPs. Some were shorter (approximately 40 pages), others longer (80 p.), some included indicators, others not, some focused on the past while others concentrated on present, rarely future activities, some introduced targets, most did not, some included very few “good practices”, others fifteen, some were provided in several languages, others only in English, all together drawing an interesting picture of what governments associated with the process and were willing to invest in it. However, this diversity did not contribute to overall comparability



and readability of the plans. We will now take a closer look at the French and German NAPs/incl.

### *Precision of information*

In the national context, this variable refers to the way member states have translated the broad and vague common objectives in their NAPs. The broader the NAPs are, the less it will be possible to establish a connection between the European process and domestic implementation and the less it will be possible for the Commission to evaluate the NAP. Reviewing the substance of the NAPs will thus provide an answer as to how ambitious governments are, if they complied with the European objectives and outlines or if they simply drafted governmental reports.

To begin with, there is in France a difficulty with if not incomprehension of the term “inclusion” to the degree that in the first NAP, the term was simply rejected in the title of the NAP which was not called NAP Inclusion but NAP Against Poverty and Social Exclusion. Until the OMC inclusion, this terminology simply did not exist in France, is therefore unknown and widely rejected as indicates this quote:

“I will even tell you that in the CNLE, in a discussion, it was demanded that the word ‘inclusion’ be substituted and corrected, because it is a term that can be used for objects, not for subjects. So we prefer, in the absence of a better term, to speak of fight against exclusion or of the search of social cohesion. The term ‘inclusion’ does not exist” (Sénateur, President of CNLE, January 2004).

As described, the common objectives for the first two NAPs were: 1. Facilitating participation in employment and access by all to resources, rights, goods and services; 2. Preventing the risks of exclusion; 3. Helping the most vulnerable and 4. Mobilisation of all relevant actors. How did the French government(s) react to these objectives in their NAPs?

The first French NAP/incl. (2001) is more ambitious than the German one in that it goes further with regard to analysis and documentation. Still, with over 100 documented measures, it resembles a bit an all-you-can-buy-bazaar. While there are no precise definitions given for poverty and social exclusion, it nevertheless emerges from the plan that both are associated not only with (un)employment (which is perceived as the main road to integration), but also with (the rupture of) social bonds and ties, and policies are meant to be preventive in order to avoid this sort of rupture. Also, this NAP is somewhat more ambitious in that it gives precise numbers (of people living under the poverty

threshold, for example) and therewith makes French policy more vulnerable to critique. The use of numbers also mirrors the general use of indicators in French politics (Legros 2003: 10). All the measures announced in the NAP refer to either 2001 or 2002, suggesting that they would have come about anyways, no matter if the European strategy existed or not. In its substance, it follows the objectives endorsed at Nice, in its structure, it follows the suggestions of the Common Outline.

The NAP describes the general situation in France, emphasising the role of social transfers and particularly child benefit, and refers to the measures put in place through the 1998 act against social exclusion. It aims in particular to improve support for those living on income support, to improve the employment schemes for young people facing exclusion, to improve access to housing by expanding the construction of new houses and measures to improve substandard housing, to reduce health gaps by providing higher refunds for dental treatment and expand preventive health provision, to set up a national agency to tackle illiteracy, and to expand observation and analysis of the forms of exclusion through the planned assistance to sub-national monitoring centres.

The response of the French government to perceived situations of poverty is twofold. The primary source of poverty and exclusion is seen in the absence of employment, even though in-work poverty is also acknowledged, and relief is sought through employment-related policies. Therefore, the NAP stipulates that “the new strategy defined until 2003 is focusing on return into work of people who are the most distant from the labour market and on effective access of all to the fundamental rights” (République Française 2001: 11). A second source for poverty is identified in restricted or in any case unfulfilled access to rights for poor and excluded people and this approach makes it distinctive at least to other continental welfare states. These rights, then, should be universal rights which are enshrined in common law (and not particularistic rights).

The main part of the NAP is dedicated to the Nice objectives which it follows closely. The first section of this Chapter deals with the promotion of employment and the access of all to resources, rights, goods and services. The employment-related part<sup>33</sup> connects this NAP to measures and recommendations of the EES, notably the access to stable and quality work for all men and women who are in working age and capable of working. This shall happen through the support of particularly vulnerable groups, notably through training, through the

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<sup>33</sup> The main measures announced in the NAP in terms of *employment* are: The contract youth in the firm (which already existed), the fusion of the CES (contrat emploi solidarité) and the CEC (contrat emploi consolidé), the re-launch of the CIE (contrat initiative emploi), the creation of the RMA (revenu minimum d’activité) and of the CIVIS (contrat d’insertion dans la vie sociale).

development of policies that take into consideration both professional and family life, through an adequate infrastructure for children and through the use of integration opportunities in the non-for-profit sector. Furthermore, professional ruptures shall be avoided, particularly through the organisation of training and life-long learning. It is suggested that targeting should be increased, particularly of those receiving the RMI, and that the recipients should be inserted both in the profit and not-for-profit sectors. Also, those most distant from the labour market should be trained and educated more, low incomes should be revalorised and professional know-how validated officially.

The access of all to resources, rights, goods and services shall be secured through four channels: a) The development of the social security system so that it allows everyone to live in dignity, and so that it helps to overcome the barriers to taking up employment (making work pay); b) The implementation of policies with the goal of a universal access to adequate housing and the fundamental services; c) The implementation of policies with the goal of universal access to health care services and d) The development of support and services which will allow universal access to education, to the law, to culture, and sports. Furthermore, a range of challenges is mentioned: the low level of social minima, the (lack of a) right to nutrition, the lack of decent social housing, the CMU (Couverture Maladie Universelle) is mentioned as are other attempts to secure access to education, culture and rights. These sections are very short and lack analysis. The next section of this chapter deals with the second common objective, the prevention of risks of exclusion. First, it is suggested to take advantage of the “new” technologies of the “knowledge and information society” and to assure that everyone can profit from it, particularly people with disabilities. Second, policies should be implemented that prevent ruptures, notably those leading to over-indebtedness, exclusion from school or the loss of housing. Third, family solidarities shall be preserved. Challenges mentioned are the connection of everyone, particularly of schools, to the internet, the prevention of expulsions, and an improvement of the access to rights of renters, situations of over-indebtedness and of early school-leaving. Finally, a better coordination of all actors is mentioned. However, it remains unclear how all of this is to be achieved, through which actors exactly and with which means.

The third thematic part deals with policies for the most vulnerable. Again, three points are mentioned: a) To support the integration of women and men, particularly of those who, due to disabilities or the social group they belong to, face particular integration difficulties; b) To eliminate the exclusion of children and c) To develop encompassing policies for (geographic) areas facing social exclusion, be it through universal policies, be it through targeted measures. With regard to *housing*, the main measures announced are a five-yearly programme of

urban renovation (foreseeing 200.000 new constructions, the destruction of 200.000 apartments and the rehabilitation of 200.000 apartments), a programme of combating inadequate housing, the fusion of different financing funds (water, energy, telephone), and the introduction of a social price for electricity (had been announced since 1998), leading the NGO network Alerte to criticise a lack of overall coherence of the diverse measures (Alerte 2003; Fondation Abbé Pierre 2006). It is again emphasized that there exists in France a transsectoral approach which excludes targeting particular groups of people. Furthermore, the insertion of young people which find themselves in difficulties is addressed. Besides employment-related measures, psychological help, access to housing and to the internet are mentioned. Once more, the NAP also calls for an improvement of the coordination of the different actors. Second, the territories affected by exclusion are addressed. Particular attention is given to the so-called *politique de la ville*, established in 2000 (ran until 2006), which is grounded on partnerships between the state and the local authorities which conclude so-called urban contracts.

The final section of this Chapter is dedicated to the mobilisation of all actors. Three suggestions are made: a) To promote the participation and articulation of excluded people; b) To mainstream anti-exclusion policies (through the mobilisation of all public authorities, the development of appropriate coordination structures, through the adaptation of administrative and social services to the needs of their users) and c) To promote dialogue and partnership between all public and private actors concerned (through the involvement of social partners, NGOs and more generally all citizens, through reminding enterprises of their social responsibility). Again, it should be noted that these aims had already been laid out in the 1998 act (Legros 2003).

While this section about policy measures is generally in line with the Common Outline as it mentions a multitude of ongoing activities, it does not follow the suggestion to give time schedules, to differentiate between ongoing and new activities, to mention the actors involved and to pay attention to the gender dimension of poverty. The indicators that had been asked for are annexed and do not connect in any systematic way with the common objectives.

In this French NAP, there are six “good practices”. Their description is comparatively extensive, and their usual structure is the general context of the policy, the concrete measure and its single elements, mostly the involved actors, sometimes results and data with regard to budgeting and individuals reached, and always at least one empirical example, in different local or regional settings, of the implementation of the policy. The first “good practice” relates to access to employment and describes the state-programme TRACE which targets young unemployed. The second portrays local social and economic development with

the help of local integration and employment plans. The third deals with access to housing particularly for young people while the fourth describes access to health by way of the Couverture Maladie Universelle (CMU). The next “good practice” deals with access to rights with the help of centers that particularly seek to assure this right while the last example is dedicated to access to social life in the form of a programme helping poorer citizens to go on holidays. The French government has thus privileged policies which accentuate the rights approach: access to employment, housing, health, rights and social participation, while neglecting the other dimensions of the Lisbon objectives. It has equally privileged state policies or programmes as not a single practice legally originates from another actor. The inconvenient in the context of the OMC inclusion is that the NAP only appeared in French, making it impossible for those who do not sufficiently understand the language to discover these practices.

The first French NAP thus addresses a multitude of policy fields and policies and in this regard can be said to be quite comprehensive. However, it is not always clear how the single policies add up to a coherent anti-poverty policy, because the individual sections are not linked to one another and just a couple of pages long. It becomes clear that many of the mentioned policies and laws go back to the 1998 act against social exclusion and therefore do not constitute anything new. The terminology largely resembles the one of the common objectives, but is seldom specified in terms of quantified targets or identified budgets as demanded so that the evaluation of the portrayed measures is difficult. The mobilisation of all actors, the fourth common objective, is strikingly absent. The voluntary compliance with the European suggestion (Common Outline) is thus rather formal.

The first German NAP/incl. (2001) also follows the substance of the Nice objectives. It focuses on four priorities: integration into the labour market and qualifications, reconciliation of work and family life, assistance for the most vulnerable groups and improved efficiency of the assistance schemes through increased targeting. As in the first French NAP, the focus is strongly on employment-related activities while the section on access to resources, rights, goods and services is more restricted. The second, third and fourth objectives are more or less quantitatively equally dealt with. 16 good practices, described in over 20 pages, are annexed to the plan. This means that the first German NAP formally follows the first Common Outline in all but one point: it does not provide indicators in any systematic way.

The NAP fully embraces the activation paradigm, with all sectoral policies – social protection, education, training, child, family policies – being subordinated to the overall goals of employment and growth. It is striking just how

willingly this NAP embraces the language of activation and described policies which aim at making “people more ready and willing to accept the challenges of today's society”<sup>34</sup>. It insists that “social assistance is designed to help people to help themselves. Its purpose is not just to protect people from immediate material need, but also to provide advice and support to help them to become independent of such benefits as quickly as possible” (Federal Republic of Germany 2001: 5-6). Without any doubt, employment is perceived as the way out of poverty and dependency and into social integration. Consequently, the NAP concentrates on measures which target the groups that are most distant from the labour market – individuals who receive unemployment assistance or social assistance. In return for the – theoretically – active part played by the state in counselling and training, these are “required to take on any reasonable employment (...), regardless of how entrenched they may have become in the receipt of unemployment or social assistance” (ibid.: 8). Migrants are described as particularly touched by unemployment, that is by 18.4% in contrast to 8.8% of the overall population (ibid.: 9). Full-time language courses are described as the main measure out of this situation, the aim being to increase their participation in employment. In the same section, one can also find short passages about people with disabilities, young people, elderly people and the compatibility of work and family, all incorporating the goal of more employment as expressed in this subtitle: “Avoiding breaks in careers by improving employability, the management of human resources, the organisation of work and lifelong learning” (ibid.: 17).

The next section which deals with the improvement of the access for all to resources, rights, goods and services is remarkably short and mainly repeats what had already been said above, i.e. a right to social assistance, but also to decent and healthy housing (ibid.: 23) which is basically perceived to already exist in sufficient ways. The second Nice objective relates to avoiding the risks of exclusion. The strategy described by far the most here (almost two pages) is to improve access to the internet. While it might be useful to recall that at the time of writing this NAP, the internet was by and large discussed as *the* instrument for success, the degree to which the German NAP adopts this ideology in the context of combating poverty and exclusion is still noteworthy:

“Education and training, including mastery of the new information and communication technologies, are key elements in ensuring that broad sections of the population are stakeholders in the knowledge society. This is the challenge that all education and training institutions are now increasingly having to grapple with, and which requires proper political backing” (ibid.: 27).

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<sup>34</sup> All the coming quotes from the German NAPs are citations from the original English versions of the German NAPs.

Other than the internet, over-indebtedness is mentioned in this section, however, without any concrete numbers or measures. The same holds true for home-lessness, which is not defined in any way, indicating a low level of reflection. Finally, the issues of women and children threatened by domestic violence and of early school-leaving are mentioned here, however, without a thorough description of the issues at stake and of the measures proposed for relief.

Under the third objective, helping the most vulnerable, individuals considered are either targeted as disabled or as migrants. With regard to the latter, the reform of nationality law in 2000 is emphasized, rendering easier the receipt of German nationality for migrants that have been staying in Germany seven years or more and for children of foreigners that are born in Germany and have grown up in the country. In the same section, entitlements to language courses are mentioned, however, it remains unclear exactly who is entitled and how much money is being spent for how many users. Finally, persons „with particular social problems“ are mentioned under this objective. Yet, neither the persons nor the problems are precisely identified or interrelated (ibid.: 36).

With regard to the fourth objective, the mobilisation of all relevant bodies, this NAP simply recalls the competence structure in Germany and concludes that “the closer collaboration between the competent authorities at federal, *Land* and local level, on the one hand, and the social partners, charities and welfare organisations and the scientific community, on the other, (...) will be continued in the appropriate quarters” (ibid.: 42).

In the first German NAP, there was a certain inflation of “good practices”, probably due to the federal system and region’s desire to be included with a “good practice”, leading to some 16 examples. At the same time, this desire apparently was not as strong in all regions as only one out of the five East-German regions is represented. Five practices focus on social assistance recipients or other target groups and their integration into the labour market (Brandenburg, Bavaria, Hamburg, Rheinland-Pfalz, Baden-Württemberg). Two are concerned with medical care, one with migrants (Lower Saxony), one with the homeless (Berlin). Three are concerned with the prevention of exclusion (North-Rhine-Westphalia – homelessness, North Rhine-Westphalia – expulsion from school, Schleswig-Holstein – anti-discrimination with regard to sexual orientation). Four relate to the help for the most vulnerable (Hamburg – migrants, Hessen – disabled children, Bremen – social city, Rheinland-Pfalz – community work). Two practices, finally address the improvement of service delivery, and therewith the fourth objective, once by setting up a virtual platform providing information about the social protection system (Bavaria), once by improving counselling by making it more targeted (North Rhine-Westphalia). The coverage of issues is thus rather broad while the geographic coverage is uneven:

while one region is present with three good practices and three with two, five regions are completely absent, four of them being from East Germany. Also, only three regions with other political majorities than the one in Berlin were represented. As all regional practices were region-run or state-run policies, no practice emanated from a local authority, a social partner or an NGO, leading to the discontent of local authorities and NGOs.

While the coverage of issues is rather broad, the information provided in the description is most of the times totally insufficient in order to get a grasp of the policy, as illustrated by the fact that the 16 practices were described in only 19 pages. Most of the times, there is no description of the actors, institutions, financing and eligibility criteria. At times, this may have been motivated by lack of ambition, at times it is due to very poor translation. By way of example the (complete) practice description of Berlin is copied here.

#### *Medical care for the homeless*

In Berlin, a clearly defined system of medical provision is in place for the provision of medical care to the homeless; this includes simplified financing rules under the *BSHG* coupled with grants from the *Land* and district authorities, and authorisations from associations of doctors and dentists providing treatment under sickness insurance schemes in Berlin.

The services available consist of the following:

1. "Mobile surgery" for use on the streets (staffed by medical practitioners and a team of nurses/social workers).
2. Practices for the homeless (staffed by practising doctors/dentists and a team of nurses/social workers).
3. Medical ward under arrangements pursuant to § 93 *BSHG* to take the pressure off hospitals.
4. Consultation with doctors in refuges for the homeless.

Finally, not all practices provided information about their length of existence or even evaluation. Four had only been in place since 2000, while another four were just in the course of being set up. This implies that at least half of the described practices were of very recent nature or were not even set up yet so that evaluation by necessity had not happened yet.

Overall, the NAP provides an overview of the German system of social protection and refers to many existing and recently introduced as well as some planned measures and "good practices". It is very poor in analysis, very vague in its language and very selective in reporting. More concretely, poverty or social exclusion and the causes of these are not defined and analysed, formulations and wordings resemble diplomatic language rather than a political action



plan while concrete budgeting is avoided and some of the most pressing issues such as homelessness, illiteracy or over-indebtedness are completely left out. Sections on single policy areas are very short, varying between ten lines and one page and adding up to a tremendous amount of measures which are, however, never laid out in any detail. Overall, the plan very much focuses on a description of past or already planned policies and comes to a very positive evaluation of anti-poverty policies in Germany. It more or less follows the formal structure suggested by the Common Outline, but does not provide indicators and does not give sufficient information about concrete measures and their financing. It also does not pay attention to the gender divide.

After it had received all the plans, the Commission immediately engaged in evaluating the NAPs and in drafting the first Joint Report Inclusion (JRI) which member states received in fall 2001. In order to evaluate the NAPs, the Commission uses different instruments. Country-specific, so-called geographic desks use the expertise of national experts and the data of Eurostat, first the EHCP, now the EU-SILC, in order to evaluate the development of policies and performances. European NGOs are also activated in order to receive a more balanced picture of the process and policies than the rather governmental reports (NAPs) provide in their diplomatic language. The evaluation of the individual NAPs takes the form of a “country fiche” to which the individual governments can react before and in the course of a meeting with Commission officials. After that, the modified fiches (part II) together with a longer section describing general developments (part I) are publicised in the JRI, adopted by both the Council and the Commission.

In its first draft of the first JRI, the Commission differentiated between four groups of member states in which strategies against poverty and social exclusion were more or less advanced, and which had handed in more or less ambitious action plans, thereby establishing a hierarchy between member states. Whereas France was complimented on its comprehensive, proactive and preventive approach, Germany was criticised for the lack of a coherent overall strategy<sup>35</sup>. In the context of the SPC, all 15 then member states immediately protested against this pro-active strategy of the Commission and demanded a second draft. The Commission had to roll back and drafted a second JRI which was commonly adopted in spring 2002 (Council and CEC 2002; de la Porte and Pochet 2003:

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<sup>35</sup> Concretely, member states were ranked as follows: a) Comprehensive analysis and a holistic and strategic approach (Denmark, France and Netherlands); b) Solid underpinned diagnosis with emphasis on challenges and risks (Portugal, Finland, Sweden and UK); c) Elements of a national strategy (Belgium, Germany, Spain, Italy and Ireland) and d) A snapshot analysis (Greece, Luxemburg and Austria).

20; Armstrong 2003: 21-22)<sup>36</sup>. This reaction of member states indicates the difficulties the Commission faces with an active and “public” naming and shaming strategy.

In the general section, the report warns that some of the major structural changes that are taking place in society, while positive for most people, could lead to new risks of poverty and social exclusion for particularly vulnerable groups unless appropriate policy responses were developed. These changes include changes in the labour market due to globalisation and the rapid growth of the so-called knowledge-based society, information and communication technologies, demographic changes with more people living longer and falling birth rates, a growing trend towards ethnic, cultural and religious diversity as a result of increased international migration and mobility, changes in household structures with growing rates of family break-up, the diversification of family life and the changing role of men and women. Furthermore, the “traditional” risks are mentioned as possible causes for social exclusion: unemployment, homelessness, low quality jobs, ethnic background and risk of racial discrimination, poor health, poor qualifications and early school drop-out, gender, age, disability, drug abuse, alcoholism, and divorce.

There remain a number of rather harsh criticisms in this general part. NAPs would be governmental reports to the EU rather than strategic action plans, with little substance in terms of precise goals, quantified targets and quality proof of existing policies, mirrored in the vague rhetoric of the majority of the plans. This would go hand in hand with the absence of budget identification. Also, NAPs would be insufficiently integrated into domestic policy-making processes, with the absence of parliaments and the lack of mobilisation of other relevant actors such as social partners and NGOs as the most striking features (see also Amitsis et al. 2003; Armstrong 2003). The Commission furthermore notes that access to work should not be at the expense of other rights such as adequate minimum income, housing, health services, participation in social and cultural life (objective 1); that information about the prevention of risks of exclusion is rather rare and incomplete (objective 2); that few targets were set, and if so, mostly with regard to people with disability and their labour market integration (objective 3) and that the measures taken to mobilise all relevant actors remain unclear most of the times (objective 4). For the future process, the Commission identifies eight challenges: developing an inclusive labour market and promoting employment as a right and opportunity for all, guaranteeing an adequate income and resources to live in human dignity, tackling educational disadvantage, strengthening families and protecting the rights of children, ensuring good

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<sup>36</sup> This episode was mentioned by many interviewees as an example of conflict with the Commission.

accommodation for all, guaranteeing equal access to and investing in high quality services, improving delivery of services and regenerating areas of multiple deprivation (both urban and rural) (Council and CEC 2002).

Once it was decided that the process should be continued – indeed an official agreement was necessary for that – a new Common Outline was developed by the SPC for the second round of NAPs. Member states were asked to “identify and build on progress made during the 2001-2003 plans” (SPC 2003b). The NAPs should evaluate what worked and what did not with regard to the policies exposed in the first round and develop new initiatives to combat existing poverty. Particular attention should be given to the connection between the OMC process and existing policy-making processes, to an increased awareness of the process by a larger public and politicians, to a better incorporation of the regional and local levels as well as to the most vulnerable and marginalised, such ethnic minorities, ex-prisoners, drug addicts, the homeless or street children, but also to health, culture and gender mainstreaming, to quantified targets for the reduction of poverty, and to a coordination between this NAP and the employment NAP. More concretely, the outline suggests a particular structure, consisting of major trends and challenges, review of progress of the policies announced in the first NAP, strategic approach, main objectives and key targets, policy measures, institutional arrangements and good practices.

The outline that member states do not *have* to follow, was mainly aiming at: 1) Increasing the readability and thereby the possibilities of comparison; 2) Encouraging member states to focus more on the development of strategies rather than presenting what is already in place; 3) Encouraging member states to set more quantified targets and 4) Ensuring a greater visibility of the local and regional levels as well as the participation of other than state actors. Finally, member states were invited to set targets “for significantly reducing the number of people at risk of poverty and social exclusion by 2010” at the Council of Ministers for Employment and Social Affairs at their meeting 2-3 December 2002 (European Council 2002c). As a consequence from the experiences in the first round, the outline also established that the NAPs should be evaluated according to pre-established criteria: analysis of central risks and challenges, the extent to which the NAPs translate the common objectives into precise and detailed priorities and goals, and the extent to which the NAPs overcome a sectoral approach and instead develop an integrated approach. Substantially, the SPC recommended three changes: set targets in the NAPs and use the Laeken indicators where possible, give more emphasis to gender mainstreaming and to the poverty risks faced by immigrants, and give a stronger role to the different stakeholders in the process. It was decided that the next JRI should be submitted to the Spring European Council of 2004.

The second French NAP appeared under a different political, conservative majority which had come into power after the elections of June 2002. In the period after the publication of the first NAP, the public debate was largely dominated by the presidential campaign, which ended in the competition, in the second round, between the outgoing President Chirac and its extreme-right opponent Le Pen. While the issue of the “social fracture” was largely present in this campaign, the issues of poverty and social exclusion were by and large neglected (Legros 2003). After the change of government in June 2002, an implementation of the NAP (2001), drafted by the Jospin government, became quite unlikely.

The second NAP, drafted under the Raffarin government, was less demanding than its predecessor insofar as the eradication of poverty until 2010 was not a declared strategic goal anymore. It was innovative insofar as it contained budgetary data indicating how much money should be spent on social exclusion policies during the period 2003-2005, namely 33 billion Euros by the state and 16 billion Euros by local authorities. NGOs, however, criticised that the numbers would be too aggregated so that it would be impossible to evaluate how much money would be spent on single policies or programmes (EAPN-France 2003).

In its structure, the plan follows the suggestions of the second Common Outline. The first chapter, dealing with general tendencies and challenges, lacks precision of terminology and analysis and is very selective with regard to policy areas (people with disabilities or disadvantaged youth, by way of examples, are not mentioned). It focuses on employment and monetary poverty. Employment policy is described to be particularly geared towards those most distant from the labour market (République Française 2003: 9).

In the second chapter, progress with regard to the first NAP is briefly laid out. However, the choice of policies is very selective and there is no analysis of the interaction of different aspects of poverty and exclusion or their structural reasons. The data is mostly from the years 2000-2001 and is thus not identical with the policies described in the first NAP (which mainly covered the years 1998-1999) which are evaluated here.

The third chapter describes the main goals of this NAP as follows. The autonomy and dignity of vulnerable individuals should be re-established, there should be a balance between protection and responsibility, the insertion and access to activity should be renewed and local initiative should be more valorised. These principles are structured around three goals: To create lasting conditions for the development of employment for the entire population, to counter risks of exclusion through the access to rights and citizenship, and to mobilise all actors against exclusions.

The fourth chapter discusses strategic measures that should be taken and begins with the first Nice objective (access to employment, rights, etc.). Once more, the reform of the social protection system is mentioned which should allow individuals to live in dignity and assure that works „pays“. With regard to the minimum income scheme (RMI), the measures described mainly refer to a better functioning of the existing system and better coordination of existing actors (République Française 2003: 22). With regard to housing, it is observed that the supply remains too low. The NAP suggests a stronger social mix in the different urban areas, more construction of larger apartments for larger families, and a social tariff for electricity which should be introduced in 2003 (ibid.: 23). Other issues that shortly follow one another are education, access to rights, culture, sport, tourism and transport.

The second Nice objective relates to the prevention of the risks of exclusion. Here, over-indebtedness which can lead to the loss of housing, but also exclusion from school, is particularly discussed. Measures to prevent expulsion from one's apartment are presented. Overall, these are not new measures, but instead seek to improve the functioning and coordination of existing measures. Another focus of this objective is family solidarity, particularly with regard to the infrastructure for young and youngest children and with regard to immigrants which should be supported in understanding the duties of parenthood and the functioning of schools.

With regard to the third Nice objective (help for the most vulnerable), the NAP addresses individuals who run risks due to their (ethnic) origin, gender or disability. Here, immigrated women are particularly addressed as are violences that immigrated women or feminine descendants of immigrants can be victims of. While these violences are severely rejected, measures to combat them are hardly mentioned. The integration of immigrants is addressed through the announced so-called reception and integration contract which entered into force nation-wide in 2006 and which is "proposed" to every newly arriving immigrant. While it does not constitute a duty to conclude such a contract, a rejection can be interpreted as a malus later on when people are looking for a job or asking for French nationality. The contract consists in language and civic education courses. It is also in this section that gender mainstreaming is mentioned, however, respective measures are only of informative and coordinative nature. With regard to disability, a bill for the equality of chances that was introduced in 2003 is mentioned as well as a plan for the integration of handicapped children into school. The NAP also asks for action against intolerance and for the equality of rights. These activities should be foremost of pedagogic nature, but the plan is no more concrete than this. The section closes with a few lines about territorial exclusions. Here, a bill project is mentioned the aim of which is to

provide declared sensitive urban areas with better infrastructure and more “security”.

The last chapter of the NAP – in accordance with the Common Outline – deals with the mobilisation of all actors which is apparently deemed insufficient. Most generally, a study amongst excluded people, relating to their satisfaction with social services is announced (did not take place) as is the next wave of decentralisation (entered into force January 2004) which meant a shift in competences particularly with regard to the RMI and related activation policies. Other measures that are mentioned relate to an improved interministerial coordination, an improved partnership between the different levels of administration, a national meeting bringing together all the actors in the field, a media campaign is announced for early 2004 in order to change the public’s view of poverty and exclusion (did not take place) and large enterprises should also be incorporated into the fight against poverty and social exclusion.

The 2003 French NAP highlights four “good practices” – as asked for in the Common Outline. Descriptions vary in length and detail, but are not as informative anymore as in the first NAP, leaving the concrete composition of actors and the financing of the measure as well as eligibility criteria out and engaging instead in diplomatic description. The empirical example which had been provided in the previous NAP to every “good practice” is suspended. The four practices are insertion through economic activity (Revenu Minimum d’Activité, RMA), “big exclusion”, referring to several measures targeting those in need of a short-term shelter, the contract of arrival and integration (Contrat d’Accueil et d’Intégration, CAI), targeting primo-arrivants, particularly coming from outside the EU, and an urban policy, the politique de la ville. Two practices stand out here, the RMA and the CAI, and for similar reasons. The RMA is part of French activation policies. The critical point is that it was only introduced 1 January 2004, that is six months after the drafting of the NAP. Additionally, it has attracted considerable criticism from both the social partners and NGOs and turned out to be a very unsuccessful programme and has more or less been dropped shortly after its introduction. Similarly, the CAI, which offers new immigrants a contract (not mandatory) with the aim of facilitating their social integration, at the time of the drafting of the NAP had only been experimented with in some 20 départements while it was only expanded nationally 1 January 2006. It has equally attracted widespread criticism by NGOs, indicating that the practice is not undisputed by those who are generally closest to the immigrants. As in 2001, all four practices are state programmes and the NAP only existed in French, diminishing the number of potential learners. When compared to the first NAP, it is remarkable that these practices are not located in the rights approach anymore.

Overall, this NAP thus contains a multitude of issues and announced measures. The focus is clearly on employment-related activities whereas there are few measures which would target other dimensions of severe exclusion, thereby not following the suggestion of the second Common Outline. It is remarkable that many of the described measures relate to better information and coordination or the creation of additional agencies or commissions – many of which never came about. The description of measures remains very vague and is never associated to quantified targets. Also, the plan is marked by an absence of an overall evaluation of anti-poverty policies (Legros 2003).

Many measures were announced in the first NAP but were either temporary in nature or never carried through at all. This concerns the activities relating to the information about rights which, in the end, never took place as described in the first French NAP. The same holds true for the creation of social centres which was announced in the first NAP but, besides 50 projects financed under the Jospin government, were not implemented on a larger scale (Legros 2003). And it holds true for many other measures announced in the first NAP which never saw daylight. Thus, this NAP formally complies with the Common Outline and it constitutes a progress insofar as general budget lines are introduced, even though they remain so vague that single policies cannot be associated to them. At the same time, it is far from fulfilling the substantive ambitions of the Outline.

The second German NAP more or less follows the Common Outline of the SPC in its structure. First, the central challenges are described after which the results of the NAP 2001-2003 are laid out. The approach to poverty and social exclusion is set out in the third section while the fourth Chapter addresses the political approaches foreseen for 2003-2005. To the difference of the French NAP (2003), however, it does not follow the Nice objectives, but differentiates between a) the access to employment and the support of integration into the labour market; b) children and families as the central focus of solidarity; c) the strengthening of the participation and empowerment of people with disabilities; d) the integration of immigrants and e) the inclusion of groups particularly touched by poverty. Thus, the Nice objectives relating on access to resources, rights, goods and services as well as the prevention of risks of inclusion do not appear anymore as structuring elements. However, and again to the difference of the French NAP, the request of the Common Outline to focus more on immigrants is taken up. The fifth section deals with the mobilisation of all actors while four good practices are annexed.

This NAP resembles the first in tone, style, lack of analysis and precision, even though a few changes did occur. The NAP appeared shortly after the dis-

cursive introduction of the so-called Agenda 2010 in which chancellor Schröder announced far-reaching changes in labour market policies and social assistance. Again, the main way out of poverty is perceived in paid employment and the activation paradigm is firmly established:

”Its goal is the targeted and increased activation of the individual’s potential to enable social and economic participation and to dismantle material dependency on state benefits. (...) Particular importance is attached to labour market policy, especially about integrating disadvantaged groups into the labour market by strengthening activating measures following the principle of “Promoting and Demanding”. (...) (Federal Republic of Germany 2003: 4-5),

and it is believed that

“to strengthen the momentum of activation within the context of a preventive policy, the qualification of these groups most at risk is especially important (...). Overcoming unemployment is the most important political goal and the most effective means of social integration. Politics must therefore give priority to improving the conditions for sustainable growth and for more employment” (ibid.: 27-28).

Groups at risk are defined as long-term unemployed recipients of social assistance and of unemployment benefits, people with poor qualifications, severely disabled people and immigrants. As in the first NAP, education and life-long learning are described as *sine qua non* for “social participation and an active role in shaping our knowledge-based society” (ibid.: 8).

The second priority is given to „Making Society Child and Family-Friendly“, in particular through an improved infrastructure for young children which should render the compatibility of employment and child-raising easier, particularly for women, and even more so for single parents (ibid.: 31). The third priority is to increase the participation and self-determination of people with disabilities. The NAP refers to the implementation of the Act on Equal Treatment of People with Disability, and to a report on the employment situation of severely disabled people and the federal government’s suggestions for further measures (ibid.: 34). A fourth focus is the integration of immigrants, referring to Germany’s new way to a more active immigration policy. The new immigration act is described as an attempt to put the integration of immigrants on a new legal footing, combining both increased rights and duties for immigrants. As before, language courses as well as further training are recommended as a way into social integration (ibid.: 35). For the remainder, the NAP remains in its vague language, leaving open what exactly will be done by whom and with which means:



“The instruments for encouragement should address the immigrants’ responsibility and their potential to help themselves. They should not just be passive participants in measures, but also be able to actively involve themselves in the integration process. In this connection, the existing strengths should be much more used than the deficits” (ibid.: 10-11).

With regard to the issue of housing, the language is as vague, but to the difference of the previous NAP, there are also very short passages on the homeless and drug addicts. However, the related passages remain very vague, indicating clearly a lack of knowledge and analysis.

After the short general overview, the NAP describes how the measures announced in the first plan have been followed up or implemented. The focus is on labour market policies and respective reforms. The Job-AQTIV act is briefly presented as are the first two bills for modern services in the labour market recommended by the so-called Hartz Commission. Related changes aim at improving the quality and speed of finding employment for people, the reorganisation of temporary work and the introduction of service agencies as new means of bringing people into employment. In the future, job centres are to be the local centres for all services in the labour market. For 2003, the third and fourth bills stemming from the same Commission are envisaged. The third should consist in a re-organisation of the federal institute for employment and decreasing bureaucracy within employment-related legislation. The fourth bill, finally, consists in the fusion of unemployment benefit and social assistance which entered into force in January 2005. Its aim is the faster (re-)integration into paid employment and this aim is to be achieved through “promoting and demanding”, promoting referring to the helping hand of the state respectively the local authorities, demanding referring to tightened eligibility criteria and conditionality.

Short passages follow on the priorities of this NAP – family and children-friendly infrastructure, people with disabilities and the integration of immigrants, as well as a few lines about the homeless, addicts and the community development programme “The social city”. All these passages take up between 7-10 lines and therefore necessarily remain very vague and abstract. As in the first NAP, information about the mobilisation of actors is extremely parsimonious which does not surprise given the little amount of consultation that happened.

In 2003, when more regions were already governed by the political opposition to the red-green government in Berlin, three out of the four presented “good practices” were governmental programmes, while one was a local initiative. Two of them are dealing with activation strategies for the long-term unemployed, one is concerned with the labour market integration of people with severe disabilities and the fourth targets neighbourhoods with particular difficulties.

Information is again very scarce, hardly permitting a good understanding of the policy. All four practices were at the most two years old and evaluation not yet available. All four were practices of the public – federal, regional, local – authorities while the social partners and NGOs were missing. However, these received the opportunity to shortly describe some of their approaches in an annex.

Overall, the second German NAP thus more or less complied formally with the Common Outline. It paid more attention to immigrants and to people with disabilities, it provided less “good practices” and indicators in an annex – which however do not interact with the rest of the document. However, there is also considerable lack of compliance. The NAP is not framed by the common objectives anymore, it does not pay particular attention to the interaction between the different levels of government (nor, as will be shown, to an increased public awareness of the process), it does not set quantified targets that could be evaluated, and it does not specify the financial resources attached to single policies. It is therefore possible to conclude that while there is mostly formal compliance, there also is considerable resistance to the European aspirations.

The second JRI particularly emphasised the need to improve the coordination between the different levels of governance (national, regional, local). The same report suggests six areas of priority for the next years, namely the investment in active labour market measures, the development of social protection systems, the access of disadvantaged people to adequate housing and health services, the eradication of child poverty, increased efforts to combat poverty and social exclusion of immigrants and ethnic minorities, and measures in order to prevent early school-leaving (Council and CEC 2004)<sup>37</sup>.

In a next step, member states were asked to draft implementation reports in 2005, the aim being to assess progress made with regard to the policies outlined in previous NAPs, the impact these policies had unfolded on the reduction of poverty and social exclusion as defined by the common objectives and to provide a short update of planned policies (SPC 2004). In a second step, the implementation reports should also be used for the overall evaluation of the OMC five years after its introduction and for the preparation of the next – streamlined – phase. Member states should use both EU and national indicators and refer to quantified targets they eventually set in the NAPs. Finally, they should use the opportunity to mobilise all relevant actors and to increase the public awareness about the inclusion process, for instance by including parliaments and using the media. Concretely, the implementation plans were expected by the end of June 2005. The structure of the reports should be as follows: major trends and chal-

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<sup>37</sup> It can be noted here that the issue of gender mainstreaming did not make it into the list.

lenges since 2003, overall assessment of objectives, priorities and targets, implementation of policy measures and institutional arrangements, good practice for which evaluation reports are available (no once-off projects) and a policy update for 2005-2006.

In 2004, several reports were commissioned by the Council, one to a group chaired by Wim Kok, the former Dutch Prime Minister, another one to André Sapir, academic adviser to Commission President Prodi, in order to evaluate the functioning and implementation of the Lisbon Strategy of which the OMC inclusion is one part. A revision was deemed necessary as the implementation of the reform agenda clearly lacked behind earlier expectations. The Kok report (Kok report 2004) attributed the lack of success to both the EU and member state failure, i.e. lack of political commitment to implement the Lisbon strategy and excessive complexity, not, however, to supposedly wrong overall goals or principles (Pisani-Ferry and Sapir 2006). At the mid-term review of the Lisbon process in 2005, member states partly acknowledge the weak implementation and decided to focus even more on employment and growth: "Europe must renew the basis of its competitiveness, increase its growth potential and its productivity and strengthen social cohesion, placing the main emphasis on knowledge, innovation and the optimisation of human capital" (Luxemburg Presidency Conclusions, para. 4-5). The wing social cohesion of Lisbon I was subsequently weakened and was considered to be part of the employment agenda which in turn was subordinated to growth and competitiveness and should be guided by criteria of budgetary stability and structural reforms (Pochet 2006; Wendler 2007).

Furthermore, the Kok report perceived a need for changes in the governance structure which it characterised as having too broad an agenda: "Lisbon is about everything and thus about nothing. Everybody is responsible and thus no one" (Kok-report 2004: 17). It severely criticised the OMC in general for being overloaded and insufficiently effective. The Commission largely followed this analysis in its mid-term review of the Lisbon strategy and its own evaluation of the OMCs inclusion (CEC 2003, 2004a, 2004b) and pensions through questionnaires sent to the member states (CEC 2005c), criticising the multiple coordination procedures and the lack of preciseness of criteria how to implement (and evaluate) the OMC (CEC 2005c: 9). As a remedy, the revised strategy supports national ownership through the coordination of national reform programmes (instead of the earlier NAPs). The national reform programmes should be elaborated and implemented in close cooperation with the concerned national actors, on a three-years-basis, while the Commission was asked to name and shame more publicly. The Commission, however, refused, due to experienced resis-

tance of this sort of peer pressure particularly by France and Germany (Pisani-Ferry and Sapir 2006).

In order to improve the governance circle, it was decided to streamline the whole Lisbon agenda, implying more coordination of single policies, a focus on less priorities, longer cycles than before and less reporting. In this context, the BEPGs and the recommendations of the EES were integrated into a three-years-cycle, using so-called Integrated Guidelines (CEC 2005c). In the same context, a streamlining of the social OMCs was prepared by the Commission and the SPC, implying the integration of the OMCs inclusion, pensions, health and long-term care into a single OMC, also with a three-years-cycle (CEC 2005c: 5, Wendler 2007), following the one of the Integrated Guidelines. The coupling of the streamlined OMC with the Integrated Guidelines was the result of an informal meeting of the Ministers of Social Affairs in January 2006 where they confirmed the ambition to underline the social dimension of the Lisbon strategy, and to increase the visibility of the social OMC (Wendler 2007; O'Connor 2006), an ambition shared by the respective unit in the Commission according to which the revised framework for the open coordination of social protection and social inclusion

“aims to create a stronger and more visible OMC with a heightened focus on policy implementation, which will interact positively with the revised Lisbon Strategy(’s concentration on growth and employment), while simplifying reporting and expanding opportunities for policy exchange” (CEC 2005e: 2).

The National Reform Programmes are divided into a common section about the situation of social protection and inclusion and short thematic sections. In between the three years, the OMC concentrates on particular issues and on the evaluation of indicators while a yearly Joint Social Protection and Social Inclusion Report will be adopted each spring, reporting about major trends and the feeding-in process (Natali 2005), the goal of which is to ensure that social protection and inclusion contribute to growth and employment and vice versa (EMCO and SPC 2006).

These changes imply that, more so than before, all social policy activities will have to be related to and justified with regard to the revised Lisbon strategy, its substance and procedures (Wendler 2007). With regard to the actor constellation, member states play an even more prominent role in the coordination processes than before and the role of the Commission now is to support member states in their efforts (instead of evaluating their efforts) (CEC 2005e). The new framework was for the first time applied in 2006 with National Reform Programmes (2006-2008) delivered in fall 2006 (O'Connor 2006). As the previous

OMC inclusion, the streamlined OMC social protection and inclusion also adopted common objectives. These are:

- (a) Social cohesion, equality between men and women and equal opportunities for all through social protection systems and social inclusion policies;
- (b) Effective and mutual interaction between the objectives of greater economic growth, more and better jobs and greater social cohesion within the EU's sustainable development strategy and
- (c) Good governance, transparency and involvement of stakeholders in the design, implementation and monitoring of policy.

The social inclusion portfolio is largely drawn from the 2001 Laeken indicators with some re-arrangement of indicators from the primary to the secondary level (CEC 2005e: 16). Under the heading of 'Making a decisive impact on the eradication of poverty and social exclusion' the social inclusion objectives are:

- (d) Ensure the active social inclusion of all by promoting participation in the labour market and by fighting poverty and exclusion among the most marginalised people and groups.
- (e) Guarantee access for all to the basic resources, rights and social services needed for participation in society, while addressing extreme forms of exclusion and fighting all forms of discrimination leading to exclusion.
- (f) Ensure that social inclusion policies are well coordinated and involve all levels of government and relevant actors, including people experiencing poverty, that they are efficient and effective and mainstreamed into all relevant public policies, including economic, budgetary, education and training policies and structural fund (notably the ESF) programmes and that they are gender mainstreamed.

Finally, a result of the streamlining process and Eastern enlargement with its increase in official languages (23) is that what used to be Joint Reports adopted by both the Council and the Commission, thereby giving them an official rank, which had to be translated into all official languages, has since been divided into a short report adopted by the Council (maximum of 22.500 signs, approximately 12 pages) and more specific reports, issued as Commission Staff Working Papers (CSWP). With regard to the latter, it is only the Commission which adopts them, one implication being that even less bindingness exists for member states. A second implication is that the CSWPs are not translated into all official languages, but only exist in the language of the country they are addressing and *eventually* in English. As for the country fiches, they are now dealt with in an annex and appear only in the official language of the respective member state, implying that the country fiches can only be read by those who master the respective language(s). This means that the room for common analysis, monitoring and information sharing as well as the potential of public naming

and shaming decreases further to the point of barely existing. A Common Outline or Guidance note was not provided for anymore by the SPC, but by the Commission, therefore being less “binding” (CEC 2006a).

The French NAP 2005, which is 26 pages long, in its first Chapter, describes the evolution of the economic and social context since 2003. It begins with a description of the economic situation and the labour market. The next section is concerned with the development of poverty in particular. However, it is noted that recent developments with regard to monetary poverty could not be provided as the respective data would only be available until 2001. It is mainly observed that the number of recipients of social assistance, in particular of the RMI, had increased, not without indicating that this can also be due to changed eligibility criteria. The third section – only a few lines – observes persisting difficulties in meeting the demand for (social) housing and increasing difficulties of households to afford the rising rents. The Chapter closes with a short section about inequality in access to health (facilities). The Couverture Maladie Universelle (CMU), introduced under the government of Jospin in 1999, is described as the way of dealing with the respective inequality.

The second Chapter (2 pages) proceeds with a “global evaluation of the strategies: priorities, objectives, indicators” and thus also follows the Guidance note. The three priorities of the NAP (2003) are re-called and it is stated that 90% of the measures announced in the last NAP were realised<sup>38</sup>. The plan then very shortly notices the respective policies for each priority, without, however, referring to respective data.

The third and main Chapter (11 pages) deals with the “realisation and impact of implemented policies”. This Chapter, as recommended, follows the structure of the Nice objectives, starting with access to employment. In this regard, many different measures are mentioned. Among the most prominent, one finds the continued lowering of additional wage costs in the hope to contribute to the creation of additional jobs. The Plan of Social Cohesion of spring 2004 is also mentioned. It was used in order to re-structure the numerous activation measures into three categories: the first gathers the first labour market, the second group of programmes is directed towards employment in the non-for-profit-sector while the third groups vocational training measures. It is emphasised that the mentioned plan also establishes a new balance between rights and

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<sup>38</sup> Close observers of French politics are familiar with the “obsession” to have yet another legal act for all imaginable goals. The implementation record often lags far behind. Additionally, it must be recalled here that the majority of the measures announced in the NAP 2003-2005 were the creation of yet another committee, working group or the alike, better information systems or media campaigns, thus not necessarily lasting actions.

duties of the unemployed, in particular in the form of increased conditionality of benefits. Finally, a series of measures aiming at an increased participation of young mothers in the labour market is described.

One significant change was indeed introduced with the new decentralisation wave which entered into force on 1 January 2004. Amongst the policies of interest here, it particularly touches the organisation of the RMI which since is organised both by the central government and the *départements*. The former defines the level of the RMI and eligibility criteria, the *départements* decide who is admissible, monitor the criteria for paying benefits and look after the labour market integration of the recipients (Palier 2002). More, parliament also voted out the minimum spending obligation the *départements* had since 1988 for RMI claimants, so that theoretically, *départements* are free to spend their money as they wish. While the central government hoped to increase the success rate of insertion efforts through signed integration contracts (Julienne and Pétour 2004), not only NGOs claimed that this strategy meant giving up the universal and undivided approach to citizenship<sup>39</sup>. The fear is that social services will vary significantly by place, as commitments to equality are replaced by the goal of achieving “equity,” and meeting the particular needs of specific places.

The “activation minimum income” (RMA) was created in 2003 in order to compensate the perceived deficiencies of the RMI (Jenson 2004b). The goal of this programme is to move RMI claimants from welfare to work, particularly the long-term unemployed. It pursues this goal by granting financial assistance to employers who hire people who have received more than two years while the RMA recipients receive only a quarter of the social protection of the regular employees. The second goal of the programme is to separate the “deserving” from the “undeserving” poor and to increase the initiative of RMI recipients (Jenson 2004b: 90). Also, the government wanted to concentrate on labour market related activities while leaving social assistance and welfare to the departments (Jenson 2004a).

Finally, unemployment insurance eligibility criteria have undergone changes since the introduction of the OMC inclusion. While an act of January 2001 maintained a minimum of four months of insured employment during the last 18 months in order to be eligible, this changed to six months out of the last 22 months since January 2003 (under the new conservative government) while the duration of unemployment benefit has been shortened, particularly for elderly workers (Adjé and Pétour 2004: 98). These are only a few examples to illustrate general trends in French welfare policy which point in the direction of less state, more decentralisation, tightening of eligibility criteria – trends that one can

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<sup>39</sup> President EAPN-France 1, June 2004, Civil servant DGAS / participant peer review, September 2005.

observe throughout the EU and which had begun well before the introduction of the OMC inclusion.

The next sections encompass a long enumeration of issues, all in a few lines to a maximum of one page, such as access to resources, to housing, to health and care, to education and to rights.

The next larger section relates to the second Nice objective to prevent the risks of exclusion (a short page). The first issue dealt with here is the prevention of expulsions of citizens from their home. However, only an interministerial circular of May 2005 is mentioned directed at the *préfets* in order to recall them their importance and responsibilities in the matter. The circular is accompanied by a pedagogic document in the direction of social workers. The second issue under this heading is “financial exclusion”. Two developments are mentioned: an act of August 2003 which addresses over-indebtedness and establishes a procedure of personal recovery under the direction of judges and which allows the effacement of all individual debts; second, an act of January 2005 which established a fond for micro-credits particularly for people in difficulty.

The next larger section addresses actions for the most vulnerable (4 pages). Here, a multitude of measures is shortly mentioned. They relate to the homeless and respective shelters; to equality between men and women (in particular violence against women and unequal chances in the labour market and due to ethnic origin); to the foreign population and those of foreign origin (continuation of the CAI described as a good practice in the previous NAP, at the point of writing the NAP 2005 established in 40 départements, diverse anti-discrimination sensibilisation measures, amongst which the HALDE, chosen as a “good practice”, see below); to people with “handicaps” and to geographically disadvantage territories (continuation of urban regeneration programme which allows for additional financial state-support and an act of February 2005 in order to support rural revitalisation).

The next Nice objective relates to the mobilisation of all actors. It is mentioned that the interministerial committee which was created by the 1998 act against social exclusion met for the first time in July 2004, directly after the first national conference against exclusion. The Committee adopted 40 measures the destiny of which remained a secret to me – despite repeated investigations. Next, the regionalisation of the RMI is mentioned, transferring greater competencies to the departments, as is the case with regard to social assistance for young people and for housing. Finally, the establishment of a new system of accrediting professional experiences relating to social work is mentioned (VAE, see good practice below). A section about the coordination, evaluation and measurement of the impact of the policies against social exclusion closes the Chapter. It presents actors (interministerial committee, CNLE), a document (DPT)



and the indicators which will be dealt with later and therefore will not be cited at this point.

In this NAP, three “good practices” are presented. The first is a high authority aiming at the transposition of EU anti-discrimination and equal opportunities policies, of which the French President and the Prime Minister are members (*Haute autorité de lutte contre les discriminations et pour l'égalité*, HALDE), the development of a system that validates professional experiences in the field of social work (*Validation des acquis de l'expérience*, VAE) which aims to compensate for the massive retirements of social workers in the near future, and the document aiming at the mainstreaming of social integration policies (*Document de Politique Transversale*, DPT). There are the same problems as before with regard to two of the described practices. The HALDE only took up its work two months before the NAP was handed over to the Commission, hardly furnishing the basis for proofed quality. To have a DPT in the field of social exclusion was decided in July 2004. However, it took two years before the first document was issued. As will be shown later, its introduction also must not be read as a success story. As in the previous years, all practices chosen are state programmes, and they were only published in the French version of the NAP.

Overall, this NAP thus provides an overview over a multitude of actions, often without any data, sometimes with. It follows the structure of both the Nice objectives and the Guidance Note while still setting particular priorities which are mainly associated to the goal of activation. Once more, the substantive European ambitions have more or less been left aside: the setting of targets, the mentioning of resources and of actors involved, a greater implication of the public, and the evaluation of policies. As information is notoriously short and additionally only exists in French, only well-informed readers will be able to understand the report.

The third German NAP of 17 text pages, rendering precise analysis and / or documentation still more difficult, particularly if taking into account that the plan is highly repetitive. In its formal structure, it follows the Guidance Note. As it is an implementation plan, this NAPs reviews all the measures or policy fields evoked in the second NAP (2003) and therefore mainly focuses on “targeted support for problem groups on the labour market” (Federal Republic of Germany 2005: 4), estimating that the introduced Hartz IV reform provides people with both more “independence and responsibility” (ibid.: 13). Besides employment policy, better education and better opportunities, the demographic change, a sustainable family policy and a better infrastructure for care and child raising, the integration of immigrants, disabled people and help for groups of

people at particular risk and respective policy developments are enumerated in short passages not longer than 7-10 lines.

The first chapter – central trends and challenges – repeats the ideational core of the previous NAP. Again, and in contrast with the French NAPs, it is striking how much the plan adopts the official EU discourse, from “shaping the change to a service and knowledge society”, “encouraging participation, opening up opportunities, strengthening cohesion” over “encouraging employment – cutting unemployment”, “targeted support for problem groups on the labour market” and “better education, better opportunities” to “demographic change, reform of the social insurance systems” and a “sustainable family policy, better infrastructure for care and child raising”, while not forgetting the integration of immigrants, the participation of disabled people and the help for people at particular risk.

The second chapter lays out the “strategic concept” which consists in “encouraging participation, opening up opportunities, securing the welfare state for the future” (Federal Republic of Germany 2005: 4). The general conditions for this “concept” are perceived in growth and competitiveness which have to be encouraged so that new jobs can be created (ibid.: 7). Two catch-words appear, however in a formulation that remains vague: “Participation and realisation opportunities that are opened up”. With these words, the plan associates the principle of promoting and demanding, offering education and training opportunities while at the same time activating the unemployed and increasing conditionality of benefits.

In the third chapter, which is entitled “Implementing political actions”, the Nice objectives are revised. By far the longest section deals with access to paid employment and the encouragement of employment. A broad variety of topics is mentioned, sometimes referring to legal acts, more often than not without data. The topics dealt with here are “priorities for education and research”, “setting up and expanding all-day schools”, “targeted compensation of educational disadvantages”, “qualified vocational training”, “reducing youth unemployment”, “support for long-term unemployment”, “perspectives for young people in the new *Länder*”, “reforms on the labour market successfully started”, “reorganising employment administration into a customer-oriented service provider” and “increasing the flexibility of the labour market”. All the topics are described in an exclusively positive way. However, data that would prove causal relationships between the policies and performances is not provided.

The next section deals with access to resources, rights, goods and services. A large variety of policies is enumerated, beginning with the “reform to minimum benefits (Hartz IV) strengthening responsibility and independence”, the reform of pensions through the “pension insurance sustainability act” which

would stabilise contribution rates at 19.5%, the reform of the health system which would allow access to medical care for all irrespective of individual incomes, the introduction of prevention as a pillar in the health system and the improvement of access to education resources and to lifelong learning opportunities for all. How access to resources, in particular to rights, goods and services is secured is not discussed.

The next section deals with the second Nice objective, i.e. preventing the risks of exclusion. Here, particular attention is paid to family policy. Through increased financial benefits and particular tax measures since 1998, the poverty risks for families with children would have been reduced while at the same time, the employment rate of women had increased. As a major measure, a better infrastructure for families, in particular in the form of the creation of more child care facilities for children aged 1-3 until 2010, is planned and entered into force in January 2005. Once in child care facilities, promoting early education (before schooling) is then addressed. The section closes with short sections about debt counselling and assistance and about better access to “modern information technology for all”.

The chapter ends with a section on the third Nice objective, acting for the people and groups at particular risks. Here, reference is made to “better integration due to the immigration act”, a “new direction for counselling services for immigrants” while the “participation and self-determination of disabled people” was “strengthened”, a “further fall in homelessness” is mentioned as well as “progress in implementing the “action plan drugs and addiction”, “better inter-linking of prevention offers” and actions for “disadvantaged young people”. The fourth Nice objective, the mobilisation of all actors, is disregarded.

In this NAP, there are three “good practices”, two of which state-regions initiatives, two of which implemented in North Rhine-Westphalia, one of the last regions that remained in social-democratic hands at the time of the drafting of this NAP. One practice concerns people with disabilities; it is described in such a cryptic way that the substance and operation of the policy was not understood by the author. This practice was brand-new at the time of the drafting of the NAP. The second practice relates to social capital for “social purposes”, a brand-new financing programme for micro-projects aiming in particular, but not exclusively, at labour market integration in North Rhine-Westphalia. In order to illustrate the vagueness of the description, parts of the description are quoted:

“In order to permanently improve the social and work integration of those affected in the selected flashpoint and support the gaining of key educational or vocational qualifications, basic qualifications such as a will to work and pleasure in work, motivation and working virtues were specifically taught to the participating people in appropriate courses. Individual participants were directly integrated in the first labour market. Furthermore, contacts and

structures for the future are established with companies” (Federal Republic of Germany 2005: 23).

The third and last practice relates to the “restructuring and further developing immigrant social work in North Rhine-Westphalia” (ibid.: 24).

The NAP also closes with two and a half pages of a so-called update with intended measures for 2005-2006. These are all centred around the continued implementation of the labour market reform, increased efforts to create child care facilities as well as the sustainability of pension and health systems. Due to a change in government in fall 2005, the realisation of most of the vague announcements, however, need to be read with care.

The third German NAP then, resembles the two previous ones in terms of compliance. While formal compliance is more or less reached (the chapter on the mobilisation of actors is missing), more substantive “recommendations” have been ignored, such as to set quantified targets, to increase public awareness of the process, to systematically relate the document to indicators, to engage more systematically in the evaluation of policies, or to indicate the financial resources involved for single policies.

Have there been ideational changes in Germany, due to the European process? It is difficult to be affirmative. What is new is that the social exclusion terminology has been introduced and established in Germany, not, however, without meeting the resistance of civil servants. The main priorities of the German NAPs and indeed of social policy – labour market reform, the development of a family policy and eventually the new immigration act – were already on their way before the introduction of the OMC inclusion. In how far they may have been a reaction to the older European Employment Strategy can be discussed. The other described policies existed before the OMC inclusion while no new accents are detectable.

### *Organisational capability building*

As argued above, organisational capability building is essential insofar as it provides the framework of policy development (substance of anti-poverty policies) and politics (procedural quality of the development of anti-poverty policies). It relates to a number of issues that will subsequently be dealt with below. As shown above, the French institutional space relating to social exclusion was already quite developed when the OMC was established. The discourse and an anti-exclusion act existed, comparatively large central institutions dealing with social exclusion analysis and policy development were in place, so that there

were, state-wise and institutionally-wise, comparatively few incentives to develop new institutions.

With regard to *resources*, interviewees agreed that no additional resources had been associated to the process or to policies. Personal resources were mostly said to be sufficient, but often only because so little was happening. Overall, very few people are dealing with the OMC at all, particular within NGOs as there are only

“few people who can dedicate time to these activities. The involvement happens thanks to the regular work of the members of ALERTE which gathers the associations that fight against poverty. But these members work without material means or possibilities of getting help by staff remunerated for this particular work. We cannot afford to hire half-time staff or even full-time staff to deal with these questions”(President EAPN-France 2, September 2005).

A telling detail is that the coordinating staff of the DGAS asked an intern to make a table of so-called good practices described in other member states' NAPs. This is telling because it shows that employed staff is not paid for this sort of work, but that it is left to the very end of the ministerial chain – a short-time intern – to look after other member states' policies. Of course, one can also read this as a sign of interest in mutual learning.

The same holds true for the statistical tools and data. France disposes of an impressive statistical machinery. Instead of the 18 commonly agreed indicators foreseen for the OMC inclusion, France produces over 150 and willingly includes them in the annexes to its NAPs. And while the French delegation tried to influence the European indicator construction, there have not been changes introduced into the French system due to the European process.

With regard to interministerial coordination, the two officials of the DGAS in charge of the NAP stated that representatives of all involved ministries would meet every three months in order to coordinate the policies exposed in the NAP(s). According to them, this coordination was introduced especially for the NAP process and therefore would constitute an innovation. However, as these meetings take place behind closed doors, it remains speculative what exactly is being dealt with there and if the NAP process was always at the centre of attention. Also, one of the civil servants stated that the hierarchy of the meetings had decreased over time, i.e. civil servants participating in the meetings are “only” of working unit level.

Turning to new structures and initiatives, five things are worth mentioning even though as with the other topics, it can never be defended with certainty that they have been introduced due to the OMC inclusion or due to the OMC inclusion only. In December 2003, the then-in-place Prime Minister Raffarin re-

ceived a delegation of NGOs in order to learn about their concerns. At this meeting, the participants agreed that there should be a first national conference on poverty and social exclusion, to be continued on an annual rhythm, following the example of the annual conferences on family issues. This conference took place in July 2004 and gathered, amongst others, all the ministers concerned. It was directly after the conference that the interministerial committee against social exclusion convened for the first time ever and adopted some 40 policy priorities<sup>40</sup>. The second and thus far last “annual” conference took place in April 2006<sup>41</sup>.

The second recent development has been the decision to create a text called “Document de Politique Transversale” (DPT) inclusion sociale in the context of the financial act (LOLF) which regulates the yearly state budget<sup>42</sup>. There are eight such yearly documents covering different policy fields and including objectives and indicators. However, opinions about the usefulness of the DPT vary according to actors. While a French Commission official found that the DPT was “completely revolutionary” and “completely linked to the OMC”<sup>43</sup>, a civil servant from the DGAS – other than the two civil servants coordinating the NAP – comes to a complete different conclusion: “The DGAS wanted to obtain, in the architecture of the LOLF, a stream which clearly identifies the fight against social exclusion, in order to visualise the expenditures. We did not get it. So it shows that it is not that important, what we got was the DPT” (civil servant DGAS 2, September 2005).

Third, the unit in charge of the OMC at the DGAS commissioned a research office with the development of a measurement system of the impacts of the policies in the fight against social exclusion on their recipients which was handed over in September 2005. However, this tool (which was acknowledged by the author) has not been used so far in the context of the OMC inclusion nor – to my knowledge – in any other context.

Fourth, in 2005, the CNLE decided to engage in an internal reflection about ways of preventing poverty and social exclusion and to commission a study about the interaction, in the fight against poverty and social exclusion, between the different levels of steering: European, national, regional and local. The study was made public in early 2006 (see chapter 3).

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<sup>40</sup> See above.

<sup>41</sup> July 2008.

<sup>42</sup> Namely the Loi Organique relative aux Lois de Finances (LOLF), an act dating back to 1959 and revised since 2005. In France, there are currently eight such documents in different policy areas; their aim is to facilitate and improve interministerial cooperation.

<sup>43</sup> European Commission official peer review programme, November 2005.

Finally, in September 2005, the then-in-place Prime Minister de Villepin participated in a meeting of the CNLE and asked the latter to draft an annual report about a topic of its own choice<sup>44</sup>. According to my interviewee (see previous footnote), it was “the first time that a Prime Minister stayed for two and a half hours in the CNLE, without a press conference, in order to listen and to take notes”. These are the developments with regard to the central state, which are not a *quantité négligeable*, which, however, are not established for good and seem to depend very much on the individual initiative and engagement of specific actors.

More lasting developments seem to have occurred with regard to the NGOs who have used this process to proceed to an internal reorganisation in 2003. In France, the landscape of charity organisations is very broad, often following the principle of autonomy and subsidiarity (historical catholic influences). The variety of local and regional and the absence of central structures stood in the way of effective communication towards the state authorities and in particular towards the European level. This is why in 2003 occurred a reorganisation of the respective consultation structures so as to allow for more flexible action towards the state and the EU.

More concretely, the OMC has pushed the two main umbrella organisations in France, UNIOPPS and EAPN-France<sup>45</sup>, to find ways of closer cooperation. While UNIOPPS is an organisation of approximately 40 NGOs which operate nation-wide, EAPN-France often comprises the same national NGOs, but additionally nearly all the NGOs operating exclusively locally. Evidently, these often very small social NGOs do not have the financial and human resources to accompany political processes. This is why it was decided that the UNIOPPS commission against poverty would furthermore be open to all members of EAPN-France. When communicating within France, it uses the logo “Alerte”, when communicating with the EU, the same commission operates under “EAPN-France”<sup>46</sup>. Within this arrangement, there is a working group of approximately 40 people gathering once a month:

“EAPN France undertook a profound reflection all throughout 2002 in order to find the best structure to deal with these European issues. The associations were wondering what could be the best articulation between EAPN France and the committee against poverty of UNIOPPS. It was finally decided to open this committee to the European dimension and to in-

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<sup>44</sup> Sénateur / President of CNLE, September 2005.

<sup>45</sup> Union Nationale Interfédérale des œuvres et Organismes Privés Sanitaires et Sociaux et European Anti-Poverty Network – France.

<sup>46</sup> NGO-coordinator of OMC inclusion, January 2004 and with the president of EAPN-France 1, June 2004.

vite the members of EAPN France to take part in it” (NGO-coordinator of OMC inclusion, January 2004).

This impact of the OMC inclusion is confirmed by the President of EAPN-France who generalises this development for the former EU-15:

“One also needs to point to another effect of the OMC. In the fifteen old member states, the OMC has brought the associations in the fight against poverty together, to think and work with each other. It is an effect that is far from being minor as before, in most of the countries, the associations were dispersed. By giving more power to the NGOs, the OMC has given more power to the fight against poverty” (President EAPN-France 2, September 2005).

Much more so than in France which disposes of a solid infrastructure in order to deal with the OMC inclusion, the respective infrastructure in Germany has been less favourable for a solid implementation of the OMC inclusion. The institutional embeddedness of the OMC inclusion has changed over the years. Until fall 2002, the process was coordinated by the European Affairs unit of the Ministry for Labour and Social Affairs, which, according to a scientific observer, was “completely overstrained” with the task of coordinating the first NAP in 2001<sup>47</sup>. After re-election of the red-green government in fall 2002, some ministries were newly organised and the OMC inclusion became located in the Ministry for Health and Social Security, and here more concretely in the sub-unit responsible for economic and financial questions of social assistance / social exclusion (unit 524). Three years later and with a new government bringing together conservatives and social democrats, the process has been re-directed to the formerly in charge European unit of the Ministry for Work, still under social-democratic leadership. These changes are important as no institutional continuity can be assured at the top levels of political leadership; yet, as in France, the people at the working level who coordinate the process have largely remained the same since 2001, changing from one ministerial affiliation to the other. All in all, four persons are dealing with all the different aspects of the OMC inclusion (including the SPC and ISG) in Germany at the federal level.

Resources slightly increased. Three to four civil servants work around the NAP, not as their main task, but as an additional task to those performed before the introduction of the OMC: “We do not have enough time. We comply with our reporting obligations in the limits of our personal capacities. Everything going further than that depends on personal availability”<sup>48</sup>. This perception is shared by a central NGO representative: “The unit is structurally overstrained with the supervision of this OMC. It should be settled at a political level. For

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<sup>47</sup> Researcher 1, member of advisory board, July 2005.

<sup>48</sup> Civil servant Federal Ministry of Health and Social Security, June 2005.



this unit, it is another task without being assigned new personal”<sup>49</sup>. However, one person has been hired in 2004 in order to deal with the indicators of the different social OMCs, so this constitutes an increase in resources. Other than that, no additional resources were made available in the context of this process, be it with regard to the consultation process, the monitoring or actual policy programmes.

Interministerial coordination is said to have increased both by civil servants and a representative of a NGO. This, however, must mean that before, there was no coordination at all, at least at the working level as it was indicated that interministerial coordination related to this NAP process would happen via e-mail. This happens once the draft of the NAP is formulated. It is then sent to almost all ministries. Responsiveness, however, seems to be varying as the coordinating person indicated that certain ministries have responded more than others, namely the ministries for economy and work, for family, pensioners, women and youth, for research, for environment and for public transport and housing.

The civil servant coordinating the NAP process stated that there were no new structures created at federal level in order to deal with the OMC inclusion process. As in France, the most significant change that this OMC induced seems to have been related to the NGOs. A first stage of strategic reflections began in the aftermath of the Lisbon Council, in March 2000, in which the larger NGOs internally sought to develop strategies in order to make the most out of this new policy instrument. The result was the set-up of a permanent working group in order to accompany this OMC. Through its work, statements, workshops and internal communication, it necessarily contributed to a stronger familiarisation of regional NGO branches with the European strategy, and possibly more generally with European social policy. If this familiarisation also happened at the local level, however, must be doubted as the associations working with the poor usually do not have time to get engaged with such a “distant” and “abstract” process.

### *Monitoring*

With regard to monitoring, it has already become clear above that the Commission was not allowed by member states to rank their approaches or performances. Delegations refused to take the comments of the Commission serious as

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<sup>49</sup> NGO-coordinator of OMC inclusion, June 2005.

they found it was not its role to criticise national authorities<sup>50</sup>. In the framework of the revised Lisbon strategy of 2005, its role has been even more confined to one of a supporter instead of a monitoring agent (de la Porte 2007; Wendler 2007).

With regard to the concrete monitoring of the French NAPs, it is difficult to know exactly what happened during the meetings in the fall of 2001, 2003 and 2005 between officials of the Commission and the French delegations including administrative officials and non-governmental stakeholders. In these meetings, the *country fiche* (of France, in this case) is discussed and negotiated. While the Commission will seek to defend those passages that are somewhat critical, the French delegation will seek to improve France's record as the *fiches* will appear in the Joint Reports and might be read by a larger public. Both the French administrative officials and the Commission officials were very reluctant to share information about these meetings:

“You will understand that I cannot share with you exactly the comments that were abandoned or adjusted first internally and then with France as it not possible to diffuse internal information that has only received partial agreement” (Commission official, country desk France September 2005).

Both sides confirmed that these discussions were quite hard and difficult:

“We have talked for 2-3 hours without concessions. Finally, there have been some corrections on the side of the Commission, for example with regard to the Roma people (...). Finally the *fiche* remained more or less the same” (civil servant DGAS, September 2005, with regard to the discussion in fall 2003),

an evaluation shared by a Commission official for the same year which mentioned that the modifications “have been very limited” (Commission official, country desk France, September 2005). Generally, the first Joint Report – and thus the first country *fiche* for France – comes to a quite positive evaluation of the French NAP (2001), highlighting the multidimensional approach applied in France and its consistency with the Nice objectives. A few critical issues are raised. They relate to the absence of quantified objectives which will render evaluation difficult if not impossible, to a low degree of mobilisation and the absence of mobilisation of the social partners, the regional and local levels, and the housing deficits.

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<sup>50</sup> So today's president of FEANTSA (Fédération Européenne des Associations Nationales Travailleurs avec les Sans-Abri) which strongly participates in the process, interview August 2007.

The Joint Report of 2003 is balanced in its appreciation of the French NAP (2003). It enumerates a number of positive features such the plan being in line with the Nice objectives, the broadness of its scope, the progress made in certain areas such health, justice and access to rights, the incorporation of the disabled and immigrants, the development of monitoring and evaluation mechanisms, particularly the indicators, the limited setting of precise quantified objectives and first steps towards a quantification of the budget even though the latter would still be insufficiently detailed and precise. It is more critical with regard to housing policy which would have proved “inadequate to meet the needs” (CEC 2003: 170), to the accumulation of too many different measures involving too many different actors, to the insufficient acknowledgment of gender mainstreaming, to the lack of initiatives for specifically vulnerable groups, such asylum seekers, nomads and people living in run-down neighbourhoods, to the insufficient policy against over-indebtedness, to the need for more quantified objectives and to the overall very low visibility of the NAP.

The Joint Report 2006 was already a “streamlined” report in that it dealt with the three streams inclusion, pensions, healthcare and long-term care. This has meant that the two pages *country fiche* previously reserved for general trends in social inclusion are now divided into general trends and the three topics, tremendously decreasing the space for analysis and comments reserved for the Commission. In any case, the report confirms that the French NAP keeps on being grounded on the Nice objectives and the strong emphasis on employment and an increased focus on activation. It acknowledges a renewed dynamic in the fight against social exclusion due to the Plan of Social Cohesion (2005), a national report that had been strongly mediated in France after its publication in spring 2005. Finally, increased coordinating activities by the state are mentioned (DPT, national conference) and are evaluated in a positive way. Critical remarks encourage France to particularly focus on the return into the labour market of the most distant individuals from the labour market, in particular immigrants of the second and third generations, on the housing crisis, on the mainstreaming of inclusion policies and the coherence between the related activities of the different levels of government (Council and CEC 2006).

In France itself, monitoring came from different sides. As for the other participating member states, there have been several reports by a researcher (Michel Legros) about the process, the NAPs and the regional and local implementation. These reports are meant to critically complement the information contained in the NAPs, particularly so that the Commission and the interested public can get a more differentiated picture than is usually possible through the NAPs. Most importantly, the reports by Legros show that the OMC process is not known, let alone implemented at the different subnational levels. The second

monitoring happened through the NGOs which in all cases made a very critical evaluation of the French NAPs and the policies laid out therein, in particular with regard to housing policies and the integration of immigrants. Thus, monitoring as such occurred through different instances, but needed not to be taken into consideration and indeed, the French government did not respond substantially to either sort of monitoring, be it from the Commission, be it from national actors. It more or less followed the formal instructions that came from the European level, but did not respond to more substantial recommendations which related to the development of quantified targets or the policies as such.

As in France, the process was not used in Germany to develop a monitoring system<sup>51</sup>. Again, information about the discussions at EU-level were very difficult to obtain, and even more so than in France<sup>52</sup>. It was almost impossible to learn what had been the object of discussions at the meetings in Brussels where the country fiches of Germany were discussed. Two interviewees, however, made indicative statements with regard to these discussions. One noted that „we are being harshly criticised by the Commission for not developing how we implement strategies and to which performances they lead”<sup>53</sup>. His colleague noted:

“Of course, the Commission tries to get its opinion through, which we always reject. For example, in the NAP 2003-2005, assertions from outsiders (NGOs) were taken up which were wrong in essence. This was widely adjusted, other formulations were chosen both sides could live with. It is like an oriental bazaar where one negotiates. The worst thing that can happen to the Commission is not being taken seriously anymore (German delegate to the SPC 1, October 2005)<sup>54</sup>.”

In the first Joint Report, the Commission criticised Germany quite harshly if one interprets its diplomatic language. Generally, the NAP would remain too vague about how inclusion policies operate. The Commission secondly found that the unemployment issue of labour market distant people should be addressed in a structural way and not only as a “mere target group issue” (Council and CEC 2002: 22). The unemployment situation was deemed particularly worrisome in East Germany. Third, severe inequalities between the two parts of the country were remarked, and the need to develop specific strategies to tackle exclusion in East Germany was observed. Other policy-related criticism focused on the need to provide more and better childcare facilities, and the neglect of particularly

<sup>51</sup> Civil servant Federal Ministry of Health and Social Security, June 2005.

<sup>52</sup> Other researchers engaged in comparative European social policy analysis I talked to in the last years have made similar experiences and confirmed that German civil servants were notoriously reluctant to give information about the interaction of the EU and the national level.

<sup>53</sup> German delegate to the SPC 2, November 2005.

<sup>54</sup> This implies that the Commission cannot advance very strong criticism to begin with.

vulnerable groups, e.g. people addicted to drugs or the homeless, while other target groups would appear repeatedly. Further critical remarks related to the lack of innovation in the NAP (only reporting measures already in place or under way), to the absence of systematic stocktaking of poverty and social exclusion, to insufficient coordination between the different actors involved in the fight against poverty, to the insufficient inclusion of the regional and local levels into the OMC inclusion, to a missing link between the NAP and the reporting on poverty and wealth, to a lack of quantified targets and of monitoring mechanisms, to the absence of evaluation mechanisms, to the lack of indicators that could be used for an evaluation, and to the absence of commitments beyond the two years perspective of the NAPs (Council and CEC 2002: 25-26).

The next Joint Report (2003) recognises certain improvements in the second German NAP (2003), particularly the development of a “sustainable strategy to fight poverty” (Council and CEC 2003: 156) even though the strategy is judged not to be operational yet. It also positively acknowledges the effort to link the NAP to the already existing Report on Poverty and Wealth and the taking into account of gender mainstreaming. Finally, it welcomes the fact that accompanying evaluation and research is announced. However, important shortages are also perceived. With regard to policy, they relate to gaps in coverage in the social protection system, regional disparities, the unfavourable situation of immigrants and a narrow integration approach for the latter, as well as to a too strong focus on integration through labour market inclusion even of the most vulnerable. Process-wise, criticism relates to an insufficient consultation of and coordination between the different levels and actors of government and implementation, to the absence of “sensitisation and encouragement of a public discussion” (Council and CEC 2003: 15) as well as to the NAP rather resembling a conglomerate of measures than an action plan.

As described above, the space in the 2006 report available for the inclusion process was significantly reduced. Measures aiming at labour market integration, particularly for the young and the long-term unemployed, are highlighted as is the act relating to the modernisation of the health system which was highly disputed in Germany. Finally, attention is directed towards the massive creation of child care facilities for the 0-3 years old as well as to the federal immigration act which entered into force January 2005. Critical remarks relate to the recent labour market reforms which should not deteriorate the social and economic integration of at-risk groups, and that the integration of immigrants into the labour market should be assured (CEC 2006).

At the national level, monitoring came from independent reports to the European Commission (Huster et al. 2003, 2004), but again, these were by no means integrated into the domestic NAP process nor do they have to be read by

the civil servants preparing the NAPs. It is instructing to note, however, that the exercise of these independent reports by researchers was given up after the second round of the NAPs. Again, there has also been monitoring through the larger social NGOs. Due to the institutional situation of the larger welfare organisations in Germany, however, this monitoring cannot be said to be independent and indeed turned out to be less critical than in France. Be that as it may, suggestions from either sort of monitoring were not taken into account by the German government.

### *Receptivity*

The receptivity of the OMC inclusion by French and German actors is mainly explored in Chapter 6. In France, the Lisbon Strategy is not central to the public debate. There are many reasons for this. One is that when it was adopted in spring 2000, France paid more attention to domestic politics (i.e. the presidential elections in spring 2002) and to the preparation of the forthcoming French Presidency of the EU during which the Nice summit, the new Treaty and respective hard law were prepared. Moreover, at the time, France was living under a “cohabitation”, rendering compromise between the socialist government and the conservative President at times quite difficult, as the EU witnessed during the Nice summit. The French officials formally complied with the European agenda, by following deadlines, Common Outlines and the Nice objectives in the structure of their NAPs. They even “over-complied” with the agenda as far as indicators are concerned as instead of the 18 primary and secondary indicators that were asked for, about 150 were presented. However, they did not allow this process to gain access to parliament and therefore, the overall ambition of the French political leadership to make use of the process must be evaluated as limited. The NGOs, in contrast, have been very receptive of the process in its early stage as is documented by the number of their statements. However, over the years, both statements and meetings became scarcer as NGOs acknowledged that the process did not make that much of a difference with regard to their influence on domestic policy-making (Kröger 2006b). As the OMC inclusion never made its way beyond a closed circle of insiders, there is not much more to be said with regard to the French case (Legros 2004b).

The German government is more or less openly opposed to European social policy in general, and the OMC inclusion in particular. Two sequences are particularly instructive. To begin with, Chancellor Schröder clearly resisted the introduction of the Lisbon process. The “neutralisation” of the rejection was made possible through a horse-trade. At the turn of the century, Schröder was

very keen on having a German taking over the leadership of the International Monetary Fund (IMF). However, the first candidate he presented did not gain the necessary support. With his second candidate, he continued to face strong opposition by the USA and not sufficient support within the EU for candidate Köhler. At the same time, Guterres, the Portuguese Prime Minister of the time, was preparing his presidency and was very keen on making the Lisbon process, as it was later on called, the top priority of the presidency. The deal was that Guterres would organise support for Köhler within the EU while Schröder would accept the Lisbon process to be introduced<sup>55</sup>. The support for Köhler was organised, the resistance of the USA broken and the Lisbon process introduced. The second sequence was a few years later, in 2004, when the Lisbon Strategy was revised and the OMC inclusion evaluated in the light of the envisioned streamlined OMC. At this point, the political leadership of the ministry in charge, the Ministry for Health and Social Security, seriously discussed the option of refusing any sort of continuation of this OMC. Would it have decided to refuse the streamlined process, the European process would have died right then. However, the ministry agreed to agree as it feared conflicts with other member states<sup>56</sup>.

There is also sharp resistance at the regional and local levels. The second chamber bringing together the sixteen regions has been very critical towards the OMC inclusion from the beginning on. This should come as no surprise as the German regions hold important competencies in the field of anti-poverty policy as well as financial responsibility, but were in no way included in the establishment of the OMC inclusion at EU-level which is perceived as a double intrusion – by the EU and the federal government – in their competences (Büchs and Friedrich 2005). Since 2001, the *Bundesrat* adopted several decisions on the OMC inclusion, all being very critical, even though a trend towards greater acceptance appeared in 2005. Criticism usually related to formal criteria, to the substance of the NAPs as well as to fundamental concerns. Formal issues have to do with the (lack of) timeliness in the consultation process engaged by the federal level or with not being consulted, and with local and regional activities not being sufficiently taken into consideration in the NAPs<sup>57</sup>. This would lead to uni-dimensional governmental reports, contributing to a partial picture. Substantial criticism related to the absence of a coherent *plan* to combat poverty. Finally and more fundamentally, the second chamber continuously reminds the competence structure in the social field which would not allow the EU any further

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<sup>55</sup> Coordinator of EU-macro-policies, Federal Ministry of Finances in 1999-2000, March 2007.

<sup>56</sup> Civil servant Federal Ministry of Labour and Social Affairs, November 2005.

<sup>57</sup> This conclusion, however, is somewhat contrasted by three regional interviewed who stated that their input had been sufficiently taken into consideration.

action. In this context, it is judged inadmissible to rank member states or to dictate them quantified targets. Interestingly, even if without any doubt motivated by the political opposition, the second chamber adopted a decision, in February 2005, in which it supports a stronger role for the EU and the Commission in awareness rising (for the need for reform and their acceptance), naming and shaming and supranational benchmarking on the basis of a limited number of indicators<sup>58</sup>, attributing a valuable function to the OMC. However, this change of perspective must also be interpreted in the light of the dominant position of conservative governments in the second chamber at that time.

While the overall engagement of the regions in this process has been very low, there nevertheless have been regional initiatives to make use of the OMC inclusion. The then-in-place regional government of Sachsen-Anhalt, conducted by a rose-red government, made an attempt, in 2002, to develop regional action plans. After the change of the political majority to a liberal-conservative government, this process was stopped. Another region, North-Rhine-Westphalia, planned to adopt the Laeken indicators in its future social reporting. It also planned to initiate such a process itself on the regional level. Both plans were however stopped after the change of the regional government in June 2005 from a social-democratic-green government to a conservative-liberal one. Finally, the delegations of two *Länder* suggested, in 2004, the creation of a Mister / Misses OMC inclusion for every region, so that cooperation and coordination could be improved between the federal and the regional levels. Due to resistance from the majority of the other regions, the proposition failed even before being set on the agenda of the conference of the regional ministers of social affairs<sup>59</sup>. If the regions have not been particularly pro-active in the process, the situation is even more marked as far as cities and counties are concerned. Here, the OMC inclusion has largely remained unidentified and where it is known, it is clearly rejected as intrusion into own competences, a bureaucratic process leading nowhere and with no chance for them to be heard by the federal level<sup>60</sup>.

The interest of NGOs in the OMC inclusion process has, not surprisingly, been high, reflected by a good dozen written statements over the years. It has created a working group to accompany the process – which during the first 18 months of its existence met every four to six weeks and has met much more irregularly since<sup>61</sup> – and organized at least three workshops to make the process

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<sup>58</sup> BR-Drucksache 917/04 (decision), meeting of 18.2.2005, as a reaction to the position of the federal government on the mid-term evaluation of the Lisbon strategy.

<sup>59</sup> Civil servant Berlin, September 2005. An NGO employee reported that his organisation had tried to break the NAP process down on a regional level, but that the attempt failed due to resistance of the *Länder* (EU-Officer Paritätischer Wohlfahrtsverband, July 2005).

<sup>60</sup> Civil servant German Association of Counties, June 2005.

<sup>61</sup> NGO-coordinator OMC inclusion, June 2005, EAPN Germany 2003.



known to a greater public and to set up regional alliances. Yet, while hopes were quite developed that the European strategy could bring a new verve to the fight against poverty in the first years of the OMC inclusion, enthusiasm about the process decreased over years as it became clear that the impact is very weak<sup>62</sup> (Kröger 2006b).

Was all of the information apprehended and used by actors, at all? In France, only three of the interviewees read parts of NAPs from a couple of other member states during the first two rounds, two out of which from the coordinating administration, whereas four did not. Therefore, knowledge of the good practices and policies laid down in the other plans necessarily remained limited if it was existent at all. Half of the interviewees, all organisational backgrounds confused, said to have read at least parts of the Joint Reports of the Council and the Commission in the first two rounds. Throughout the NAPs 2001-2005, one does not find a single reference to experiences from abroad.

In Germany, most interviewees had not read NAPs from other member states at all. A few interviewees, in particular those from the coordinating ministry, reported to have partially read some other NAPs and / or parts of the Joint Reports. When asked directly about the usefulness of the information, civil servants found that it is interesting to learn how other member states approach certain issues even though it is questioned whether the effort was always worthwhile; that mutual learning does not exceed the mutual exchange of practices, and that “nothing can be said so far about an influence on political strategies”<sup>63</sup>. There is a shared evaluation that the different national institutional arrangements stand in the way of advanced forms of learning. At the regional level, three actors reported having scanned the Joint Reports, two read nothing at all and one scanned all NAPs. If there was some knowledge about these reports, the interviewees specified that it did not unfold any impact. Generally, even without knowledge, this was related to the difference of the institutional arrangements, the high degree of abstraction of the European process and lacking resources to really follow the process. Several actors did not deny the idea that supranational learning was taking place; however, in their view, this was not induced by the OMC inclusion, but happens independently of it. At the local level, no knowledge about other member states’ NAPs was reported. For NGOs, the usefulness of the information was related to the discovery of the European dimension of the fight against poverty and social exclusion. The assumption of learning is seen sceptically “because good practices are strongly de-

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<sup>62</sup> Ibid.

<sup>63</sup> Civil servant Federal Ministry of Health and Social Security, June 2005.

contextualised”<sup>64</sup>. As in France, the German NAPs do not mention once other member states as a source of inspiration or learning.

## 4.2 Legitimacy

### *Access*

The first legitimacy-related criterion is access, i.e. who had access to the OMC inclusion in which form and at what stage of the policy-making cycle, not who actually took part (representation). In France, when preparing a NAP, the leading unit of the DGAS consults the permanent committee of the interministerial committee. Once this coordination is completed, the draft is sent to the cabinet of the state secretary of the fight against poverty and social exclusion. After the eventual consent from this cabinet, the text is presented to the CNLE and the Comité National de l’Insertion par l’Activité Économique (CNIAE, National Committee for the insertion through economic activity)<sup>65</sup>. It is at this stage that the draft NAP can be accessed by a limited number of actors beyond those in the administrations. After a presentation and a discussion in the CNLE and (since 2003) the CNIAE, the text is eventually re-edited, checked again with the mentioned cabinet<sup>66</sup> and, after its consent, forwarded to parliament, the second chamber (Sénat) and the Conseil Économique et Social (CES), yet without any possibility for intervention or discussion, shortly before being sent to the European Commission. While the entire government officially signs responsible for the final document, it is never adopted by it at any point of time.

As far as the first round of NAPs is concerned, not much can be said: there simply was no consultation beyond the administration. The NAP was “elaborated by a few heads” as reported the then-in-place *chef de service* of the DGAS, hierarchically directly under the direction of the institution<sup>67</sup>. What happened in the second round? In 2003, there has been one consultation of the CNLE. Participants received the draft NAP only a few days before the meeting. At this meeting, representatives of the devolved authorities were broadly absent, as was regularly the case. According to several interviewees, there has been no sepa-

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<sup>64</sup> NGO-coordinator OMC inclusion, June 2005.

<sup>65</sup> The CNIAE is associated to the Prime Minister and consists of 42 members, ten of which are elected members, while the others are coopted. Its functions are to supervise the employment and insertion policies, to dialogue with the different actors involved as well as representative functions in other councils or committees such the CNLE. Its composition is strongly dominated by employment-centred actors.

<sup>66</sup> Not to be confused with the cabinet of the government.

<sup>67</sup> Civil servant DGAS 1, January 2004.

rated consultation whatsoever of the regions, départements and local communities<sup>68</sup>. Shortly before the meeting, NGOs met with a civil servant of the DGAS in order to learn about the main orientations of the NAP. One month after the meeting with the CNLE, the NAP was sent to the Commission. Participants of the meeting of the CNLE agree that it resembled more an information than a consultation exercise, that no major or new initiative was taken over, but that the NAP instead was an alignment of policies already in place: “Thus there has been no consultation about the French NAP”<sup>69</sup>. The third exercise, the NAP 2005, followed this pattern: the only meeting of the CNLE related to the NAP took place 30 June, while the final document was sent to the Commission one month later. Interviewees reported that in 2005, the exercise had been even more formal than in 2003: “This year, it was quite formal, it mainly represented the Plan of Social Cohesion of the spring. There were not many changes after the meeting”<sup>70</sup>. NGOs tried to increase their consultation opportunities in the context of the OMC inclusion. In early 2002, they wrote a letter to the DGAS asking that a working group be created in order to prepare the NAP (2003). They did not receive an answer nor obtained the working group. Looking at the amount of consultation, it thus seems fair to conclude that access venues were very limited and only occurred in the final stage of the drafting phase. Besides the consultation process directly linked to the elaboration of the NAPs, there were the above mentioned two national poverty conferences in 2004 and 2006.

In Germany, the draft NAP also circulates in the coordinating ministry before being sent to other concerned ministries. Only when the European units of these ministries have agreed with the draft will it be handed over to secretary of state level. Afterwards, the Länder and NGOs will receive the draft and have a chance to comment. Comparable to the CNLE in France, there is in Germany a permanent advisory board which has been created as a consultative body for the report on poverty and wealth which exists independently of the OMC inclusion and which forewent it. Theoretically, one finds some 120 people in this group, representing regions, local municipalities, social partners, NGOs and academics. Whereas the CNLE meets every 1-2 months, this board convenes 1-2 times a year. From 2002 on, that is after the first completed round of NAPs, this body was extended to the OMC inclusion process and commented the draft NAP once per round. After the “consultation”, the final NAP was sent to the cabinet which

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<sup>68</sup> In 2003, this may be explained by the fact that the main competencies in the social field still led with the central government, whereas main competencies were shifted to the départements and local communities as from January 2004 on.

<sup>69</sup> NGO-coordinator of OMC inclusion, January 2004.

<sup>70</sup> Civil servant DGAS 2, September 2005.

adopted it before it was sent to the European Commission. The regions can use the second chamber, the *Bundesrat*, to issue opinions and decisions.

In the first round in 2001, access venues have been as in France quite limited. Actors sometimes refer to the restricted time-frame between the decision of the common objectives in December 2000 and the deadline for the NAP in early July 2001 as an explanation. The only meeting happened in March 2001 in the coordinating ministry in which the regions and local authorities as well as representatives of NGOs were present. In May 2001, the NAP was sent to the cabinet and was submitted by the government as pure information to the parliament<sup>71</sup> and the second chamber<sup>72</sup>. Parliament forwarded the document to its committee on work and social order which came to a positive recommendation after its meeting on 5 July 2001 and forwarded it for debate in parliament. Parliamentary debate, however, took only place in October 2001, that is well after the transmission of the NAP to the EU, and was limited in the sense that it was restricted to a short hour and to one speaker per party.

In the second round in 2003, the consultation structure and procedure was somewhat improved, mostly because the NAP process was now associated to the organisational structure of the report of poverty and wealth, implying that both documents were now coordinated by the same unit, the same interministerial committee (IMA<sup>73</sup>) and the same consultative body. The federal ministry invited the Advisory Board twice, the respective heads of department of the 16 regions included, in order to assure a better integration of the regions in the process. Promptly, it earned criticism as to whether this sort of consultation should not be realised within the context of the second chamber rather than by the federal level<sup>74</sup>. At the same time, there were regions which were sceptical towards more coordination between the regions<sup>75</sup>. Additionally, NGOs and other actors were given the opportunity to hand in a written comment on the draft NAP. After the final adaptation, the NAP was sent to the cabinet which adopted it (9 July 2003) and sent it as information to the parliament<sup>76</sup> and the second chamber<sup>77</sup>. The time before the deadline (end of July) was too short for these two institutions to react. By the end of the month, the document was sent to the Commission. It was only in October 2003 that the NAP was the object of parliamentary debate, 45 minutes were accorded to six parliamentarians, advancing

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<sup>71</sup> BT-Drucksache 14/6134.

<sup>72</sup> BR-Drucksache 352/01.

<sup>73</sup> Interministerieller Ausschuss (interministerial committee), the so-called "Ressortkreis".

<sup>74</sup> Civil servant Mecklenburg-Vorpommern, November 2005.

<sup>75</sup> Civil servant Federal Ministry of Health and Social Security, June 2005.

<sup>76</sup> BT-Drucksache 15/1420.

<sup>77</sup> BR-Drucksache 478/03.

their respective proposals without any further discussion and without any particular reference to the NAP or the European process<sup>78</sup>.

In 2004, the German government proceeded to a voluntary update of its NAP (2003), deemed necessary after the introduction of the so-called Agenda 2010 by chancellor Schröder which entailed significant changes in labour market policies, unemployment and social assistance schemes. The advisory board was convened once. This NAP was adopted by the cabinet end of May 2004 and sent to the Commission by the end of July without any debate in parliament. In 2005, the advisory board was not consulted at all while parliamentary debate occurred before the handing-over of the document to the Commission, beginning of June 2005. The course of the debate was exactly as in 2003<sup>79</sup>.

Besides these access venues, the federal ministry commissioned, in 2005, an independent office in order to organize a project labelled "FORTEIL"<sup>80</sup>. The aim of the project was to bring together, in a series of three regional workshops, all the stakeholders involved in the fight against poverty. However, the project had to face poor registration numbers and therefore the first regional workshop was cancelled by the ministry. A similar project was initiated by a group of NGOs and largely financed by the Communitarian Action Programme. It also consisted of an opening event and three regional workshops about different aspects of social integration<sup>81</sup>. Overall, it seems fair to conclude that venues for participation remained very limited. One or two meetings every other year are hardly sufficient to seriously accompany the OMC process. Access venues only existed in the final phase of the drafting phase, therewith hardly furnishing for deliberation and influence. A positive development, however, was that in 2005, parliamentary debate occurred before the document was sent to Brussels. At the same time, the advisory board was not consulted in that particular year.

### *Representation*

The next variable, representation, evaluates who actually took advantage of the access venues. In a second step, it must be evaluated whether the present actors

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<sup>78</sup> BT-Drucksache 15/3051; BT-Drucksache 15/1420, Plenarprotokoll 15/67 (neu), Deutscher Bundestag, 67. Sitzung; BT-Drucksache 15/3041.

<sup>79</sup> See Drucksachen 15/1420, 15/3041|Plenarprotokoll 15/178, Deutscher Bundestag, 178. Sitzung.

<sup>80</sup> Standing for Forum Teilhabe, that is forum participation and social integration.

<sup>81</sup> Having been at the opening conference myself, a deficit that one can regularly observe at these types of events is the absence, by and large, of representatives of the regional and local government and of the social partners. Instead, one will see representatives of NGOs, of local administrations and of the academic community.

actually had the opportunity to be heard and to make their ideas and interests known, a process commonly referred to as deliberation. As shown, in France, the process is guided by civil servants of the DGAS which also include civil servants of other ministries in the framework of the meetings of the permanent committee of the interministerial committee. Bureaucratic representation was thus given<sup>82</sup>. Territorial representation was inexistent. At the state level, this is clearly indicated by the absence of parliamentary debate:

“There never was any debate about it in parliament, at least not about the NAPs inclusion. This NAP is a communication text towards Europe. I do not even think that Mr. Borloo (minister of social affairs, SK) knows that a NAP exists. Europe is not his thing” (civil servant DGAS 2, September 2005).

The only opportunity for politicians to take part if they so wish are the meetings of the CNLE. However, elected politicians did not take advantage of this opportunity so that it remained a theoretical option. What about decentralised territorial representation? Since the delegation of competencies in the field of anti-poverty policy in January 2004, one could expect a greater involvement of the respective authorities. The DGAS as well as the national umbrella organisation of NGOs tried to initiate local and regional NAP processes, without success, however:

“It’s the major problem, in France, with regard to the European process, that there is absolutely no participation of the regional and local authorities. We tried, in 2005, to develop a participatory instrument. It was not possible due to political reasons” (civil servant DGAS 2, September 2005).

The main reason given is the bad shape of the relationship between the state and the sub-national authorities after the local and regional elections in March 2004, resulting in a massive political change from the right to the left. Not only do political actors not wish to implement a “programme” decided by another political majority. More particularly, and comparable to the German case, do the local and regional authorities not wish to pay for instruments which were decided by the central authority<sup>83</sup>, but then delegated to sub-national levels without any supplementary financing<sup>84</sup>. The central authorities seem to be aware of the necessity to include the regions and ask for new forms of partnership “so that a dynamic around the NAP inclusion can be created which is insufficiently adop-

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<sup>82</sup> The civil servants are evaluated in terms of bureaucratic representation – and not in terms of territorial representation – as they are too far down the ministerial hierarchy and the respective delegation chain to be linked to political decision-making.

<sup>83</sup> In the centre of attention are the RMI and the RMA.

<sup>84</sup> President EAPN-France 2, September 2005.

ted both by the elected representatives as well as by the local associations” (République Française 2003: 39).

Functional representation occurred in a limited extent, namely in the few meetings that were dedicated to the NAPs in the CNLE and through written statements of NGOs. However, this representation must be evaluated as very limited as it only occurs once every two years. Excluded people themselves have only been mobilised very marginally. In 2004, some excluded people participated in a few local workshops aiming at the evaluation of their satisfaction with anti-poverty policies. It remains unclear on which basis the locations and the participants were chosen. A similar consultation of excluded people took place in 2005 with the aim of identifying ways to evaluate the effects of anti-poverty policies. However, these events were not documented or evaluated in any public way so that their agenda and impact remains at best unclear. Social partners were only invited to the CNLE from 2005 onwards. Nothing is known about their position with regard to the inclusion process.

Scientific representation also remains at best unclear. In the meetings of the CNLE, academics do not participate. The National Observatory gathers prominent researchers in the field which regularly draft large reports about different aspects of poverty. Yet, as the issues of these studies do not necessarily overlap with the Nice objectives and as they are not mentioned as a source in the French NAPs, the relationship between them and the NAP process remains unclear. The only clear academic contributions related to the NAP process are the studies provided by Legros. However, these were reports to the Commission which were not taken into consideration when drafting or implementing the NAPs and therefore cannot really count as expertise representation. Concluding, it is thus fair to say that the NAP process can mainly be associated with bureaucratic representation, and with a limited functional representation via the NGOs.

The German picture resembles the French one. Bureaucratic representation was in any case assured as civil servants have to draft the NAPs and are therefore by definition included in the process. With regard to territorial representation, the NAPs were object of parliamentary debate three times, even though to a very limited extent, twice after being sent to Brussels, and without connection to the European level. Second, parliamentary participation was allowed in the meetings of the advisory board, an opportunity that was by and large disregarded. With regard to the federal level, both the ministers in charge and their state secretaries never showed up in the formal and institutionalised access venues. Another venue for territorial representation was the second chamber which, as shown above, issued several decisions about this OMC, most of which strongly rejected it. Still, their representation – to the difference of France – was possible and to some extent occurred, even though almost exclusively in a rejecting way.

However, this representation was only partially territorial as it was implemented once more by administrative staff and not by representatives with decision-making powers. Local representation was inexistent.

Functional representation occurred exclusively through the NGOs, even though to a lesser degree over the years as their representatives increasingly found that investing in the process was more or less wasted time (Kröger 2006b). Excluded people were completely absent in the NAP process as were the social partners of which there has not been a single official statement about the OMC inclusion throughout the years. There has been no regular consultation of academic expertise<sup>85</sup>. Its representation occurred in the context of the advisory board.

As laid out in the third chapter, for representation to happen in soft modes of governance, deliberation is additionally important in order to assure that all ideas and preferences actually enter in the political process. Since participation in the actual meetings was not possible for the author, it will be evaluated whether the access venues were supportive of continued discussion and exchange and discussions of arguments. In France, this seems not to have been the case. Both EAPN-France and the NGO coordinator of the inclusion process reported that the time structure of their mobilisation was extremely tight. While no consultation happened in the first round, in the second round in 2003, the government shared the draft NAP with the CNLE on 6 June while the meeting in which it was “discussed” was 18 June, leaving extremely little time to get familiar with the draft and to prepare and coordinate a response amongst the different NGOs. The meeting, the minutes of which the author has, does not show signs of a deliberative discussion, but a series of prepared statements in which actors did not relate to one another. Still, the then-in-place president of EAPN-France found that there are existing structures for participation which would be accessible for NGOs. However, these would at best be used for consultation, not for co-elaboration of policies (Bultez 2004), an evaluation shared by other involved actors:

“The big measures of the NAP, the big policies, were already all decided and had already been announced before. In my memory, there are no measures in the NAP which would have been new to us or a surprise. So, one can say that the NAP only restates what the government had already decided” (NGO-coordinator of OMC inclusion, January 2004).

Another indicator of the very limited exchange and discussions in the context of the NAP process is the campaign that the DGAS intended to organise in spring 2004 (never happened) in order to increase the sensibility of the larger public

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<sup>85</sup> Civil servant, Ministry of Health and Social Security, June 2005.



about poverty issues. At the end of January 2004, three of the major actors of the NAP process in France were not aware at all that such a campaign was planned.

In Germany, the preconditions for a deliberative process also seemed hardly given. Most of the NGO representatives reported that invitations to meetings and related documents always arrived on very short notice, hardly leaving enough time to organise well-founded and coordinated reactions. At the meetings and as described, not all concerned actors were present, a fundamental shortcoming with regard to deliberation. Also, these meetings only took place 1-2 times every other year, so that continuity of discussions could not be established.

### *Accountability*

The last variable related to legitimacy is accountability which is the sum of transparency, publicity, responsiveness and the availability of sanctions. In France and with regard to transparency, the limited mobilisation of actors corresponds to the very limited degree of transparency. The first two NAPs could be found on the web site of the Minister of Social Affairs until 2004, and then disappeared. Today, there is no more reference to the OMC inclusion or the streamlined OMC. To be sure, one can find numerous studies and reports of the ministerial bodies in the internet, but never is a link established between these studies and the OMC process, let alone minutes or summaries of meetings or events. The CNLE does not dispose of an own website. One can only access to its status, members and chosen activities through the Ministry of Social Affairs<sup>86</sup> where no mention of the OMC and NAP process is made and respective working agendas or minutes are not available. As there are no regional and local activities related to the NAP process, these authorities do not publish respective information on their web sites. Finally, the web sites of NGOs in France are of different quality. While the website of EAPN-France is notoriously outdated, the website of UNIOPSS is so up-to-date that information is only saved for a few weeks or months. More importantly, access to particular information, statements and background reports is only available to a restricted, authorised public, setting limits to transparency<sup>87</sup>.

With this low degree of transparency, and the above mentioned absence of parliamentary debate, it does not come as a surprise that public debate has been inexistent, leading to a situation where the process is “known by nobody”<sup>88</sup>. To

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<sup>86</sup> [www.social.gouv.fr/article.php3?id\\_article=1053](http://www.social.gouv.fr/article.php3?id_article=1053), access 3.7.2007.

<sup>87</sup> <http://www.eapn-france.org/>, <http://www.uniopss.asso.fr/cgi/index.plx>, access 3.7.2007.

<sup>88</sup> Civil servant DGAS 2, September 2005.

be sure, as in other member states, there are regular mediated and public debates relating to social policy, to a lesser extent also to anti-exclusion policies. However, these were never linked to the European dimension of the OMC inclusion which therefore remained unknown as confirmed the interviewees. An investigation of *Le Monde* throughout the year 2001 showed that not a single article was dedicated to this particular OMC, and very few to the broader Lisbon strategy, while other social policy plans of the government have attracted considerable media attention.

With regard to responsiveness, it is difficult to know – due to the lack of transparency – if the civil servants in the DGAS were responsive, at all, to external input. It must be assumed that they were responsive to the political overall guidance of the direction of their ministry. As already described, EAPN-France tried to obtain a separate working group in order to monitor the NAP process, a demand that was not reacted to by the respective ministry in charge:

“UNIOPSS, which is holding the vice-presidency of EAPN France, did then ask the government to set up working groups with civil society and the most excluded in order to develop the NAP. Unfortunately, EAPN was not followed on this point which has considerably reduced the influence of the network on the plan. It was only when the project was already completely drafted that the associations received it, allowing only for minimal changes” (EAPN-France 2003).

As far as the first NAP is concerned, it was impossible for NGOs to react as it was drafted in almost complete secrecy. For the second NAP, EAPN-France made suggestions as early as November 2002 which were not only forwarded to the ministerial working unit in charge, but also to the minister in charge as well as to the state secretary against precariousness and social exclusion (EAPN-France 2003). In the only meeting of the CNLE that was dedicated to the NAP (2003) in June 2003, the only reported impact of NGOs was that some new formulations with respect to the mobilisation of all actors were incorporated into the NAP<sup>89</sup>. Further incidences of responsiveness are not reported.

Responsiveness to demands of the European Commission was, as described, minimalist and formal in nature. One could say that the Raffarin government did react to the feedback to the first NAP in the first Joint Report insofar as its section on the mobilisation of all relevant actors was more developed than in the first NAP and as it contained an overall budget of anti-poverty policies. However, as seen, this did not equal increased access venues and the description of the budgetary allocations remained too vague to be associated to concrete policies. The next NAP (2005) which could have responded to the previous

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<sup>89</sup> NGO-coordinator of OMC inclusion, January 2004. If one looks at the respective passage, one can imagine, however, how minimal even this impact was.

feedback (in response to the NAP 2003), did not react in any observable way to the criticisms articulated in the second Joint Report.

With regard to the availability of sanctions, the Commission had to learn that member states do not accept the mechanism that was theoretically foreseen for this OMC: naming and shaming and benchmarking. Even semi-public criticism as vaguely formulated as in the country *fiches*, met the harsh resistance of the French delegation. In the absence of larger publicity, then, by which the course of action could have been corrected, (soft) sanctions in the context of the NAP process were hardly available.

In Germany as well, transparency has not been impressive. While the first two NAPs were accessible on the web site of the respective ministries for a limited amount of time and while the 2004 update was even printed both in German and English, the 2005 report as well as the newest national reform programme (2007) were not available online. Information about the meetings of the advisory board – announcements, agendas, minutes or the alike – was not made available in the internet or upon my request. The regions, even though present in the process through meetings in the federal ministry and in the second chamber, do not inform on their web sites that this process exists. NGOs commonly make their statements available online and sometimes hand them out as brochures. It remains however often unclear who is / who are the author(s) of such statements and which was the process leading to them.

The publicity of the NAP process remained restricted to the narrow circle of those dealing with it, visitors of the few workshops organised in the framework of FORTEIL or NAPSENS and formally members of parliament. For reasons that can only be speculated about, the governmental actors as well as parliamentarians did not have strong enough incentives to enlarge the debate to a broader public. A research of the complete year 2001 of the *Süddeutsche Zeitung* revealed that not a single article dealt with this OMC. This stands in sharp contrast to the publicity that the two reports on poverty and wealth have received in the media<sup>90</sup>.

The responsiveness of the German government to inputs coming from various actors has been very limited. It has been responsive to the European Commission and to the SPC insofar as it mostly respected their formal recommendations. It has been responsive to the Commission insofar as it reacted to the demand of a stronger focus on immigrants, people with disabilities and gender issues in the second NAP, issues the two first of which it dedicated special sections to. It has not been responsive to the more substantial recommendations such as to not exclusively focus on activation policies as a means of integration,

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<sup>90</sup> The third national report on poverty and wealth, published in 2008, has received less media attention.

to pay more attention to the Eastern regions, to set quantitative targets or to develop a monitoring system for its policies. It has been responsive to the regions insofar as it included two “good practices” from regions with a different political majority (than at the federal level) in the NAP 2003 and by inviting their representatives twice in the second round instead of just once in the first. It has not been responsive to the request of the regions to have a greater say and to be more consulted in all European process, particularly during the drafting process of the NAP<sup>91</sup>. It has not been responsive to the input that came from the local level in the first round, the reason why the local county association did not continue to contribute to the process. There was no responsiveness to NGOs’ concerns in the first round. As in France, German NGOs asked the administration to establish a small working group that would meet more regularly and accompany the process. As in France, the administration was not responsive to the request, leading an academic observer to the conclusion that “the welfare organisations have a lot of weight, but not in the NAP process”<sup>92</sup>. It has been responsive to NGOs in the second round by including an additional focus on particularly weak people and by mentioning the difficulties of homelessness and illiteracy. Also, NGOs had the opportunity to annex some additional “good practices” to the official ones. To the more fundamental inputs of NGOs, however, such as to focus less on employability, to deal more with health and poverty and to make the parliament and the concerned committee a full part of the process, the ministry was not responsive.

Overall, the analysis in this chapter reveals that both effectiveness and legitimacy scored very poorly in both countries. A closer look shows that effectiveness scored a little better in France and legitimacy a little better in Germany. This is not surprising as France already disposed of a solid institutional infrastructure with regard to the issues of poverty and social exclusion while Germany by way of its federal system offered more access venues and also allowed for discussion in parliament, even though twice after the NAPs had already been sent to Brussels. Still, the OMC inclusion can hardly be said to have been integrated in a meaningful way in the existing policy-making cycles, but instead remained a stranger only known to a few insiders.

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<sup>91</sup> See the minutes of the 79th ASMK of the regions, on 21./22. November in Dortmund, [http://217.110.205.153/private/aktuell/images/ASMK\\_79\\_2002.pdf](http://217.110.205.153/private/aktuell/images/ASMK_79_2002.pdf), p. 106-107, access 8.8. 2005.

<sup>92</sup> Researcher 2, July 2005.

## 5 The OMC inclusion at EU-level

At EU-level, the OMC inclusion mainly materialises in the form of social indicators and of a peer review programme. Both shall be addressed in this Chapter, asking in how far they contribute to the effectiveness and the legitimacy of the OMC inclusion. Before doing so, however, a review of more general definition and measurement issues is of order.

### 5.1 Definition and measurement issues

Social indicators are an important tool for evaluating a country's level of social development, of its well-being, for assessing the impact of policy, for addressing social inequalities and their structural sources, dimensions and degrees of poverty or social exclusion. They importantly contribute to the “framing and circumscribing of the experience of poverty and social exclusion” and to the “shaping of the discourse and policy objectives of domestic policies” (Armstrong 2003: 20) and as such are both normative and scientific (Carroll 2000; Nolan 2003; Veit-Wilson 2004). A great deal depends on how they are fabricated and with which intentions. With Atkinson’s words, one has to ask “what is the objective underlying an indicator and how does this influence the definition to be adopted” (Atkinson 2002: 10; Veit-Wilson 2006, 2007)?

Structural and social indicators have begun to play a significant role in advancing the social dimension of the EU, particularly through the work of Eurostat, a development that paralleled the rise of benchmarking economic developments in international organisations in the 1980s and 1990s in order to secure competitiveness (Schäfer 2005; O’Connor 2005). Publications such as *The Social Situation in Europe*, *Social Protection in Europe*, and the *Social Portrait of Europe* have disseminated the social monitoring of the EU<sup>93</sup>. Additionally, there is an annual report on the social situation in the EU, produced jointly by the DG Employment, Social Affairs and Equal Opportunities and Eurostat of the European Commission, seeking to provide both qualitative and quantitative analysis

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<sup>93</sup> These studies and reports are compiled by Eurostat and exist for several years. Therefore, no single ones are mentioned here.

about European social trends in diverse areas such age of population, living conditions, income distribution, and participation in society (Nolan 2003). Overall, European social indicators are today better developed for material and labour market deprivation than for the social, political, or cultural dimensions (Berger-Schmitt and Noll 2000).

Attempting to compare poverty and social exclusion *across* countries raises severe difficulties. They begin with different definitions and measurements of poverty and exclusion, e.g. expressed in the definition of what constitutes poverty (50% or 60% of median income, of the national median, or a European median? Which aspects, besides monetary poverty, should count? How many aspects of deprivation should be met in order to count as poor? Etc.), indicating the relativity of poverty (what constitutes poverty or exclusion in one country may not do so in another) (Atkinson et al. 2002: 177), continue with data availability (e.g. for ethnic minorities – there never will be EU-wide data collected on ethnicity because it is forbidden in some member states such France), and end with the timeliness of data (Atkinson et al. 2004; Silver and Miller 2003). In order to clarify these difficulties, it will be useful to first shed a light on definitions of poverty and social exclusion and common ways of measuring them before turning to the OMC indicators.

### *Concepts of poverty and of social exclusion*

The poverty and social exclusion literature is full of disagreements, different concepts, notions, terminologies, reflecting that the issues at stake are highly controversial and ideologically contested – both in science and in politics. The dispute covers terminology (poverty or social exclusion?), concepts (capabilities, deprivation, rights, resources, basket, etc.) measurement (absolute, relative, both?) and ultimately policy recommendations. Additionally, meanings change over time and space. The eleven clusters of meanings of poverty identified by Spicker and the seven poverty discourses identified by Veit-Wilson in the 1990s serve to illustrate the controversial nature of the issues at stake (Veit-Wilson 2000). Furthermore, it is often not clear in how far poverty is different from social exclusion while it is clear that both are not synonymous. These disagreements are so important because the choice of the definitions, research methods and measurement significantly influence the number of the poor and the extent of their poverty, and, in a next step, policies targeting the poor (Sallila et al. 2006). In the following discussion, the most important definitions will be reviewed.

### *Poverty*

Most broadly, poverty is thought of as people who live below a standard which is recognised by society to be insufficient (Cosser 1992). It is also often associated with lack of resources and lack of participation opportunities, or with the consequences, i.e. the situations that result from these shortcomings. At the beginning of the 20<sup>th</sup> century, B. Seebohm Rowntree differentiated between primary and secondary poverty measures (Rowntree 2000). The primary poverty measure was based on a basket of necessities for the simple survival while the secondary poverty measure also referred to social needs. The goal was to show the percentage of the poor who did not even have enough income to meet the most basic physical needs. While Rowntree did not defend such a definition, his research nevertheless became associated, particularly in the USA, with “absolute” poverty measurement (Piachaud 1992; Strengmann-Kuhn 2003; Veit-Wilson 2004).

Three quarters of a century later, Peter Townsend analysed the income levels at which people *in practice* did not achieve the recommended nutritional intakes (Townsend 1979), and later he and colleagues carried out research to discover what the population itself defined as the characteristics of poverty, and the income levels at which such poor levels of living in fact occurred, in a second step labelled deprivation indicators. He found that

„individuals, families and groups in the population can be said to be in poverty when they lack the resources to obtain the type of diet, participate in the activities and have the living conditions and amenities which are customary, or at least widely encouraged, or approved, in the societies to which they belong. They are, in effect, excluded from ordinary living patterns, customs and activities” (Townsend 1979: 31).

The central impact of Townsend’s work was his critique of an absolute notion of poverty which in his eyes was an ideological construct. Instead, he suggested, poverty is relative and needs to be contextualised as do necessary resources in order to participate in social life (see also Gordon and Townsend 2000; Kangas 2004).

In the 1980s, Amartya Sen suggested to think of poverty in terms of unfulfilled capabilities: „Poverty is not a matter of low well-being, but the inability to pursue well-being precisely because of the lack of economic means“ (Sen 1992: 110). People should have certain capabilities to meet their needs and to be able to participate in social life. The approach thus focuses on the study of how far in practice people are capable of achieving the well-being that their societies define as a reasonable minimum. While the means to achieve the capabilities vary in time (say in the case of mobility from a horse to the air plane), the capability

as such remains absolute (that people should be capable of being mobile). Poverty, then, is defined as the condition in which people are prevented from participating in society. This perspective shifts the focus from static comparisons of commodities to the dynamics of power relations in which people can act or are prevented to do so.

### *Measurement*

There is a broad range of poverty measures. Their differences relate to the conflicts and disagreements mentioned above and every “effort to measure it empirically is wrought with problems of judgement. No single, final and objective measure is to be found” (Ringen 2004: 3). The most commonly used measures are:

- Relative income measures. Relative poverty measures as the poverty line<sup>94</sup> depend on the degree of welfare inequality in a society because the threshold is set relative to the welfare of a ‘typical’ resident in that society. The underlying rationale for using a relative approach to poverty measurement is either based on some kind of value judgment (an unequal distribution of welfare is unfair) or a societal preference (societies prefer more equality / are inequality averse). In the EU, the relative income measure has been defined at less than 60% of the median income;
- Absolute poverty measures define a minimum necessary for the maintenance of merely physical efficiency, of minimum subsistence needs. The absolute measurement goes back to the vitalism of the 19th century which posited that life is the sum of those forces that resist against death (Bouquerel and de Malleray 2006). The poverty threshold was defined as the minimum of monetary resources necessary in order to live up to nutritional basic needs. Are considered poor those individuals who cannot enjoy the primary goods without help of the society. The official poverty lines in the USA and in Australia are of this kind. The EU uses both relative and real income measures as part of its comparison of progress (Atkinson et al. 2002);

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<sup>94</sup> The poverty line represents the threshold value of the welfare indicator which determines the poverty status. When income is below the poverty line, the unit of analysis is considered ‘poor’ and otherwise it is ‘not poor’. The poverty line can be determined with respect to some „objective“ benchmark such as the cost to fulfil basic needs (food, shelter, clothing etc.). It can also be set in relation to the typical living standard in a society. The first is called absolute while the latter is labelled relative.



- Budget measures calculate the total cost of all the purchasable components of any specified standard of living over a given period of time. The total cash cost, adjusted for tax and other relevant deductions, is then used as an income proxy for the minimally adequate or other living standard. The components may be chosen normatively or based on empirical evidence of customary living patterns to reflect the chosen standard directly (Bradshaw and colleagues);
- Normative inequality definitions of poverty as incomes below a percentile on the income distribution scales are also called relative, but this is purely in terms of the statistical criterion, not in terms of the minimum adequacy standards. A simple version defines poverty as the condition of those with, for instance, the lowest fifth or tenth of incomes.
- Public opinion measures survey samples of the population to discover what on average it sees as the necessities and experiences that all should enjoy. Further survey questions establish which households lack the items, whether this is by choice or enforced by insufficient income, and their income levels. In this approach, a poverty line can then be derived statistically from the point on the income scale where there is a clear correlation between low income and multiple deprivations;
- Administrative poverty, sometimes called political poverty, relates to the recipients of social assistance aiming to combat poverty, such the RMI in France or the ALG2 in Germany and many more specific social aids. The definition depends on what is normatively accepted as poverty;
- subjective measures by the researcher;
- Subjective measures by the poor consist in interviewing households about their financial situation. Are poor those individuals who declare not having a sufficient income in order to pay all the bills. The difficulty lies in the subjective nature of perceived necessities (Piachaud 1992; Strengmann-Kuhn 2003; Veit-Wilson 2004).

No single measure can capture all aspects of poverty. One problem is that surveys only take into account households in ordinary housing facilities. The homeless and individuals housed in centres, pension houses or prisons are not taken into account, even though they generally count among the poorest. Another problem is that by using household measures, one does not learn anything about the particular situation of single members of these households. All measures embody some notion of deficit, but often remain implicit about their standards of minimal adequacy.

*Social exclusion*

The reason for the success story of the concept of social exclusion lies in its *multidimensionality* – some would say vagueness. Similar to the concept of governance, there exists no agreement about a definition. This vagueness has contributed to its politicisation, notably in the European context, where it has been associated to different philosophical and social policy traditions to serve different ends (Daly 2006a; Kröger 2007a; Rojas 1999; Sallila et al. 2006; Saraceno 1997). Room concludes that the concept remained too incoherent and confused to serve as a reference point for policy and research (Room 1999; Phillips 2003).

Philosophically, social exclusion draws from two traditions: social Catholicism and social democracy (Chamberlayne 1997). The influence of social Catholicism (and Durkheim) can be seen in the concern about social ties, bonds in the family and community and respective horizontal relationships play an important role (Daly 1999). The ideal is one of each person being part of a complex set of social networks. The concept's social democratic roots reside in its interest in problematising social divisions, particularly as these are affected by relations among social classes, different access to resources and the role of state institutions to secure the latter. Exclusion is thus seen as *social* as it is linked to the absence of ties, the failure of institutions and power struggles between dominant and dominated individuals and groups.

Different canonical researchers have analysed aspects of what is today associated with social exclusion, indicating that the concept of exclusion might not be that new after all (Sen 2000). Marx studied the exclusion from ownership of the instruments of production, including egalitarian aspirations. Weber addressed the exclusion from markets on the basis of ascriptive features, Durkheim developed the concept of mechanical and organic solidarity, Parsons described the non-consideration of individuals in social systems, Elias analysed the exclusion through agency, that is the creation of in- and outsiders, Marshall focused on the exclusion through the denial of civil, political, social and educational rights, Tönnies studied the exclusion from particular communities because of their strong social ties (*Gemeinschaft* and *Gesellschaft*), Foucault addressed the exclusion through the judicial system and the psychiatry, Bourdieu analysed exclusion due to a lack of different sorts of capital, while Luhmann concentrated on the exclusion from a single or several functionally differentiated systems, to name only the most prominent scholars<sup>95</sup>. Most of the scholars either focus on distributive aspects of social exclusion (Marx, Weber, Marshall,

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<sup>95</sup> In the German context, Kreckel developed the metaphor of centre and periphery (Kreckel 1992).

Bourdieu) or on the relational (Durkheim, Elias, Paugam), with one of the main theoretical questions being whether social exclusion is the consequence of societal processes or of individual responsibility.

Silver identified three different concepts of integration respectively social exclusion and traced their intellectual origins. Solidarity corresponds with (French) republicanism, specialisation forms a couple with (British) liberalism, and monopoly is associated with a social-democratic type of society, where some individuals have access to resources while others do not (Silver 1994). In the context of the *solidarity* paradigm, exclusion is apprehended as the rupture of social ties and solidarity, as a failure or even the end of a relationship between the individual and society. Implicitly, certain values and rights are shared within the society, forming a moral community which is at the core of the larger social order and necessary in order to overcome tendencies of social fragmentation. A wide range of public institutions, most particularly those of the welfare state, must work in favour of the integration of individuals into society while exclusion is seen as the failure of these institutions and as a potential threat to the community. The society and public institutions are considered to owe to citizens the means to integration while citizens in turn have obligations to the larger society, most notably to take up work. Social exclusion is the rupture of these solidaristic ties and the failure of these institutions.

*Specialization* reflects liberal individualism, and the United Kingdom is the typical example in the EU of this paradigm. The British tradition draws on liberal thinkers such Locke and economists such Hume and Smith. Societies are made up of individuals with different capacities and different interests, and are based upon the division of labour and of voluntary exchanges in the economic and social sphere. Citizenship is based on contractual exchanges of rights and obligations and basically, individuals receive what they deserve as they all start with equal opportunities. As a consequence, no one should be considered responsible of the social position of the others. There are two types of individuals excluded from the society. First, those who are discriminated against because of market failures and not enforced rights or who do not have the required capabilities due to handicaps or other disadvantages. Here, the state is required to intervene to ensure integration. Second, those who chose freely not to participate actively in the society and therefore should not be supported.

*Monopoly* draws on the work of Weber and Marx and has been influential in the European Left. It emphasises hierarchical power relations in the constitution of a social order, with insiders owning resources while outsiders do not, thereby introducing an agency dimension. Social exclusion results from the behaviour of groups that restrict other groups' access to resources in order to maximize their own welfare, thus giving rise to a hierarchy in the society. In-

equality is thought to overlap with such group distinctions, but it is mitigated by social democratic citizenship and participation in the community (d'Ambrosio et al. 2002).

These paradigms by no means exhaust the different ways in which social integration can be conceptualised but do indicate main variations in the overall approach and reflect different theoretical perspectives, political ideologies and national discourses (Silver 1994). They also reflect a central difference, namely between conceptualising social exclusion as an individual problem of finding work and integrating oneself into society or as the consequence of structures and / or agency which implies that individuals or groups are denied access to rights, goods, services, monetary and social resources.

Comprehensive definitions of social exclusion used in the academic literature interpret it as the denial of social, political and civil rights of citizens or the inability of groups of individuals to participate in the basic political, economic and social life (Silver 1994; de Haan 1998). Whatever however the definition, the concerned person has limited possibilities to participate in society (Sallila et al. 2006). While academic consensus around the definition and usefulness of the concept has not been reached and is not in sight, certain characteristics are nowadays accepted by a large research community (Abrahamson 2003; Atkinson et al. 2002; Ballet 2000; Berghman 1995; d'Ambrosio et al. 2002; Goguel d'Allondans 2003; Phillips 2003; Room 1995, 2000; Sen 2000; Silver and Miller 2003; Todman 2004; Tsakloglou and Papadopoulos 2002):

- Multidimensionality. Social exclusion would not only refer to a single area of deprivation, but consists of the combination and accumulation of several sorts of shortcomings: income poverty, unemployment, relational poverty, poor housing or absence of housing, lack of education, bad health condition, loss of family support, non participation in the political and cultural life of society, illiteracy, discrimination due to age, ethnic origin or gender, absence of access to services, to name the most familiar ones;
- Dynamism<sup>96</sup>. Social exclusion would need to be understood as a process, not a singled-out momentum, because it has intergenerational features and influences the prospects for the future; because it is not static, but slowly develops into multiple deprivation or into decreasing deprivation out of exclusion;

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<sup>96</sup> Paugam's (1995) research on social exclusion in France is a good example of the kinds of insights this type of analysis can provide. He describes 'spirals of precariousness' — how, in France's deprived neighbourhoods loss of unemployment tends to be accompanied not only by loss of income, but also by social and psychological forms of deprivation, such as marital problems and loss of social capital.

- Relativity, implying social exclusion from a given society at a given point of time, dating back to the writings of Smith in his *The Wealth of Nations* in which he argues that needs are highly socially determined. The relativity is also reflected in different definitions of poverty or social exclusion across time and space. To the difference of poverty, one does not differentiate between absolute and relative exclusion;
- Agency, implying that the individual alone is not responsible when finding him- / herself in situations of exclusion, but that behaviour of individuals, groups and / or institutions and the way in which they operate must also be addressed in order to understand the phenomenon. However, this characteristic is the least researched (de Haan 1998);
- A relational nature, implying a discontinuity of social relationships and poor social participation<sup>97</sup>.

The notion of social exclusion has attracted different kinds of criticism (Kronauer 1997). First, it has been argued that the exclusion discourse would be apolitical insofar as it avoids speaking of poverty (Veit-Wilson 2000; Gore and Figueredo 1997). Particularly in the political EU-context, this is arguably right. Second, social exclusion would be too broad a notion which would lack specificity, making it a difficult concept for empirical and theoretical research. The vagueness of a concept containing ever more categories of individuals as well as ever more risks does not render easier its analytical operationalisation nor its translation into social policies (Castel and Haroche 2001). Third, the concept would tend to either classify people into insiders or outsiders while in reality, situations might be much more diverse, with people being included in some instances and excluded in others. Fourth, the concept of social exclusion would transport the idea of a normative desirability to be included in a larger group, preferably that of the nation (Helne 2004) while neglecting those who deliberately live in ways and under circumstances that deviate from what is perceived as normality<sup>98</sup>. Fifth, research would still rely on cross-section data, thereby treating exclusion as a “cumulative sum of deficiencies” (Helne 2004: 5) which does not capture the process character. Finally, one may criticise that certain aspects of the concept remain under-theorised, such the agency dimension of exclusion, even though this seems to be a main criteria differentiating it from the notion of poverty.

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<sup>97</sup> See Room (1999) for these five dimensions in greater detail.

<sup>98</sup> The specialisation paradigm identified by Silver is the exception to the rule as it foresees voluntarily chosen exclusion.

## 5.2 The OMC indicators

The history of EU indicator research dates back well before the introduction of the OMC inclusion. The reasons advanced for indicators at the EU-level are that the European integration process would create needs for comparative information on social conditions and structures, that this sort of information is a necessary precondition for the improvement of living conditions which is a central goal of the EU (Maastricht Treaty, Title II, art. 2). In the 1970s and 1980s, poverty in the EU was generally operationalised in terms of monetary poverty lines which were also adopted by Eurostat. In the context of the poverty programmes, action-research figured prominently and contributed to a development in which collective resources of local communities were increasingly taken into account. Yet, the data that the European Community Household Panel disposed of in terms of social relationships and networks remained very limited.

In the 1990s, and due to the academic and political influence stemming from French researchers and the then-in-place President of the Commission Jacques Delors, the concept of poverty and its focus on monetary exclusion became less influential in the EU while the one of social exclusion gained in prominence, a change which went hand in hand with a switch from national household budget surveys to multi-dimensional and intertemporal data instruments, namely panel studies. The 1990s also experienced the beginnings of systematic monitoring of national policies through the EU, particularly through Eurostat and the Observatory on National Policies to Combat Social Exclusion (Room 2004a).

Nowadays, in the EU, poverty is discussed as the share of people whose equalized incomes fall below a poverty line, that is a line under which income is deemed insufficient to satisfy basic human needs in a precise society. The measure indicating the percentage of the population that is poor is known as the head-count ratio. The political acceptance of the head-count ratio based on median income in the EU supported the common understanding of poverty as a relative, rather than an absolute, condition. The measure emerges from the distribution within a particular society. The standard of living (income or consumption) is usually measured at the household level – meaning that it will not take account of intra-household variations (Krause and Ritz 2006). The conceptual justification for the chosen poverty measurement is that poverty is a relative notion, which is determined by the general level of well-being at a specific place and a specific point of time (Cantillon 2005). The concern is not about inequality as such, but about the welfare inequalities between the typical resident and those residents that have fewer resources. The official poverty line is 50% of the national median disposable household income (Sallila et al. 2006: 107; Silver

and Miller 2003) while in 2000, Eurostat adopted 60% of the national median disposable household income as the risk-of-poverty threshold for its reports, thereby going a step further than the EU as a whole (Atkinson et al. 2004). This development reflects a shift in rhetoric as it permits to not speak of poverty, but instead of a risk-of-poverty or of low incomes (Atkinson et al. 2002; Sallila et al. 2006).

There are different approaches to indicator construction. There is a data driven approach which starts from the data, and then classifies the indicators, an approach used by Eurostat. There is a concept-driven approach in which a concept of well-being is developed<sup>99</sup>, from which the measurement dimensions, then the indicators and then the data are derived, an approach followed by the European System of Social Indicators (EUSI). A third approach is policy driven. It starts from political concerns which are then transformed into policy objectives. Once the objectives are identified, the indicators are fabricated. This is the approach adopted in the OMC inclusion, where performance indicators exist, so that actors can evaluate progress towards common objectives. The indicators, rather than providing precise sociological insights about well-being or even structural reasons for poverty, are meant to be the basis of monitoring and benchmarking processes, of soft pressure leading to the identification of “good practices” and mutual learning (Atkinson et al. 2002). Their adoption is “essentially a political act. To fulfil their potential within the social inclusion process, social indicators must be seen by all as embodying a political commitment by governments” (Nolan 2003: 15). This process, in turn, is expected to change the “way policy with respect to social inclusion is framed” (Atkinson et al. 2004: 65; Armstrong 2003), both at national and European levels (Atkinson et al. 2002: 19), and therewith may help the EU and domestic agendas move closer together (Mabbett 2004) and “serve to combat the tendency for national and European social policies to be developed in parallel universes” (Mabbett 2004: 15). There is thus clearly a political logic behind the OMC indicators.

First agreements concerning the elaboration of common indicators were reached at the European Councils in Lisbon, Nice and Stockholm (Atkinson et al. 2004: 64) while the indicators were finally commonly agreed in Laeken<sup>100</sup>. The first NAPs inclusion certainly helped the ambition of those favouring com-

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<sup>99</sup> Concepts may focus on *rights*, *groups*, and *institutions* respectively (International Labour Organisation (ILO) 1996: 17). *Rights-focused* studies have examined the factors which determine whether people are able to secure those rights. *Group-based* investigations identify specific social categories and detail their relative deprivation. The *institutional* approach, seeks to draw links between the ability of certain categories of persons to participate in social life (and the evolving nature of: the economic organization of production and exchange, the political order and culture.

<sup>100</sup> Note the formal difference between common and commonly agreed indicators.

mon indicators as there was tremendous variation both in the use made of indicators and in the definitions used (Nolan 2003). If the indicator process advanced quite rapidly, this was due to a large extent to the accompanying work of a group chaired by Tony Atkinson which, commissioned by the Belgian Presidency, suggested both indicators and the methodological principles that should guide the former (Atkinson et al. 2002: 190). In their large majority, both were taken over by the SPC<sup>101</sup>.

The indicators suggested in October 2001 by the SPC (SPC 2001b) and endorsed at the Laeken Council in December 2001 have the following structure: 1. Primary indicators consist of a restricted number of lead indicators which cover the broad fields of social exclusion; 2. Secondary indicators support these lead indicators and describe other dimensions of the problem, and 3. The third level covers indicators that member states themselves decide to include in their NAPs inclusion, to highlight specificities in particular areas, and to help interpret the primary and secondary indicators. The two first levels were commonly agreed and defined indicators, used by member states in the second and third rounds of NAPs inclusion. The third level indicators would be left entirely to member states and not be harmonised at EU level. This hierarchical political structure allowed progress instead of being blocked around a particular indicator.

The primary indicators are, in order, are: low income rate after transfer (1), distribution of income (2), persistence of low income (3), relative median low income gap (4), regional cohesion (5), long term unemployment rate (6), persons living in jobless households (7), early school leavers not in education or training (8), life expectancy at birth (9) and self defined health status by income (10).

The secondary indicators, in order, are: dispersion around the low income threshold (11), low income rate anchored at a moment in time (12), low income rate before transfers (13), gini coefficient (14), persistence of low income (below 50% of median income) (15), long term unemployment share (16), very long term unemployment rate (17), and persons with low educational attainment (18) (Atkinson et al. 2002).

With regard to the first indicator, the poverty rate, it was decided that the typical resident would be the median and that the poverty line would be at 60% of the income earned by the median person<sup>102</sup>. With regard to this indicator, two

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<sup>101</sup> The suggestion for a housing indicator which was not at all taken over marks an exception.

<sup>102</sup> Breakdowns that are foreseen for these indicators are 1) Age and gender, 2) Most frequent activity status during the income reference period. 3) Household type, 4) Accommodation tenure status, 5) Work intensity of the household, and 6) demographic variables, especially household size, family status (full or incomplete family), education, and also ethnic variables for some countries (Szulc 2004).



main issues were at stake. The first one, the choice of low income, was dealt with in the ISG (Indicator Sub-Group) in considerable length<sup>103</sup>, due also to considerable opposition of the French delegation<sup>104</sup>. The decision to use a relative rather than an absolute measure was not challenged (Krause and Ritz 2006). The question which relative income threshold should be chosen, however, was more problematic, since practices vary across member states. As described above, the official EU poverty line is at 50% while Eurostat has adopted 60% median income; finally, a recommendation of 60% was adopted. However, the ISG also decided to report on the number of people living in households with incomes below 40%, 50%, and 70% median income in order to differentiate the primary indicator of 60% (secondary indicator 11). The second issue was that people falling below 60% or even 70% should not be counted as poor (Atkinson et al. 2004: 56). The ISG found that this should be seen as a measure of people who are *at risk of being poor*, not a measure of poverty, thereby introducing a change in political rhetoric, reminding the one from poverty to social exclusion, which also prevented a European poverty discourse. This reflects a growing realisation that low income, on its own, may not always be a reliable indicator of poverty and social exclusion. Those individuals with the same income level at one point in time may have quite different living standards, because the availability of other resources, notably savings, other assets and / or assistance from friends and families strongly varies. Further income related indicators are income distribution as inequality measure defined as percentile share ratios which are more sensitive to precision of income data (primary indicator 2), persistence of low income or poverty (primary indicator 3), defined as the proportion of households / persons which remain below the poverty line for the present and at least two of the previous three years, and the poverty gap (primary indicator 4, the secondary indicator 15 is analogue, but uses a 50% poverty threshold) which measures how poor the poor are. Here, it is defined as a difference between the median income of the poor and the poverty line, expressed as a percentage of that line; the Gini coefficient (secondary indicator 14) has been adopted as another inequality measure.

A range of other indicators relate to (un)employment, also with regard to regional disparity (primary indicator 5). Here, the ISG sought to grasp regional disparities and agreed upon the coefficient of variation of employment at NUTS 2 level<sup>105</sup>, even though it was recognised that this indicator alone is not enough to grasp the phenomenon under review; another primary indicator is long-term unemployment (a year or more), already used as a structural indicator by the

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<sup>103</sup> Secretariat ISG, October 2005.

<sup>104</sup> French delegate to the ISG 1, January 2004.

<sup>105</sup> Nomenclature of Territorial Units for Statistics.

Commission and simply taken over (primary indicator 6); furthermore the long-term unemployment share (within total unemployment) and an indicator of very long-term unemployment (at least 2 years) were adopted as secondary indicators (secondary indicators 16 and 17). Finally, jobless households have been adopted as a primary indicator (7) and the difficult task for the ISG consisted in defining what exactly jobless household means as definitions varied across member states (is it a household where no one works but at least one person is unemployed as in the structural indicator or should there be no paid employment at all, how are students and retired people to be dealt with, particularly as ages of retirement vary across member states?)<sup>106</sup>.

Even more difficult than the previous indicators was the task to find and agree on other aspects of poverty than (un)employment and income. With regard to education, the ISG relied on an already existing structural indicator, namely the share of the total population of 18-24-year olds having achieved ISCED level 2<sup>107</sup> or less and not attending education or training which became a primary indicator (8) while the proportion of the population of working age with a low educational attainment (ISCED level 2 or less), differentiated according to age groups (and according to gender, as for all indicators) became a secondary indicator (18). With regard to health, there were no structural indicators yet which were linked to poverty. The consequence was that the ISG decided to adopt two indicators, namely life expectancy at birth and self-assessed health defined as the ratio of the proportions in the bottom and top income quintile groups of the population aged 15 and over who classify themselves as being in bad or very bad health, both as primary indicators (9 and 10). These two health indicators were included as primary indicators, even though they transport real limitations due to the subjective nature. Still, they are a starting point and the ISG sees further development of health indicators as a priority since it acknowledges that the impact that illness and disability have on the ability to participate fully in the life of society is critical. Those with a chronic illness or disability may well face severe obstacles in obtaining access to schooling, employment, independent housing and other aspects of participation<sup>108</sup>. However, (the lack of) data availability (see further down) constitutes a real limitation which has blocked further progress so far. The same holds true for education where the ISG would like to include indicators of illiteracy and innumeracy, but again, comparable data for all member states is not available yet and therefore, no further progress was achieved here.

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<sup>106</sup> French delegate to the ISG 1, January 2004.

<sup>107</sup> Corresponds to the German *Realschulabschluss*.

<sup>108</sup> Secretariat ISG, November 2005.

Thus, out of the ten primary indicators, seven are income (4) or (un)employment (3) related, while out of the eight secondary indicators, seven are income (5) or unemployment (2) related. This adds up to 14 out of 18 indicators being income or unemployment related, two to education, two to health (Krause and Ritz 2006; Kröger 2005a; Szulc 2004), while other aspects of poverty and social exclusion are still missing. Social exclusion as framed through the Laeken indicators therefore mainly appears as exclusion from the labour market and thereby exclusion from an own income (Armstrong 2003; Bouquerel and de Malleray 2006; Syrpis 2002; Tsakloglou und Papadopoulos 2002; Szulc 2004)<sup>109</sup>, with a “a clear and distinct overlap with the employment strategy” (Greve 2002: 11) while neglecting other aspects of deprivation. While both are without any doubt fundamental for the integration into society, they do “not tell us everything we need to know about the resources or living standards of households” (Atkinson et al. 2004: 61), an argument that points in the direction of more non-monetary indicators (Greve 2002). These gaps were widely acknowledged: “Major gaps in the areas and topics covered at this stage – recognized by the SPC and its ISG – reflect a combination of data unavailability and absence of clear conceptual underpinning in particular areas” (Atkinson et al. 2004: 59), particularly with respect to housing (see also Greve 2002) and homelessness, but also in areas such social participation, access to social services, indebtedness, benefit dependency, and family benefits where the ISG saw the need for further indicator development. This strong focus on (un)employment and income, it was argued, may be dangerous insofar as member states could “become fixated on certain targets and not others” (Armstrong 2003: 18-19).

Since the introduction of the Laeken indicators, the discussions have particularly focused on developing an indicator on the working poor (resolved), the definition of jobless household (resolved), the share of children in jobless households (resolved), indicators on housing and homelessness, on non-monetary / deprivation, as well as on ethnic minorities and immigrants (not resolved). The indicator of the working poor was one strongly called for by the French delegation. In July 2003, an agreement was reached in the ISG (Lelièvre et al. 2004: 158). The indicator captures a person that principally works, be it as employee or as independent worker, and lives in a household whose’ total income throughout a year is below the national equivalised 60% median income, poverty therewith depending on both the individual work and income situation and on the other persons living in the household.

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<sup>109</sup> Mayes points out that “unemployment is only one possible indicator of social exclusion, as is participation in the labour force. Some of those without jobs may be very firmly included in society as a result of their family relationships, location and social talents. Finding employment could actually reduce inclusion for them” (Mayes 2002: 198).

Homelessness is clearly the most pressing concern in the area of housing. However, it is also amongst the most problematic with regard to measurement. This is not only so because there are quite diverging opinions as to who should count as homeless and who should not, but particularly because homeless people tend to not be included in household surveys: "Indicators on homelessness and housing are important, but very difficult. First, because there is no adequate data available and second because it is unclear how the quality of housing should be judged" (British delegate to ISG, October 2005). The ISG commissioned a study about possible ways of defining homelessness which was completed in 2004. However, a consensus about a precise indicator could not be found in the ISG and this is why it only recommended that member states present information in their NAPs on decent housing, housing costs, precarious housing conditions and homelessness, and that developing comparable data should be a priority.

Deprivation indicators have also been an ongoing issue in the ISG. The key rationale behind non-monetary deprivation indicators is to obtain more information about the resources and living standards of households (Atkinson et al. 2004: 62), as income does not say everything about resources, living standards and access to rights and services. By those defending them, it is assumed that deprivation indicators could provide a better picture of where the Eastern member states stand in relation to the Western ones. It has been particularly the French delegation that spoke up against deprivation indicators arguing that such indicators would deter the picture:

„We worked on the deprivation indicators in particular and still did not find a solution as they are problematic. It is France that blocks as we do not want synthetic indicators. The Commission wants non-monetary indicators for the new member states. There are considerable related political ambitions to show that poverty exists in the new member states which is subsequently important for the distribution of the structural funds“ (French delegate to the ISG 2, September 2005).

„In order to show the different aspects of poverty and social exclusion, the idea to resume them in a synthetic indicator has been strongly rejected. The construction of these synthetic indicators, the ambition of which is to counter economic indicators, does not allow for a solid quantitative evaluation of the social issues at stake. In particular, the elaboration of such indicators demands choices which in most cases only reflect a single value system. These sorts of indicators are true black boxes for which the evolutions are difficult to explain and therefore do not help to explain social reality“ (Pétour 2004: 55-56) .

Other delegations consider that such indicators are the only way of getting indicators in particular areas accepted at all, namely for housing issues: "The French

are strategically wrong in rejecting it. Because if we don't do it, there will be no indicators at all on, for example, housing"<sup>110</sup>. The issue has not been resolved.

Finally, indicators relating to immigrants and their descendants were the repeated object of discussions in the ISG. The issue was rendered difficult by legislations of France, Portugal and Spain which do not foresee the possibility of data gathering split up by national origin or ethnic ascription. But also, ethnic minorities vary in (quantitative) importance in the different member states as well as their social stratification:

“Then, we dealt with the area of *ethnicity and immigrants*. One of the issues is that in some of the Member States, ethnic minorities and immigrants are varying in importance. In the UK, ethnic minorities are far more important for (the topic of) social inclusion (as immigrants are usually highly educated). The original preference to just concentrate on immigrants would have been a mistake, in France probably also. The ethnic minorities don't see themselves as immigrants. There also is a real data problem. In France, Spain and Portugal, if I remember correctly, it is not possible to collect information on ethnicity in official data; this would be against the constitution. Now, we have found the consensus that where data is available, it should be used. Where there is no data available, the situation of ethnic minorities / immigrants should be reported by including information that is not collected as part of official data (research). This consensus was found this summer” (British delegate to the ISG, October 2005).

In June 2005, a preliminary consensus was found foreseeing strict guidelines for future reporting about these individuals, including their work situation. It was agreed that “immigrants” should denote people born outside of the EU, and with a different nationality than the country of residence<sup>111</sup>.

Other regular topics on the agenda of the ISG included the passage from the European Community Household Panel (ECHP) to the European Statistics on Income and Living Conditions (EU-SILC, see below), the review of the indicators used in the national reports, how to link the indicators more closely to the objectives, and the preparation of the streamlined OMC social protection and social inclusion, beginning in 2006. Finally, it remained an open question whether the ISG should concentrate on finding and defining indicators or whether it should also analyse the results<sup>112</sup> which would politicise its activities. These examples show that while important developments occurred around the Belgian presidency of the EU, culminating in the adoption of the Laeken indicators in December 2001, progress since has been much more modest and difficult to achieve. This is not surprising as the Laeken indicators constitute the sum of

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<sup>110</sup> Luxemburg delegate to the ISG, November 2005.

<sup>111</sup> This was reported by several interviewees and also can be found in the report presented under the Luxemburg Presidency by Marlier et al. An immigrant is now defined as someone who crossed the border and with a different nationality (than EU).

<sup>112</sup> German delegate to the ISG, November 2005.

indicators about which consensus could comparatively easy be achieved while the areas not dealt with constitute issues where serious differences in opinions and practices existed and persist. Another reason is that to the difference of the ISG on employment, this ISG opted for having a high degree of comparability, rendering consensus building more difficult<sup>113</sup>. It is worth noting that to the difference of what the Atkinson-group expected (Atkinson et al. 2002: 186), enlargement did not bring about changes in the elaboration of indicators.

The Luxemburg Presidency in the first half of 2005 renewed the focus on indicator development in the context of the OMC inclusion. It commissioned Eric Marlier, one of the authors of the first Atkinson-group report and Luxemburg's delegate to the ISG, to draft a report about the state-of-the-art and possible future developments of the indicators within the OMC inclusion process. Marlier chose to gather the same people of the Atkinson-group around him. The four drafted a second report and a study (Marlier et al. 2005) which were presented and discussed at a high level conference towards the end of the mentioned Presidency ("Taking Forward the EU Social Inclusion Process", 13-14 June 2005) with the aim to reinforce and develop the process. Since, the OMC has been streamlined with the OMCs pensions, health and long-term care, and in the course of this streamlining, the focus on inclusion indicators diminished while no new ones were adopted. After these more general observations, we shall now address the issues of effectiveness and legitimacy.

### 5.2.1 Effectiveness

Turning to the *precision of information*, the main issue is the diverging interpretation of what constitutes poverty and exclusion. If there is no agreement on the definition of poverty, how it comes about and thus how it can be removed, then the construction of precise indicators is a difficult enterprise (Stanton 2003). One example indicating that the existing indicators do not say everything one would need to know in order to come to a proper understanding of poverty and exclusion is the choice of the (un)employment indicators. The dynamic of employment and its determinants are absent in the indicators. With regard to the labour market, important information is missing, such the quality of employment: its duration, its salary, working hours per week, firing conditions etc. (Salais 2004). Also, what constitutes employment and unemployment is not specified. However, these definitions are central as they influence the estimation of employment and unemployment rates and the interpretation of these national

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<sup>113</sup> Ibid.

figures that can be provided as well as their comparability (Salais 2004). Of course, this shortcoming also holds true for other indicators such the self-estimated health status, for the indicator “social cohesion” which is merely measured by employment rates while e.g. the public infrastructure is completely left out.

The precision of the indicators is also crucial when it comes to their role of supporting learning processes. If indicators are not precise and if not all the information needed in order to evaluate policy development is contained in them, then establishing a link between the indicators and the NAPs, and therefore supporting learning processes, is hardly possible. The SPC and the Council have opted for outcome, not input or output indicators (Greve 2002). This choice has to do with the respect of the principle of subsidiarity<sup>114</sup>: “The aim of the EU indicators is to measure social outcomes, not the means by which they are achieved” (Atkinson 2002: 8). These outcome indicators are supposed to contribute to peer pressure as bad performers are expected to turn towards good or best performers and, in a second step, to learn from them (Atkinson et al. 2004: 65). However, outcome indicators alone say little if anything about the way performances were reached as they

“do not represent the result of public policies alone, but also of wider developments in economy and society. In the absence of indicators of policy inputs and outputs, and of policy processes, they will (...) hardly themselves furnish the comparative policy-relevant information that such learning – and the sharing of good practice – will properly require” (Room 2004b: 6; Salais 2004).

The Laeken indicators thus miss crucial information with regard to supranational learning processes. There is awareness about the issue, both within the secretariat of the Commission and some national delegations which state that there is room for indicators that are more responsive to political action: “There is room for policy or process or input measurement as well”<sup>115</sup>.

Second, the contextualisation of the data needs to be addressed. If relying on outcome indicators alone when seeking to support learning processes, accompanying information about policies, budgets and laws becomes even more important. This information is supposed to be provided in the NAPs. One considerable problem is that these have turned out to be governmental reports (Idema 2004; Sacchi 2004) instead of being plans in which the written parts and the data interact. The written part does not refer to the data provided in the annex and vice versa, thereby not explaining how performances were eventually

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<sup>114</sup> It is noteworthy that originally, the Social Affairs Council foresaw both „performance indicators“ and „policy indicators“ (Friedrich 2006).

<sup>115</sup> British delegate to the ISG, October 2005.

reached. Finally, the definition of an indicator “may have changed in the meantime even if there has been no change in policy” (ibid; see also Kutsar 2000).

Another issue relating to the precision of the indicators is target-setting. The Barcelona European Council in spring 2002 stated member states “are invited to set targets, in their National Action Plans, for significantly reducing the number of people at risk of poverty and social exclusion by 2010” (European Council 2002: para. 24). In the same vein, the Common Outline for the 2003-2005 NAPs inclusion states that targets are important as they are “a significant political statement of purpose”, they provide “a goal against which to measure progress” (Social Protection Committee 2003b). It is clear that for a meaningful and credible process, targets are essential (Atkinson et al. 2004: 66), yet member states have so far mostly refrained from any sort of target-setting. This is best mirrored at EU-level where, when introducing the OMC inclusion in 2000, member states set the target of reducing poverty by half until 2010; two years later, this ambition was already given up. For the French and German cases, it was already laid out that they did not set targets that are related to the common objectives.

A fourth issue with regard to the precision of indicators is the *comparability* of the Laeken indicators, to the extent that the usefulness of European-wide indicators has fundamentally been questioned: “People in different countries thus experience unemployment or poverty in very different social contexts. It is therefore possible that comparability across countries may, paradoxically, require the questions to differ across member states” (Atkinson et al. 2002: 177). What constitutes a job offer, a job demand or an assisted unemployed (eligibility criteria, duration, conditions, degree and sort of assistance) is different from one member state to another (Atkinson et al. 2002: 10; Salais 2004). A homeless rate of 3% would be a scandal in the Scandinavian countries as many people would probably die in the cold of the winter whereas in Spain or Portugal, it does very rarely threaten people’s lives and therefore might not be as big a priority (Atkinson et al.: 2002: 159). Having two friends in rural Ireland may be all one can hope for in the Green Island, whereas it may be a sign of social isolation in Greece:

“The group was not in a position to develop indicators because the problem here is the comparability of indicators of living conditions at the European level. Because you have indicators which for certain countries would really be a sign of poverty, but not so for others, for the Northern and the Southern countries, it is really not the same story. (...) So here you fundamentally touch the issue, the limit of these indicators and of the cultural contexts of these indicators which pushed certain countries to block them and that is why for the moment, there are no others. So we, in all of this, we have made a suggestion but it does not find acceptance” (French delegate to the ISG 1, January 2004).



Even the wording of questions in representative surveys can influence the outcome in such a way that “quite small changes in the wording of questions on self reported health can produce different results. The other problem is that cultural differences determine answers more than underlying health status and this makes cross country comparisons difficult”(British delegate to the ISG, October 2005)<sup>116</sup>. Clearly, the need for such a regional differentiation has increased with the Eastern enlargements.

A related issue is the use of national data. The first point is that the definitions of indicators vary nationally. For example, the income-related indicators in the German NAPs 2001, 2003 and in the 2004 update were not taken from the ECHP, but were calculated on the basis of the Socio-Economic Panel (SOEP), the difference being that they are grounded on the monthly net income of a household which is a different measure than the Laeken income-related indicators (Krause and Ritz 2006: 158; Strengmann-Kuhn 2007). Inevitably, comparability decreases with the increase of different definitions of indicators at national level (ibid.: 170). Even where the ECHP data was used in the national plans, comparability is endangered as member states were authorised to adapt the centralised ECHP questionnaires to their national systems (Dewilde 2004: 34). The ECHP is additionally a critical source as there exists significant sampling variation, with return rates ranging between under 50% and 85% (ibid.; Cantillon et al. 2004). There are also non-sampling errors, resulting from faulty or incomplete answers from respondents. The confusion is furthermore nourished by the fact that the data that appears in the Joint Reports is calculated by the ECHP, implying that it is possible to find different results for the same indicator and the same country, depending on whether one searches in the national source (NAP) or in the European one (JRI) (Adjé and Pétour 2004: 67). For example, the people living in poverty in France, after transfers and with a poverty line of 50% median income, amounts to 9% in 2000 according to the ECHP (and in the JRI) while it amounts to 6,5% according to the national source calculated by INSEE.

Another example for the lack of comparability is the field of housing and homelessness statistics. Brousse identified four groups, following different policy and statistical paths with regard to housing and homelessness (Brousse 2004: 173): 1. Member states where there is no specific public homelessness policy or specific data gathering, but a universal social protection system and a universal housing policy (Sweden, Denmark). 2. Certain Southern (Greece, Portugal) and the Eastern member states also do not pursue specific policies towards the

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<sup>116</sup> As an example, the interviewee cited the notoriously good humour of the Irish, who could still answer that everything is fine while being sick against the rather pessimistic character of the Germans with a tendency to exaggerate sufferings.

homeless. However, their level of social protection is lower. Here, there are no official statistics concerning the homeless, but more or less regular reports from NGOs. 3. In the third group, the state financially supports the institutions which shelter the homeless (France, Netherlands, Belgium, Italy, Spain), and provides a judicial framework for the respective institutions. In this group, there are no regular reporting mechanisms on homelessness as it is perceived as an individual handicap, not as structurally grounded. 4. Finally, there are also states where the state either helps the homeless directly to find housing (UK, Ireland) or helps the renters to stay in their apartments (Germany). In these member states, statistics are integrated in universal housing statistics and reported annually. According to the policy in place – policy vs. no policy, state driven vs. charity-driven, universal vs. particular, shelter vs. access to housing – the availability of data varies as does the definition and of homeless and homelessness and therefore of indicators (Brousse 2004).

As mentioned above, a working group including representatives from Eurostat, a statistician from the official French institute for statistics (INSEE), four researchers from different national backgrounds and the secretary general of the Fédération des Associations Nationales Travaillant avec les Sans-Abri (FEANTSA) was commissioned to develop proposals for future reporting about housing and homelessness. Originally, Eurostat thought it could popularise the approach chosen by INSEE (homeless defined as people living in the streets and in shelters, irregular statistics, panel survey rather than exact numbers), but soon faced the resistance of FEANTSA who rejected this approach. The statisticians were not capable of suggesting a common measure either. However, at the end of the common work (2004), Eurostat suggested a provisional definition of homelessness which was accepted by the members of the group, and which listed different ways of living and sleeping outside of a “normal” housing condition, irrespective of eligibility criteria relating to state or charity assistance (Brousse 2004).

A closely linked issue is *data availability*: “The data poses quite a bit of a problem”<sup>117</sup> (see also Stanton 2003: 41), resumes one member of the ISG and the secretariat pursues:

“Since 2001, we are trying to fill the gaps, in particular with respect to education and illiteracy (unresolved). No agreement was found on an indicator on access to health. The main obstacle is the data availability. We have dealt with the issue of housing and homelessness, but are dealing with strong data limitation” (Secretariat ISG, October 2005).

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<sup>117</sup> British delegate to the ISG, October 2005.

Therefore, member states were invited to “identify gaps in existing data and to stress the need to develop further their statistical infrastructure” (Social Protection Committee 2003a: 7). The EU-SILC is expected to largely resolve the problem, however, it will take some more years before it will be firmly established and if it will do so in the end remains to be seen. For the time being, the lack of available data is a serious constraint and seems to have determined to a large degree the choice of indicators: “The absence of good, comprehensive and comparable data does mean that the choice of indicators has to some extent been influenced by data availability and this may not necessarily reflect policy priorities in all Member States” (Stanton 2003: 44). If one issue with regard to data is its simple availability, the other is its timely availability, with member states or the ECHP often using outdated data: “Realistically, delays in data availability mean that, for many social inclusion indicators, countries will be reporting on the position some years in the past” (Atkinson et al. 2002: 183; Cantillon et al. 2004). However, the usefulness of outdated indicators is quite limited, particularly in the context of learning processes.

### *Organisational capability building*

Early institutional capability building came from the legal institutionalisation of the SPC and the ISG, indicating a consolidation of the process. The other development that is of importance at EU-level and with regard to the indicators is the set-up of the EU-SILC – which is obviously also connected to financial resources. The EU-SILC has exclusively been funded by the major part of the accompanying Communitarian Action Programme (2002-2006). From 1994 to 2001, it was the European Community Household Panel (ECHP), organised by Eurostat, which was used for social indicators. As the name indicates, the ECHP was a household panel, implying that a given number of households was regularly interviewed through standardised questionnaires about different aspects of their living conditions, such as income, health, education, housing and employment. On these grounds, a data base was then developed and was expected to be representative of the entire participating country (Dewilde 2004). The ECHP has been replaced by a different approach to data production across the member states, the EU-SILC, which has become the EU reference source for poverty, income and social exclusion statistics (Bouquerel and de Malleray 2006). The EU-SILC has a transversal and a longitudinal part to it and both may be joined by member states at different moments of time. France, for example, chose to join the transversal part in 2004 and the longitudinal part in 2007 as only then could France provide a persistence of poverty indicator (Pétour 2004). The main differences

between the ECHP and the EU-SILC are that the latter is a rotating rather than a perpetual panel and that national statistics institutes will take care of imputation and calculation of key variables rather than Eurostat. This means that member states can draw on national sources where they already exist, separate the cross-sectional element from the longitudinal panel element if they so wish, and use both surveys and administrative registers. The goal of this procedure is to anchor the EU-SILC firmly in the different national statistical systems. The risk of the new approach relates to non-comparability as indicators may be defined in different ways.

The issues of lack of timely available and comparable data were crucial for the decision to set up the EU-SILC in Laeken in December 2001 (Nolan 2003). EU-SILC was joined by most member states in 2003 and 2004 while the Netherlands, the UK and Germany only joined in 2005 (Atkinson et al. 2004: 73), meaning that the first data for all EU-15 member states was available in early 2007. This means a significant data gap of five years between the ECHP and the EU-SILC, covering exactly the time span that is of interest here. In the years between the ECHP (end of 2001) and the EU-SILC (real start 2007), the Laeken indicators are calculated on the basis of available national data<sup>118</sup> (Bouquerel and de Malleray 2006), trying to respect the methodological principles of EU-SILC and the definitions of the Laeken-indicators. Due to these diverging national data bases, the Laeken indicators by definition are only comparable to a limited extent for this period (2002-2007) and most data in the 2001, 2003 and 2005 reports stem from the ECHP (Atkinson et al. 2004; Nolan 2003). While the EU-SILC has thus not been of any direct help for the OMC inclusion, the latter and its institutionalised dialogue within the SPC and ISG made the EU-SILC emerge. Of what value this statistical tool will be in the future remains to be seen; still, it clearly contributes to organisational capability building at EU-level.

### *Monitoring*

There was no independent monitoring in the context of the ISG by the Commission or other actors. First, it is impossible to undertake systematic indicator-based evaluation if member states “failed to set targets in their NAPs and thereby

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<sup>118</sup> In France, these are the *Statistiques sur les ressources et les conditions de vie* (SRCV), the *Enquête sur les ressources et les conditions de vie* (ERCV) (transversal part) and the *Panel sur les ressources et les conditions de vie* (PRCV) (panel part), all directed by INSEE (Pétour 2004). In Germany, the Laeken indicators for 2002-2004 were calculated in cooperation with the federal statistics office on the basis of the socio-economic panel (SOEP).

foreclosed the possibility of evaluation” (Mabbett 2004: 9). Even if targets would have been set, it would have been difficult to monitor these due to the just described resort to different national statistical offices and different ways of measuring living conditions. Second, it seems as if the Commission, drawing on experiences in the SPC, did not choose such a “political” strategy as in the SPC. At least, this is what most delegates to the ISG report, picturing the Commission as a supporter, with the exception of the French delegate who found that sometimes, the Commission “tries to go too far too fast”<sup>119</sup>. But the same delegate also stated that “the Commission is much stronger in the other sub-groups than in this one”. Finally, but with some caution, several interviewees indicated that the work in the ISG tended to be more technical (focussing on issues of indicator definition) and that political evaluation was not on the agenda.

### *Receptivity*

The receptivity of the Laeken indicators by member states refers to the position delegates take in the context of the ISG (pro-active, passive, rejecting, etc.) and to the way the indicators are used domestically in the NAPs. Clearly, policy indicators such these require political commitment and “cannot work effectively if member states follow them according to the letter but not the spirit with which they are being introduced” (Atkinson et al. 2002: 185). With regard to the first question, there are clearly some delegations in the ISG that stand out in terms of activism, of which the French, while the German one is described as more hesitant. With regard to the NAPs, three issues matter. Did member states use the definitions of the Laeken indicators? Did they set targets? Was there any sort of interaction between the main part of the document and the indicators? This last question is of importance as in the absence of an interaction and translation between the EU and the national level, both processes develop in different universes.

The Common Outline of the SPC for the NAPs 2003-2005 states that the „commonly agreed indicators should be used as appropriate“, but admits that „given constraints in relation to the timeliness of data it will be important to supplement these with indicators based on national data“ (SPC 2002b: 3). As Atkinson et al. have pointed out, fabrication of indicators may be anything else than objective when a member state decides “cynically” to “recast its activities so that statistics record an improvement while no real change has occurred” (Atkinson et al. 2002: 184-185). This is exactly what happened in Germany at

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<sup>119</sup> French delegate to the ISG 2, September 2005.

the turn of 2003-2004 when unemployment statistics were changed so as to also include temporarily employed individuals as employed, the aim being to reduce unemployment statistics<sup>120</sup>.

Both member states have systematically used the data from national statistical offices. In France, this has mainly been the INSEE, but also several others such as the DREES, ANPE or the CAF<sup>121</sup>. In France, INSEE regularly produces figures on poverty and living conditions. Additionally, the yearly report of the ONPES contains a wide variety of indicators. In Germany, data came almost exclusively from the SOEP. The implication of the use of national data was that in particular the income and unemployment related data is systematically different from the data in the Joint Reports in which the European definitions are used. The used data differs in that it is systematically more favourable to the respective member state than the European data. By way of example, the first indicator, the at-risk-of-poverty rate, in the German NAP 2003 and for the years 1999 and 2001 is of 10.5% respectively 9.4% while in the following Joint Report (2004), it is for the same member state and the same years of 11% and 11%. The persistent risk-of-poverty rate in Germany, in 2001, according to the NAP 2003 was 4.9% while according to the JR, it was 6%. The percentage of people with low educational attainment in the age group 24-65 in the German NAP 2003 is of 17.5% while in the JR, it is of 39.4% and so forth. Similar differences can be found for the French NAP 2003 and the JR (2004), for example an at-risk-of-poverty rate (60%) of 13.4% (1997) and 12.3% (1999) in the French NAP and rates of 15% and 15% for the same years in the Joint Report. It can thus be concluded that both member states did not accept the European definitions.

Still, the approach to indicators is completely different. While in France, the development and use of indicators has become normal, it is rather rejected in Germany. This shows insofar as the French NAPs have used indicators in all three rounds (2001, 2003 and 2005 as well as in 2006), even before commonly agreed indicators had been adopted, while the German government only used them in 2003 – at least, no indicators have been made public in 2004 (voluntary update) and in 2005 (implementation report). Furthermore, the indicator annex of the German NAP 2003 is “only” 21 pages long while the French has three annexes which amount to 122 pages, at least 40 of which are explanations and definitions of the indicators in order to facilitate their interpretation (Mabbett 2005; Adjé and Pétour 2004). This difference has to do with France offering a huge multidimensional battery of tertiary indicators, so that the total amount is

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<sup>120</sup> German delegate to the ISG, November 2005.

<sup>121</sup> Direction de la Recherche, de l'Évaluation, des Etudes et des Statistiques, Agence Nationale Pour l'Emploi, Caisse d'Allocations Familiales.

of 162 indicators (Pétour 2004: 145) while Germany only offers eight tertiary indicators in its 2003 NAP. Indicators deal with such issues as recipients of diverse activation programmes, number of people wishing to work more, numbers of kindergarten places available, rates of over-indebtedness, access to decent housing, access to health services and cultural activities, rates of households equipped with a computer, integration measures for prisoners, etc. This may be counted as a high degree of receptivity by the French administration. However, these indicators are produced independently of the OMC inclusion process and are only copied in the NAP. Also, the French NAPs (2003 and 2005) do not only contain performance, but also output indicators (Adjé and Pétour 2004: 67), the goal of the latter being to measure the political effort to reach an objective. They therewith go beyond what was asked for by the EU. However, all indicators, also the Laeken indicators, have been calculated on the basis of French statistical sources, rendering European comparison difficult. Also, France did not provide an indicator about the persistence of poverty as no French statistical source calculates such an indicator (Adjé and Pétour 2004: 69). With regard to the monetary poverty measures, France did not provide a breakdown by gender as the statistical unit of INSEE was the household and not the individual. Another shortcoming is that since the beginning up until now is that all the extensive definitions and explanations as well as the tables with all the data are only available in French, thereby reducing their readability and their use for international comparison, given that it is extremely important to exactly understand the definition of measures.

Germany's reluctant approach to the Laeken indicators is also indicated by its absence in the high-level conference organised by the Belgian Presidency of the EU in September 2001 just because German did not figure amongst the official languages of the conference. Finally, it can be noted that the two new indicators in-work poverty and people living in jobless households do not figure among the reported indicators in the German NAP 2003.

As mentioned above, target-setting hardly occurred throughout member states. Instead, strong resistance was common:

“There is an interesting story which you can trace regarding the setting of targets. Look at the conclusions of the Barcelona European council of March 2002, paragraph 24. Member States are "invited to set targets, in their National Action Plans, for significantly reducing the number of people at risk of poverty and social exclusion by 2010". The Commission had proposed, in its synthesis report to this summit, to set an EU target to reduce the EU rate for risk-of-poverty. The Member States in the SPC adopted an opinion which rejected this, partly on the basis that it did not adequately reflect the fact that poverty is multi-dimensional etc. this led to the conclusion I've just quoted (Secretariat SPC, June 2005).

If there is “target-setting”, then targets are framed vaguely by formulations such as “to improve” or “to increase” rather than to set quantitative targets. The limited use of indicators by member states was also acknowledged by the second JRI of the Council and the Commission who found that indicators have yet to be “used to full advantage to assess performance in practice“ (CEC 2004: 135). This has not been different for France and Germany where no such targets have been set in the context of the NAPs.

With regard to the third question of whether there is an interaction between the main text of the NAPs and the indicators, it is fair to conclude that policies and indicators are not related to one another, implying that the text does not explain the indicators or vice versa. This is not very surprising as the data was several years old while the practices chosen are all very recent or not even in place yet in order to count as “innovative”. Still, a difference can be observed between France and Germany. France, from the first NAP (2001) on, listed the indicators according to the list of common objectives, i.e. it does not list the primary indicators from 1-10 and then the secondary indicators from 11-18 or 11-20. Instead, in its annexes, it goes through the common objectives with all the indicators, primary, secondary and tertiary, and the commonly agreed indicators appear whenever the French ministry saw them fit. While the intention was without doubt to make the objectives and indicators communicate with one another, the result is that readers have a hard time finding the Laeken indicators in the midst of all the other indicators, at all.

Since the goal of learning occupies such a prominent space in the context of the OMC, the interviewees were asked whether they had observed learning processes in the context of the ISG. In a second step, the learning (as against a bargaining and negotiating logic) hypothesis was evaluated by addressing discussions or conflicts that arose in the ISG and if and how they were resolved. With regard to the first question, there are basically two camps. Half of the interviewees focuses more on positive aspects and effects of the Laeken indicators which would accelerate the discussions of the definition of indicators and improve the system of data gathering, particularly but not only in the new member states:

“It has structuring effects. It brought us together, to make a state-of-the-art of the analysis of poverty and social exclusion. It may have accelerated the debates how to get indicators faster (in France), which indicators, how to measure, with which means, it has more publicity now. (...) The European dynamic: there is an interesting phenomenon, it is the same people that stayed in the ISG. We start to know each other, to function in a network, to develop common positions towards the Commission. We have learned to relativise the way social protection systems work” (French delegate to the ISG 2, September 2005).



Additionally, increased knowledge about other social systems is mentioned as an effect of the common work. The other half estimates “many member states don’t have learning as their first interest”<sup>122</sup> or that no discussion is taking place and that things that are not reported at the meetings are completely neglected<sup>123</sup>. Also, there would be so many information that one would get lost in them.

Finally, whether or not a learning atmosphere prevails can also be deduced from the way conflicts are resolved or not, and whether there is coalition building in- and outside of the meetings. There does not seem to be stable coalition building within the ISG, even though one delegate from EU-10 estimated that certain EU-15 member states developed strategies to defend their interests outside of the meetings; however, this evaluation was shared by none of the other delegates interviewed<sup>124</sup>. While the Commission staff is generally reported to be very helpful, cooperative and at the service of member states, there have nevertheless been clear conflicts both between the Commission and single member states and between single member states or groups of member states. Some issues such the struggle around the poverty threshold, a definition of homelessness or a deprivation indicator have already been described above: “So we said that it is absolutely necessary to have both 50% and 60%. And as the Commission has a political problem to reduce the threshold from 60% to 50%, it refused” (French delegate to the ISG 1, January 2004). Some delegates found that the Commission wants to go “too far too fast”<sup>125</sup>. The secretariat of the Commission put it this way:

“Indicator development is slow, sometimes for technical reasons, sometimes for political reasons. Once you start on the basis that poverty is multi-dimensional, indicators are complex. Member States will nearly always protect their interest, i.e. they will try to stop development of an indicator if their country would emerge badly from it” (Secretariat SPC, June 2005).

Another conflict related to the Commission using data of the OECD without clear permission by the member states, for example in the field of making work pay. In this case, the Commission stepped back and the issue today remains unresolved: „Otherwise we worked around the issue of making work pay. France was not happy as the Commission works with OECD data. The Commission confronts member states with *faits accomplis*, for example with these indicators. In

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<sup>122</sup> Ibid.

<sup>123</sup> German delegate to the ISG, November 2005.

<sup>124</sup> Of course, this must not mean that coalition-building never happens. It is only interpreted in such a way that there are no *stable* coalitions in the ISG.

<sup>125</sup> French delegate to the ISG 2 September 2005. Another interviewee agreed with this assessment.

the meantime, the Commission stepped back” (French delegate to the ISG 2, September 2005). Other conflicts related to the transition from the ECHP to the EU-SILC, both managed by Eurostat. Some delegations found that the secretariat of the ISG is too dependent on Eurostat and that the latter is too occupied with introducing new topics before handling longer-standing issues; or to an indicator relating to disabilities in which member states were capable of obstructing the initiative of the Commission (Mabbett 2004).

With regard to conflicts amongst member states, a prominent one is the one relating to deprivation indicators, that is aggregated indicators, where two main positions prevail, namely one rejecting them clearly (France as example) while the other supports them (Luxemburg and the UK as examples):

“We have mostly worked on the indicators on living conditions which are still not resolved and which are problematic. France blocks as it does not want synthetic (aggregated) indicators. This question is still not resolved, it lasts since three years already. For the time being, the results are semi-synthetic indicators” (Luxemburg delegate to the ISG, November 2005).

“We have dealt with material deprivation. The main critique has been that the commonly agreed indicators are too income-based. A lot of work has been done by EUROSTAT, there is no consensus on what items are describing material deprivation, that is all that has to do with economic stress (if you can’t afford rents, holidays, etc.). There is no agreement on the normative ideas of these items” (Secretariat of the ISG, October 2005).

Another conflict arose around the definition of a “jobless household” (Atkinson 2002: 6), the question being exactly which individuals should be counted. Finally, a source of disagreement relates to the question how far the analytical work should be deepened. Is the ISG’s mandate “only” to find and define common indicators, or should the results of the single member states also be analysed and discussed<sup>126</sup>? Thus far, if answers to particular problems cannot be found, the ISG tends to either postpone the issue or to commission Eurostat and the OECD and “see what they come up with”<sup>127</sup>. There are diverging acknowledgements of the nature of the discussions. While some interviewees stated that there is a tendency towards consensus building and finding ways of coming together, others estimated that “in the ISG, bargaining takes place more often” (than in the SPC)<sup>128</sup>.

The evaluation of the effectiveness-related criteria thus shows mixed results. Positive results are the very existence of the indicators, the institutionalisation of the ISG, the setting-up of the EU-SILC and greater knowledge about

<sup>126</sup> German delegate to the ISG, November 2005.

<sup>127</sup> British delegate to the ISG, October 2005.

<sup>128</sup> German delegate to the SPC 1, October 2005.

foreign protection systems. More critical results relate to the lack of comparable and timely available data, the reluctance of member states to use the European definitions of indicators and their resistance to let the indicators “communicate” with the NAPs, and, last but not least, the lack of input indicators and of embeddedness and contextualisation of the indicators which would be necessary for them to support supranational learning processes. Finally, it can be noted that the indicators do not mirror all the different dimensions of poverty yet.

### 5.2.2 *Legitimacy*

The legitimacy of the inclusion indicators is difficult to evaluate because the related processes, even more so than the national ones concerning the NAPs, happened in almost complete secrecy.

### *Access*

It is possible to distinguish three types of access venues, namely institutionalised consultation of the member states and the Commission, semi-formal consultation of external academic or statistical experts and mostly informal consultation of NGOs (Friedrich 2002). In principle, an intergovernmental logic clearly prevails in the ISG, with the exception of a few selected researchers who nevertheless made a significant contribution. Ever since the ISG started its work in 2001, member states had direct and formal access to it through their two delegates (per country).

With regard to the second group, academic experts, the marked access for some had a lot to do with Frank Vandembroucke, the former Belgian Federal Minister of Social Affairs and Pensions who had made these indicators one of his priorities for the Belgian Presidency of the EU. Besides single experts from the OECD or Eurostat, it was particularly academic advice that Vandembroucke encouraged and supported, and this resulted, in autumn 2000, in the setting-up of a group of high-level academic experts, called the Atkinson-group after its chair Tony Atkinson<sup>129</sup>. The Atkinson group was in regular contact with the ISG and drafted the final report for the SPC<sup>130</sup> which the latter adopted with slight changes in October 2001. Throughout the consultation process, the academic experts met rather clear rules of participation insofar as their input was actively asked for and as they were encouraged by the Belgian Presidency to actively

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<sup>129</sup> Members were Tony Atkinson, Bea Cantillon, Eric Marlier, and Brian Nolan.

<sup>130</sup> Its work was published a year later (Atkinson et al. 2002).

participate (Friedrich 2002). The visible highlight of Vandenbroucke's efforts – besides the adoption of 18 commonly agreed indicators at the Laeken Council – was an international conference on “Indicators for Europe. Making Common European Objectives Work”, in mid-September 2001, organized by the Belgian Presidency<sup>131</sup>. It seems, however, that since the consolidation of the Laeken indicators, consultation has involved less academic advice than in the first year: “The first Atkinson report (2001) has strongly influenced the ISG as the ISG only came into place, then. Now, the work of the ISG has strongly influenced the second report. The great value is that it puts on the table what the ISG is doing”(Secretariat ISG, October 2005).

No formal access rules existed for NGOs. While European NGOs showed political interest in influencing the indicators, they met considerably fewer opportunities to participate than the academic experts. Some access was possible upon request, but without (clear) rules of participation (Friedrich 2002). Both the EAPN and the FEANTSA had informal access to the ISG and discussed several papers and the interim report: “FEANTSA, they try to participate all the time, trying to influence the process, wanting to make contributions. They have been in the ISG”<sup>132</sup> – to the difference of EAPN. They equally contributed with own evaluations and reports and organized several round-tables. The perception of who established the contacts between the ISG and the NGOs, either the ISG's secretariat or the NGOs, differs. Whereas some actors have stressed the role of the secretariat, NGOs have a more critical view with respect to the demand of their participation (Friedrich 2002). No venues for participation existed for excluded people. There have been, however, attempts to include them to the related discussions at EU-level. Three European Round Tables on Poverty and Social Exclusion have so far taken place<sup>133</sup>, yet a link to the development of the OMC indicators cannot be established.

### *Representation*

Territorial representation was assured through the delegates to the ISG, even though this was a mix of territorial and bureaucratic representation as the delegates to the ISG were supposed to represent the national governments but at the same time were civil servants rather at the end of the delegation chain. More bureaucratic representation was assured through the European Commission,

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<sup>131</sup> Germany refused to participate in the conference as German was not an official conference language.

<sup>132</sup> Secretariat of ISG, October 2005.

<sup>133</sup> Organised by the Danish (2002), Greek (2003) and Luxemburg (2005) Presidencies.

which, by providing the secretariat, plays a central role. More territorial representation was not given as both the regions and the local public authorities were not included in the indicator process.

Functional representation was scarce. FEANTSA is the only NGO to have taken part several times, far from regularly, in the meetings of the ISG while delegates of EAPN did not so. FEANTSA equally succeeded to lift the issue of homelessness up the agenda of the ISG and was represented in the working group that the ISG commissioned with the search of ways to define and measure homelessness. Excluded people have been absent from the indicator process, a decisive shortcoming in the eyes of Atkinson et al. who find that “those suffering from social exclusion should co-determine how exclusion should be measured” (Atkinson et al. 2004: 63-64). Such an approach would not only increase the input legitimacy of the EU, but also profit from valuable knowledge coming from “experts on their own matter”. The authors also note that the “discussion of indicators needs to be broadened, responding to the views of social partners, non-governmental organisations, of those experiencing social exclusion, and indeed of all of Europe’s citizens” (Atkinson et al. 2004: 59). Social partners were completely absent from the process at EU-level as well.

Finally, academic representation was rather strong at the beginning of the process when the expertise of Atkinson and colleagues was used to get the process started. However, it should be noted that the Atkinson-group was made up of researchers which did not challenge the policies and the politics of the Lisbon strategy fundamentally, thereby not being representative of the entire research community. This representation re-gained a certain momentum at the time of the Luxemburg Presidency when the same group gathered once more for another report on the indicators; still, their influence decreased as the process consolidated. Both for functional and for academic representation, inclusion into the process was conditional upon invitation by the accountability holders and no participation rights besides those established for the member states and the European Commission existed.

Was this representation, then, “activated” through deliberation? The ISG meets 8-9 times a year in Brussels. The OMC inclusion, however, was not necessarily at the centre of attention of every meeting (other issues being the OMC pensions or health and long-term care, for example). These meetings last half a day to a day and normally, there are several items on the agenda. Particularly since enlargement<sup>134</sup>, it is thus easy to imagine that not all delegations can speak up for all topics: “Out of 25 member states, maybe ten speak up during a meeting”<sup>135</sup>. According to all interviewees, these tend to be particularly Luxemburg,

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<sup>134</sup> Note that the EU-10 member states participated in the ISG as guests since 2003.

<sup>135</sup> German delegate to the ISG, November 2005.

Belgium, France, Italy and the United Kingdom<sup>136</sup>. Particularly the EU-10 member states are reported to be “silent”. This situation, however, apparently does not reflect coalition building of EU-15 vs. EU-10 member states<sup>137</sup>. Whereas the indicators of this OMC were continuously discussed in 2001-2002, this was the case five times each during 2003 and 2004, and four times in 2005<sup>138</sup>. This decrease in importance can largely be attributed to the increase of other OMCs, namely those in pensions and health and long-term care, but also to the fact that the “easy” questions were resolved during the first two years of work whereas the difficult issues remain unsolved and more or less on the agenda<sup>139</sup>. In any case, the situation does not resemble ideal-typical models of deliberation at all: not all concerned can participate (see previous section), too little time to speak up for all, too much information to handle at once, no decision rights for all concerned, no regular exchange, and limited willingness of member states to change their preferences.

### *Accountability*

Transparency of the indicator process was minimal and only occurred insofar as three official EU-documents with regard to the indicators were published on the web site of the European Commission until the end of 2006. To the difference of the SPC, the members of the ISG are not made public, not at national level, not at EU-level. “Public” debate with regard to the Laeken indicators was only existent in the two high-level conferences dedicated to these indicators under the Belgian and the Luxembourg Presidency. However, these conferences only gathered the already mentioned parties and representatives while never reaching media, parliaments or a broader public and can therefore hardly be called public. Given the poor degree of transparency and the absence of public debate, it is extremely difficult to evaluate whether the accountability holders – the delegates of the member states – were responsive to inputs from other actors, also because these hardly existed. However, at least two cases of responsiveness can be identified. For once, the ISG was responsive to the first report drafted by the Atkinson group, accepting the majority of its proposed indicators as well as of its proposed methodological principles. Second, the ISG has also been respon-

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<sup>136</sup> Member states that were mentioned once are Finland, Poland, Hungary, the Netherlands and Germany.

<sup>137</sup> Note, however, that the ISG interviews were all conducted with EU-15 members of the ISG.

<sup>138</sup> This information stems from the official work programmes of the respective years, documents obtained through informal contacts.

<sup>139</sup> German delegate to the ISG, November 2005.

sive to the demand of FEANTSA to focus more on issues of housing and homelessness. At the same time, the ISG has not been responsive to the request of EAPN to include additional indicators (EAPN 2001b). As already mentioned, member states also refused benchmarking through the Commission. Therefore, in the absence of a public debate, there were no sanction possibilities available to correct the course of indicator development at EU-level. Overall, the legitimacy of the Laeken indicators is therefore very limited or barely existent. The process suffers of the absence of a variety of actors and of a public debate which would render this process visible and provide sanction possibilities. The next European instrument under reviews will be the peer reviews.

### 5.3 The peer reviews

The goal of the peer reviews is to contribute to mutual learning processes by presenting and discussing chosen good practices in some depth<sup>140</sup> and both their effectiveness and their legitimacy will be addressed now.

#### 5.3.1 *Effectiveness*

It is difficult to apply the same yardsticks to the peer reviews (PRs) as to the NAPs and the Laeken indicators as they have an even weaker institutional basis than the two latter. Only a small minority of member states takes part in each PR, and they take place in changing member states with changing topics all the time. Also, there are no such things as common objectives. The structure provided for the PRs exclusively seeks to assure procedural similarity from one PR to the next by delimiting the time frame (one and a half, maximum of two days), by establishing that written information about the policy under review as well as comments on the information will be diffused amongst participants before the meeting and that the structure of the meetings shall be introduction, presentation – site visit(s) – discussion(s). Because of this loose structure, and because every single PR is a completely new “story” insofar as it takes place in a different member state with different participants and a different topic, effectiveness shall be evaluated in a different way, namely by assessing the chronological steps of

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<sup>140</sup> Nine interviews and 27 (short) replies to short questionnaires (out of the 36 sources, 30 come from the same three peer reviews), a personal participation in one of these reviews as well as the extensive documentation material of the peer reviews available on the respective website build the empirical basis of this section. Answers stem from all the involved actors: civil servants, academic and NGO experts and the European Commission.

the PRs and their institutional environment and by paying particular attention to the question whether this environment plays in favour of supranational learning processes.

### *Before the PRs*

The first step is the process of choosing so-called good practices which will then be reviewed by peers. The participating countries – both host and peer reviewing countries – are selected by the European Commission, in close cooperation with member states. Formal selection criteria are 1) The willingness and capability of a member state to present a policy and host a review; 2) An expressed interest by other member states to review the proposed policy; 3) The availability of evaluation results or monitoring data and 4) The relevance of the policy to the EU inclusion strategy (CEC 2005b: 3). In practice, the topics that are chosen for the PRs depend on two factors. First, member states wishing to host a PR must propose a practice for review (other actors than governments are not eligible for suggesting a topic). Thus, only policies that governments evaluate as positive and “innovative” will be suggested:

“We would need information about the monitoring of a good practice. One difficulty stems from the situation that good practice equals innovative practice equals recent practice. Nobody wants to present a practice from a previous government” (Official European Commission peer review programme, November 2005).

Also, the policies should be practices that are presented in one of the NAPs. Second, if the proposed policy is chosen for a PR depends on the degree of declared interest by other member states. If less than six other member states find that the suggested policy is of interest to them, the practice will not be the object of a PR<sup>141</sup>. This procedure implies that the range of issues that are dealt with is reduced as shows the list of chosen topics between January 2004 and August 2007: ethnic minorities, mobilisation of all actors and networking (5 each), homelessness and housing, family solidarity and reconciliation of work and parenthood (4 each), over-indebtedness, age poverty (3 each), activation of social assistance recipients, future of social services, bridges from school to work, c child poverty, rural poverty, people with mental problems, health, and social aspects of human trafficking (1 each). While the overview shows that certain topics are clearly prioritized over others while third topics do not appear

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<sup>141</sup> Official European Commission peer review programme, November 2005.



at all, the choice does not reflect the strong focus on activation policies which one finds in the NAPs.

The next step is the preparation of the PRs. Many of the interviewees stated that the information material arrived on very short notice, hardly leaving time to read all the documents (assessment paper of 20-40 pages by an academic expert and comments of 4-6 pages by the peers). All the documents can be found at the web site of the peer review programme. The other aspect with regard to the preparation material is that it is perceived as being too much (it easily adds up to 60-70 pages), a point also conceded by the official from the European Commission. The civil servants which attend the PRs simply do not have the time to read all the documents. More substantially, it remains unclear in how far the comments of the peer reviewers constitute an added value. More often than not, the authors present a similar policy in their own country and do not deal with the issue of transferability. The description of the respective policy remains superficial and is not discussed during the PR. Three thirds of the interviewees found that they did not have a good picture of the policy under review upon arrival. Finally, with regard to the preparation of the PRs, the Commission official in charge found that more time should be spent with the hosting country in order to help it with the preparation of the review, because most civil servants are inexperienced with this sort of international exchange and may set “wrong” accents for the agenda.

### *The peer reviews*

As described, a PR will normally last one and a half day, divided into three sections. The first section starts with several welcome addresses and then goes over to the presentation of the policy, its effects and critical aspects by the thematic expert and the host country, followed by a short reaction of the peer country officials. This first section hardly allows for discussion. In a second step, one or several site visits are organised. Either the whole group visits one or two site(s), or the group may be divided into two or three smaller groups which each visit one site. The time spent at the site generally ranges between two to three hours<sup>142</sup>. During the site visits, there may be more or less time for discussion, but generally, it seems to be assured that at least questions can be asked. However, this does not always seem of great help as at least for two PRs, it was reported that it remained unclear what the policy was about. In the third section of the PR, participants return to the conference venue and are either divided into

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<sup>142</sup> The transfers in the PRs from the conference venue to the site have lasted anything between 40 minutes and 4 hours per way.

groups in order to discuss their respective site visits or directly return into the plenum in order to report and to discuss their impressions. Here, the issue of transferability should be addressed. However, as can be seen from the minutes of the meetings, this issue is hardly touched and if so, only very superficially. Some interviewees mentioned the lack of knowledge about the presented policy as the reason why they could not speak about transferability. For others, language seems to have been a real issue, not only during this third and final part of the PR:

“The peer review was carried through in French and translation was very bad. We fortunately had some French knowledge. Others contributed independently of what had been said before. The representatives of Cyprus and of the Czech Republic were very upset because they did not have any knowledge of French. Some things I did not understand at all. There were difficulties of understanding subtleties” (EU-officer Arbeiterwohlfahrt, June 2005).

“A thing that should not be underestimated is the language problem. A representative of the Baltic states could hardly speak English. This also showed later on in the debates. The representative of the Commission also was a huge problem, as he had a merciless bad accent. In the discussion, the language problem became evident for quite a few participants. At this point, rather the experts discussed and not the officials” (Academic expert, May 2005).

Several interviewees indeed noted that during discussions, the officials from the ministries tend to be silent, leaving the discussion to the academic and NGO experts, as was the case in the PR the author participated in.

This structure which leaves little time for discussion was perceived as critical by many participants. After the PR, many still felt that they had not really understood how the policy worked, that they were missing institutional and financial details, that they would have needed more information on the reviewed practice so as to really understand it. Lack of time to explain and discuss the policy under review, particularly in smaller groups, is equally perceived as a critical issue by many participants. Thus, the information that is provided and the way it is processed seem to be problematic.

### *After the Peer Reviews*

After the PRs, the minutes of the meetings are drafted and published at the website. There will be no evaluation of what went good and what went bad. The only evaluation that is made is at the very end of a PR programme (for the first

time in fall 2005, Tavistock Institute 2005)<sup>143</sup>. However, it is unclear in how far the Commission uses the report in order to improve single aspects of the PRs.

If PRs are meant to initiate learning processes, the question of reporting once returned in the home country is essential. However, this seems to be a severe shortcoming. Two thirds of the interviewees did report orally in their home ministries or organisations. Mostly, however, this meant reporting to the closer circle of colleagues, not reporting to higher levels of the organisational structure or in any systematic way. Six participants reported in a written way, but it is unclear which audience these reports reached. After coming back from a PR abroad, a French participant with colleagues prepared an initiative in the policy field of the attended PR field that went all the way up to the cabinet of the *Ministre délégué à l'exclusion* Catherine Vautrin but did not meet any interest there which implied the sudden death of the initiative. Two participants reported that they had diffused the related documents in their environment whereas seven participants did not report in any form whatsoever. There is thus strong evidence that the information did not circulate within the concerned ministries or other organisational backgrounds just as it does not circulate within the respective DG in the Commission<sup>144</sup>. The lack of systematic follow-up, which is recognised by the official of the European Commission, contributed to a situation where all but two participants denied any kind of impact of the peer review in their home country and no participants but two remained in touch after the peer review. One reason for the little follow-up might be the perceived differences in the domestic institutional arrangements which in the eyes of almost half of the participants stand in the way of transferring policies from one country to another whereas only two found that the peer review can be useful for initiating learning processes. Resources have so far not been problematic for the participants as the Commission pays for travel and accommodation with money stemming from the Communitarian Action Programme. However, this budget does not allow for more than 7-8 peer reviews a year.

Asked about the added value of the PR, many participants mentioned the better knowledge of the reviewed practice, while some point to the useful exchange with experts and others to the fact of being evaluated by pairs. Four participants did not see any added value. Time is an important issue. While seven participants thought that the PR generally had been too short, another seven found that there was not enough time for discussion, particularly in smaller groups, and four participants found that too much time was absorbed by too many official statements. Another issue is the number of documents to be red

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<sup>143</sup> The report of the respective institute has been quite severe, indicating in particular the institutional shortcomings with regard to a favourable learning environment.

<sup>144</sup> Official European Commission, November 2005.

before arrival: seven participants found that too many texts were sent out, while four wondered about the deeper sense of reading them all if there is no place, during the peer review, to also discuss the approaches presented in the documents. Four participants thought that the country officials were not the people with real decision-making powers in their respective ministries and therefore the wrong persons to participate in the PR. Seven participants were openly sceptical about the possibility of transfer:

“Participation did not bring anything for the respective fields. The only possibility could be that if there were a pressing problem, with respect to homelessness, one could turn towards Denmark and see whether single aspects could be adopted. The federal structure in Germany gets in the way of a direct influence. If there should be influence, then it is on a longer run” (German country official, June 2005).

Finally, two participants regretted the absence of discussions about policy alternatives, i.e. more critical analysis of the policy under review. Overall, the following quote from a well-informed NGO representative is both telling and quite representative for other responses:

“The peer review has been a little of a disaster, but in my view the reasons are not political but related to the management of the review – impossible time schedule, selection of the wrong policies (where potential/willingness for learning did not exist), selection of wrong countries to review (or wrong people in these countries), selection of not the best possible European expert, etc. There has been no strategic thinking with the European Commission and the Programme Committee and the SPC on how to use the instruments and budgets in a way that would maximise learning. The learning has been totally ad hoc” (President EU-umbrella NGO, August 2007).

There are thus a number of factors which stand in the way of more effectiveness of the PRs. Before the meetings, this relates to the information provided which seems to be both too much and too imprecise. During the meetings, there seems to be a need for more discussion so as to better understand the policy under review, to discuss it and inform about different approaches. After the review and crucially, individual ad hoc learning is not transferred into organisational learning which would make the experience more lasting. Also, the fact that no politicians with decision-making power participate in the PRs stands in the way of enhanced effectiveness.

### 5.3.2 *Legitimacy*

As described above, six to eight peer reviews took place per year since 2004. *Access* to the PRs has been organised as follows. The host country is reviewed

by six to eight other member states. All EU-15 member states (but Luxemburg) have hosted either one or two PRs as have the Czech Republic and Hungary. Participation in other PRs varied a bit more as four member states participated in seven PRs (amongst which France), four member states participated in six PRs, ten member states in five PRs (amongst which Germany) and five member states in four PRs. Finally, four member states participated in either two or three PRs. Participants normally include a civil servant and a national expert (being either a researcher or a representative of an NGO) from the host country, one official and one national expert from each peer country, up to three officials from the European Commission and up to four representatives of stakeholders involved in the policy under review, often coming from the European umbrella organisations of NGOs as well as civil servants from the host countries. All in all, this usually adds up to 15-25 people per review. While European actors are in a better position to be admitted to the peer review as their participation “only” needs to be approved by the organising committee of the host country, national actors are in a more difficult situation. For every peer review, it is only one person that is chosen by the civil servant of the reviewing ministry. It is thus clear that the PRs were so far open for a very limited number of persons<sup>145</sup> each time and not open in the same way to all actors. The Commission, in close co-operation with member states, organises who is participating in them. Member states in turn can decide whether the expert that should come along besides the ministerial official should be from academia or from a NGO – most of the times, an expert from academia was chosen – and can freely chose an expert of their choice. Furthermore, the hosting member state can decide whether it allows national NGOs to participate at all. Thus, some actors are structurally advantaged over others in the peer review programme, i.e. member states are rather free to participate – in the limit of available places – while other actors depend on the good will of the organising ministry or official(s) and do not enjoy participation rights.

Territorial *representation* is completely absent in terms of elected parliamentarians. While this might allow for a lower degree of politicisation and thus more open discussions, it is a shortcoming when the civil servants are not in a position to bring the experience into the domestic policy-making process. If one included top-level civil servants with a certain amount of political responsibility, then one will find now and then such a representative from the organising ministry. However, these actors do not stay throughout the PR, but leave it either after their introducing speech or after the first section of the PR. They do not

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<sup>145</sup> For the peer review process of the EES, Casey and Gold come to the same conclusion (Casey and Gold 2005).

take part in the site visits or in the few discussions. Regional territorial representation is completely absent. Functional representation exists through a very limited number of NGO representatives and the people presenting the policy at the site visit, which, however, do not take part in the rest of the peer review and therefore do not count fully. Social partners have not shown any interest in these PRs. Scientific representation exists through the academic experts. As with the NGO experts, their number varies from PR to PR. Dominant is once more bureaucratic representation which is mostly given by the national officials that by far outweigh any other group of representatives. The group is completed by one or two officials of the European Commission.

As described, the national delegations and other stakeholders are invited to write a short comment which is diffused amongst the participants before the PR takes place. In practice, these comments tend to be much more about a related domestic policy than about the policy in the reviewed country or the question of transferability. These texts build the ground on which the PR, and therefore also deliberation, takes place. However, only less than half of the participants read all the papers before the meeting whereas the other half did not or only partly, being overwhelmed by the amount of papers to read and handicapped by the late arrival of the papers. During the PR, there is only limited time for discussion (and thus deliberation) amongst the participants. Consequently, half of the respondents found that the peer review either was too short in general or that the time available was not ideally used, spending too much time in plenary sessions, listening to official statements. Furthermore, participants often did not really understand how the policy under review really worked as one third of the participants stated that they would have needed more information: “We got a grasp of the practice but not enough to be able to explain to our country how exactly it works”, or, more critically “we all did not know what they really wanted to tell us”<sup>146</sup>. Besides the information issue and the time structure, the language issue was already mentioned above. The peer countries either take place in the language of the host country or in English, but translation into English is in any case provided during the plenary sessions. During the site visits, translation might be a bit more difficult to organize and was lacking several times. A little less than half of the participants thought that language was not an issue and did not influence the communication; one third thought that it partly did while eight participants stated that missing language skills or poor translation had made the communication difficult. Another point already mentioned is that discussions, if they take place, mainly involve the national experts that is, representatives of the academic community and NGOs whereas the civil servants were less in-

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<sup>146</sup> German country official about a Finnish PR, June 2005.

volved. While the peer review principally constitutes an environment for deliberation and learning as no concrete results or consensus must be achieved, it thus seems as if the available time and / or the provided information is insufficient – and at the same time too much – in order for deliberation to happen, and that additionally language barriers often stand in the way of exchange and deliberation.

With regard to *accountability*, it is difficult to conceive of the peer reviews as particularly open and transparent meetings. It is unclear on which ground practices are finally selected and others not, on which grounds member states select their national expert and who participates at all at each peer review<sup>147</sup>. However, all documents for every single peer review, including the expert paper, the comments, a synthesis report and detailed minutes, are available at the web site of the PRs ([www.peer-review-social-inclusion.net](http://www.peer-review-social-inclusion.net)). It is therefore possible, ex post, to get a good overview of the policies discussed and the major points raised during the reviews, even though critical points tend to be less reported. Public awareness about the PRs is inexistent beyond those directly involved and due to the lack of transparency and public debate, it remains unclear whether member states have been responsive to suggestions made by the Commission and what these suggestions were about. The possibility to hold actors responsible for their actions in the context of the PRs does not exist. The PRs do not undergo parliamentary scrutiny at any point of time, there is absolutely no media coverage and thus no public debate about these reviews. This low degree of politicisation is finally reflected in the personal sent there by the national governments: in almost all cases, there were civil servants from the lower level of national ministries which can generally not be controlled by a larger public. The only actor which must report about past and planned activities is the Commission as the Council needs to approve the financial means for the programme and as national delegates from every member states guide the steering committee of the Communitarian Action Programme against Exclusion by which the PRs are financed (now PROGRESS).

There are thus a range of critical points with regard to the legitimacy of the PRs. They relate to the absence of access rights for all other actors than member states and the European Commission, to an unbalanced representation of actors, to lack of time to discuss in more depth so as to really understand each other, and to a lack of transparency, openness and public debate, rendering any sort of accountability impossible.

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<sup>147</sup> One member of the consortium that the Commission charged with the organisation of the programme in 2004-2005 only gave me the participants list of two of the PRs under review here, not the others that I asked for.

## 6 Evaluation of the OMC inclusion by involved actors

At this point, it is useful to again emphasise that the OMC inclusion was quasi exclusively implemented by administrative staff and by NGO representatives, with politicians being the big absentees. Therefore, the latter do not figure amongst the interviewees. The interviewees, in turn, were often not aware of implementation details. The consequence is that many of the interviewees were not well or not at all informed about all the aspects of the OMC inclusion, e.g. what is happening in the home country, the EU-level or even in even in other member states. This is why the evaluation of the OMC inclusion by actors necessarily draws upon those aspects that they are knowledgeable about.

### 6.1 The national level

#### 6.1.1 *Effectiveness*

There are three main interpretations of the OMC inclusion process. They are not mutually exclusive and it was common that actors mentioned both positive and negative aspects with the latter however clearly dominating both in France and in Germany. The first interpretation is that the OMC inclusion was an effective process in that it kept the issues of poverty and social exclusion on the political agenda and provided incentives for capacity building. This interpretation was stronger in France than in Germany.

In particular NGOs thought that the OMC inclusion was effective in keeping poverty and social exclusion on the political agenda and in supporting a European poverty discourse. It would do so in a number of ways. The OMC would after all “dare a strategy and install a consensus to approach processes of poverty” and it would support “the interest of a policy. The existence of the NAPs is sufficiently important in order to support our work that obtains more legitimacy”<sup>148</sup>. Civil servants from the DGAS also evaluated the existence of the OMC in a positive way, noting that “we are all for the European logic and

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<sup>148</sup> EAPN vice-president, June 2004.



rather favourable to the elements of the OMC”<sup>149</sup> and that “the contribution of the EU is positive. It is not sure that the European intervention is established for good. (...) It is an important aid. It provides an information basis that is helpful. Important synergies could be possible. It must be made alive”<sup>150</sup>. There is thus broad agreement that the very existence of the OMC is positive. Second, through the exercise of the NAPs, politicians would now be forced to report about their policies, an issue voiced by a number of respondents. Third, the introduction of an “annual” conference against poverty and social exclusion is also directly associated to the OMC process by NGOs<sup>151</sup>. Fourth, the president of EAPN-France mentioned the introduction of the wing “social inclusion” in the Document de Politique Transversale (DPT) in 2006 as a direct influence at administrative level. The aim of the DPT is, as already described, to coordinate, on an annual basis, and at the highest political level, all actions related to a particular policy field across different ministries: “And then, there now exists the DPT. It’s completely revolutionary, with objectives and indicators. It’s completely due to the OMC” (Official European Commission peer review programme, November 2005). However, this interpretation is contested by a French civil servant who stated that the DGAS remained under its ambitions: “The DGAS wanted to get, in the architecture of the LOLF<sup>152</sup>, a wing which would clearly identify the fight against the exclusions. We did not get it. So that shows that it is not that important. What we got was the DPT” (Civil servant, DGAS, September 2005).

With regard to organisational capability building, there are a number of activities and developments that actors mention with regard to the OMC process. The clearest development seems to have happened within the French NGO landscape which reorganised its EU-related activities in response to the OMC inclusion process<sup>153</sup>. Actors also agree, in France, that the process has improved interministerial coordination:

“I would say that the major advantage of the NAP is that it truly is a synthesis of the policies of all ministries in the direction of the most fragile. (...) And if this European exercise would not exist, I do not think that we would have in France every other year an interministerial document against poverty. (...) Without NAP, every ministry would stay in its own backyard. And now, the ministries were forced to coordinate each other and to work together, to even produce a common document.” (NGO-coordinator of OMC inclusion, January 2004).

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<sup>149</sup> Civil servant DGAS 2, September 2005.

<sup>150</sup> Civil servant DGAS 1, January 2004.

<sup>151</sup> In reality, this conference has happened twice since: in July 2004 and in April 2006.

<sup>152</sup> LOLF stands for Loi Organique relative aux Lois de Finances, an act dating back to 1959 and revised in 2005.

<sup>153</sup> NGO-coordinator of OMC inclusion, January 2004.

The provision of information and data is generally seen as a step forward in the fight against poverty and social exclusion, in particular by those working in the administration, as well as increased contacts to civil servants from other member states. The existence of indicators is welcomed by all involved actors, even though their usefulness in the European process is put into question by some (both from NGOs and from the DGAS). As a consequence of these positive aspects, French actors were strongly in favour of a separate reporting mechanism in the field of poverty and social exclusion within the streamlined OMC.

Against these positive aspects, there are also a number of critical issues raised by French actors and with regard to the effectiveness of the OMC inclusion, some more technical, some more political. With regard to capability building, it is regretted that not sufficient (financial) resources would be available to truly accompany the process and reach its full potential, both by NGOs and the DGAS. Tasks would be taken over by already existing staff and if it had been capable at all of following the process, that is because it had not gained importance in the policy-making process. In the same vein, it is noted that no additional resources had been freed for the policies laid down in the NAPs: "The NAPs have illustrated strategies but the means are lacking or are oriented towards security objectives" (Bultez 2004: 4). The budget that is disclosed in the second NAP would be too aggregated to know how much money is being spent on single policies.

With regard to learning, only very few actors have read parts of other NAPs at all. One of the main reasons advanced for this low turnout was the lack of sufficient resources, both for NGOs and the DGAS. Additionally, the plans were said to be repetitive and therefore of limited value. NGO representatives tend additionally to be quite sceptical towards the quality of the reports which they perceive as governmental reports and not as policy-making documents<sup>154</sup>. The president of EAPN-France suggested that as of now and in his environment, the learning effect should be seen within the NGO landscape, an evaluation shared by other NGO representatives: "Learning today much more concerns learning within the associations of EAPN, that they get to know a bit the culture, the European dynamic, that is a precondition"<sup>155</sup>.

The main reason advanced for the absence of learning, institutional backgrounds confused, is that the NAP would be a communication text to the EU, as a re-writing of what already exists instead of a domestic policy-making tool: "They take up policies already decided by the state but do not constitute the

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<sup>154</sup> EU-officer ATD Quart Monde, September 2005.

<sup>155</sup> President EAPN-France 2, September 2005.

moment where the state defines its new policies in the fight against poverty<sup>156</sup>. Furthermore, institutional differences would remain so important that the interest in foreign policies would only of limited value for the domestic policy development. The idea that other NAPs could have influenced the development of French policies is rejected by all who had some knowledge of either the NAPS and / or the Joint Reports: “They enrich the reflection without directly influencing policy development”<sup>157</sup>. However, particularly the civil servants of the DGAS were aware that supranational learning is taking place and confirmed that the administration closely followed other member states in particular areas; only, they strongly doubted that learning would happen through the exercise of the NAPs, noting that “one cannot say that it influenced the French NAP (...). One cannot reproduce policies, but it helps to think about organisational issues. The good practices enrich the debate without directly influencing policies”<sup>158</sup>. Another civil servant confirmed this interpretation: “I don’t know if the NAPs have influenced French policies, but experiences of other European countries certainly. Learning has increased, but not necessarily through the NAPs. It helps to better understand, but also to better know the limits of different approaches”<sup>159</sup>. While learning this seems to have increased generally, the idea that it is taking place via the OMC inclusion process is rejected.

With regard to the streamlined OMC social protection and social inclusion, views differ, also amongst NGO representatives. While the DGAS and individual NGO representatives were in support of a streamlined OMC if a distinct wing inclusion is safeguarded, others are more critical and find that “the streamlining strategy is not the good one. One wants to liberate states from being accountable”<sup>160</sup>. Others find that the different OMCs should “not be integrated because there is the risk that exclusion disappears”<sup>161</sup>.

Politically, actors agree that the OMC inclusion enjoys a very low political status: “Not a single minister takes the NAP as a reference of its policy. The administration does not have strong political support (...). Nobody is interested in the NAPs (...) The NAP unfortunately remains a European exercise”<sup>162</sup>. It is assumed that “the government did not want to be constrained by the NAP”<sup>163</sup>. The low visibility of the NAPs and the low mobilisation around the process leads some to question their utility: “The NAPs, however, I am wondering

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<sup>156</sup> NGO-coordinator of OMC inclusion, July 2005.

<sup>157</sup> Civil servant DGAS 1, January 2004.

<sup>158</sup> Civil servant DGAS 1, January 2004.

<sup>159</sup> Civil servant DGAS 2, September 2005.

<sup>160</sup> President EAPN-France 1, June 2004.

<sup>161</sup> NGO-coordinator of OMC inclusion, January 2004.

<sup>162</sup> Civil servant DGAS 1, January 2004.

<sup>163</sup> This view is supported by the EAPN vice-president, June 2004.

whether they are helpful. The colleagues start really being tired of having to draft plans every year”<sup>164</sup>. NGOs evaluation of the NAPs is additionally critical insofar as they come to the conclusion that they cannot contribute to the goal of eradicating poverty, and that the government has not made the eradication of poverty a strategic priority of its global policy. Worse, NGOs think that the NAP maintains or develops measures which keep disadvantaged people in organised precariousness (EAPN France 2003). Most actors found it difficult to isolate an impact that one could attribute to the OMC inclusion. Still, it is concluded that “the impact, unfortunately, has been very weak”, not least because “nobody but the administrations is mobilised. One speaks of concertation, of common elaboration, that is nonsense, it’s zero. One speaks of peer review, but this evaluation is very weak. There is no true evaluation of the NAPs and their implementation”<sup>165</sup>.

The picture that emerges from this evaluation is thus quite clear. While actors agree that the existence of the process is positive as it keeps the issues of poverty and social exclusion on the agenda and forces governments to draft the plans, the limited ambitions of the government are widely perceived as negative and the idea that the OMC contributes to supranational learning or to the reduction of poverty is rejected. Unnecessary to note the paradox in finding the exercise of drafting the NAPs useful and at the same finding that they are governmental reports which are only produced for Brussels and which only align policies already in place and already described in other plans.

In Germany, there are as in France positive and negative evaluations of the OMC inclusion. However, the negative ones are much more accentuated. Actors, particularly but not exclusively the NGOs<sup>166</sup>, again widely agree that the OMC inclusion has been helpful insofar as it would have kept the issue of poverty and social exclusion on the political agenda, and as it would have allowed for a document where all related policies are documented. Some interviewees furthermore estimate that the process would have enhanced greater cooperation between different actors and opened the policy process to more actors, that it would have increased the horizon for national policy-making, and made more information available.

With regard to capacity building, no significant incentives seem to have emerged as a response to the OMC inclusion. The set-up of an OMC inclusion

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<sup>164</sup> Civil servant DGAS 2, September 2005.

<sup>165</sup> NGO-coordinator of OMC inclusion, January 2004 and July 2005.

<sup>166</sup> Regional actors originating from governments with a social-democratic government also adhered to the view that the OMC process would have allowed for a common, European anti-poverty discourse.

working group of the six large welfare organisations followed the introduction of the OMC inclusion, but first became more irregularly and then was dissolved due to the weakness of the process in Germany. Interministerial coordination is far from being as regular as in France and according to several interviewees did not improve due to the OMC inclusion. According to the coordinating civil servant, there are no regular meetings, and when the NAP is drafted, she contacts all concerned ministries per e-mail and inserts the answers she receives into the NAP. The respective actors explain the lack of coordination by diverging interests both between the different resorts within a government and between the regions and the federal government. Additionally, during the time of the Schröder administrations, there was a continued struggle in the chancellery about the ownership of the process between the European unit and the social unit, with the EU-unit being more open to the process<sup>167</sup>. All regional interviewees stated that no new structures had been created in reaction to the OMC process.

As in France, no additional resources were freed so that the OMC process became another task to be completed besides those that already existed. In particular regional actors found that they did not have sufficient resources to accompany the process properly: “We don’t have the financial capacities to accompany all of this. We don’t have time to read the huge documents which partly only arrive in English or French, let alone to produce our own state-ments”<sup>168</sup>. This would be particularly true for the ministries of the smaller regions which would be “detached from the development due to lacking capacities. The music plays somewhere else. If one really wanted to influence, much more resources would be needed, which, unfortunately, are not available”<sup>169</sup>.

To the difference of France, the indicators and the benchmarking that theoretically goes with them are not supported nor appreciated in Germany: „The OMC holds risks for the protection of national competencies. (...) The ministry refuses an inflation of common objectives and indicators. It should be checked regularly whether a sneaky erosion of national competencies can happen”<sup>170</sup>. Thus, indicators should be “kept manageable and be restrained to meaningful indicators” (BT-Drucksache 15/3041) and not be “an end in itself”<sup>171</sup>. Furthermore, the resources approach of the Laeken indicators “contrasts with the *Lebenslagen* approach of the federal government”<sup>172</sup> – a concern shared by

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<sup>167</sup> Civil servant Ministry of Labour and Social Affairs, November 2005.

<sup>168</sup> Civil servant Baden-Württemberg, September 2005.

<sup>169</sup> Civil servant Berlin, September 2005.

<sup>170</sup> “We shape the change!”, Ministry of Health and Social Security 2004: 45.

<sup>171</sup> Civil servant Ministry of Health and Social Security, June 2005.

<sup>172</sup> Civil servant Ministry of Health and Social Security, June 2005.

NGOs<sup>173</sup> – and therefore, as finds a regional actor, a “positive added value induced by the indicators is not at sight. Indicators have focussed too much on income and employment. Social problems are not mirrored in all their aspects. The EU is too far in order to find good indicators”<sup>174</sup>.

At the regional level, actor’s opinions diverged, and they do so following the political colour of their regional government. Regions with a conservative government take a very critical stand, simply stating that they did not appreciate the approach, that fortunately, the idea of ranking had been abolished and that the number of indicators now should be reduced to a minimum<sup>175</sup>. Representatives from regions with a social-democratic head of government are usually torn between the principle of subsidiarity and the diffuse aim to contribute to a social dimension of the EU:

“The heterogeneity of living conditions, politics and administrative structures is too important to measure and interpret them in an adequate way by EU-wide criteria. There are no neutral indicators. That is why the selection and use of indicators is so sensible. (...) National sensibilities have to be taken into account. The development of indicators must be balanced and should not contribute to an over-accentuation of fiscal goals or to a situation in which health, in the course of streamlining, would only be evaluated from the perspective of poverty reduction. Insofar as these indicators are meant to reflect European living and politics conditions, they seem necessary; in how far they allow for comparability remains doubtful. The results can be abused to direct discussions in a desired direction”<sup>176</sup>.

“The idea is not bad, but how it is implemented is annoying (...). On the one hand, it seems as if they will be necessary in order to limit the practice of cheap talk and in order to legitimise the lavish process, as this can only be reached through evaluation and rankings. On the other hand, comparisons and even more rankings are highly problematic due to the important differences between member states. Already the social situation in South, North, West and East Germany is very different. That is why it makes sense to leave it mainly in the hands of regional and local competences”<sup>177</sup>.

With regard to *learning*, most interviewees, all backgrounds confused, had not read NAPs from other member states at all. A few interviewees reported to have partially read some other NAPs and / or the Joint Report. When asked directly whether learning dynamics had been initiated, civil servants from the coordinating federal ministry said that nothing could be said yet about a possible external influence of other NAPs. Mutual learning would not exceed the mutual notice of practices and the exchange about them making it questionable whether

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<sup>173</sup> Diakonisches Werk 2003: 8.

<sup>174</sup> Civil servant, German Association of Cities, May 2005.

<sup>175</sup> Interviewees civil servants Baden-Württemberg and Bavaria

<sup>176</sup> Civil servant Rheinland-Pfalz, October 2005

<sup>177</sup> Civil servant Berlin, September 2005.

the effort of reporting was always worthwhile. There is a shared evaluation that the different national institutional arrangements stand in the way of advanced forms of learning.

At the regional level, knowledge of foreign NAPs and good practices was very limited and if there was knowledge, an added value was not identified: "Why a policy has been chosen as good practice often remains a question mark from a neutral perspective. Often, it concerns issues that are not problematic in Germany or are self-evident"<sup>178</sup>. Only one single regional actor thought that the OMC offered chances for a learning process. The others found that living conditions and challenges are not comparable and social policy answers too different, that pressure for change and adaptation comes from the implementation of the four freedoms but not from a weak instrument such this OMC, that learning processes would need a longer time horizon which would not be available in the present context, and that the European process would be too abstract to be relevant at regional level. Finally, some actors indicated that „approaches which ask for inter-administrative cooperation are always difficult in Germany, because interests are strongly diverging (...). EU affairs additionally in people's eyes are of secondary importance"<sup>179</sup>. Asked if these very actors learned something through the OMC inclusion, all answered "no", the longest version being that "particularly through the OMC nothing concrete has been learned. Maybe it unconsciously changes our perspective on things. Specific knowledge about the systems of other countries was and is organised case by case and independently of the OMC, where appropriate"<sup>180</sup>. At the local level, no knowledge about other member states' NAPs and no learning processes were reported.

From the NGO perspective, where knowledge of other NAPs was also quite limited, the assumption of learning was seen sceptically "because good practices are strongly de-contextualised"<sup>181</sup> and because analysis of needs and information about the financing were missing. One interviewee stated that there "have been learning processes within the large welfare organisations at their top functions"<sup>182</sup>, becoming more sensible to European social policy.

The most severe criticism in Germany is that the EU would seek to increase its competencies while it should respect the principle of subsidiarity (Büchs and Friedrich 2005). Even though this criticism is mainly voiced by actors from the public authorities, particularly by the regions, some NGO representatives also agree. The issue of competences is double-sided: for once, the

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<sup>178</sup> Civil servant Berlin, September 2005.

<sup>179</sup> Civil servant Berlin, September 2005.

<sup>180</sup> Civil servant Rheinland-Pfalz, September 2005

<sup>181</sup> NGO-coordinator of OMC inclusion, June 2005.

<sup>182</sup> EU-officer Paritätischer Wohlfahrtsverband, July 2005

federal government rejects its competences being taken away by the EU while the regional and local levels reject the intrusion of the federal level into what are mainly regional and local competences. In the first version, the EU is seen with suspicion by the higher political leadership<sup>183</sup>: “It is not acceptable to us if the useful, necessary and openly qualitative comparison is overlaid by a factual grading or even some sort of ranking”<sup>184</sup>. A civil servant explained:

“Germans traditionally think in qualitative, never in quantitative ways. (...) You cannot imagine the sorts of rounds we have here, with the state secretaries, if for once “wrong” numbers made it into a document. Then it is asked “who did not pay attention that these numbers got out?!” We also must say first which place we rank before data eventually gets publishable. These rounds about numbers are more important than any substance. There is a huge fear of getting ranked”<sup>185</sup>.

Further criticism relates to the reporting duties perceived as extensive, without added value and ineffective, resembling more some kind of “activism than the set-up of institutions”<sup>186</sup>, and the lack of effectiveness of the strategy all together.

In the regional version, the resistance comes in the form of continuously upholding the principle of subsidiarity. The OMC would be an “attempt of the EU to influence policy fields where it does not enjoy legal competences the work load of which “is by no means proportional to the result”<sup>187</sup>. The situation would be aggravated by a government which would not include the regions in the process. The abstract framework and the centralised approach would be difficult to operationalise regionally and locally and comparing local practices throughout the EU would be senseless: “For us, the NAP is a drag. Deadlines are too short, rendering participation of the local level impossible. What is all the benchmarking for? What someone is doing at the Algarve or any given place in Europe is not comparable to our approaches” (Civil servant Baden-Württemberg, September 2005). All together, there the OMC would politically be insignificant and “just a beauty contest. Of course, we don’t take the process

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<sup>183</sup> See the opinion of the German minister (9.3.2005) on the communication of the Commission of 9 February 2005 – CEC (2005) 33 final. This evaluation was confirmed by all interviews conducted with the implied civil servants as well as with a German participant of a peer review.

<sup>184</sup> Ulrike Mauscher, Parliamentary Secretary of State in the Ministry for Work and Social Order, at the meeting of the conference of regional ministers for work and social affairs (ASMK) in November 2001.

<sup>185</sup> German delegate to the SPC 2, November 2005.

<sup>186</sup> Civil servant Federal Ministry of Health and Social Security (delegate to the SPC 1, October 2005).

<sup>187</sup> Civil servant Saarland, October 2005.



serious anymore, none of us. The local problems have nothing to do with the things happening at EU-level”<sup>188</sup>.

At the local level, besides sharing the criticism of EU action in the field, actors could hardly see “any concrete use. It is a way too bureaucratic effort while a representative account of local diversity is not possible”<sup>189</sup>. Colleagues would not read the documents (NAPs) as this was too time consuming and the texts in the vagueness without interest for practitioners. However, even with sufficient resources, actors insisted that “we would not engage more as we assume that there is no added value”<sup>190</sup>. And to have just another description of policy measures “would not be enough to legitimise the effort”<sup>191</sup>. It was also criticised that “the Commission does not evaluate which results are really being achieved at the local level”<sup>192</sup>. Process-related and repeated criticism focused on the NAP not being a plan but a uni-dimensional representation of what already existed, thereby not offering a possibility of influence for regions with other political majorities.

„The ministry did not have any EU-related experiences. Additionally, social policy did not play a role, was a complete stranger to the house (...). One would like best to give up the OMC process and use the NAPs of the Lisbon process (...). Germany is underrepresented in international committees. This means that international issues are not judged as so important in Germany. (...) The people in the ministry have not understood at all in how far this makes sense EU-wise”<sup>193</sup>.

The strong focus on labour market strategies for integration is criticised both by NGOs and the *German Association* (Deutscher Verein 2003a). NGOs regret that the NAP (2003) “mostly mentions measures which are supposed to reduce poverty and exclusion whereas political decisions which are increasing the risk of poverty and exclusion, as the far-reaching elimination of social services are not mentioned” (Freie Wohlfahrtspflege 2003). They furthermore criticise the absence of quantitative targets and of new measures, and the listing of measures which would soon come to an end (EAPN 2001). They also perceive a lack of political will to get engaged in the process. No additional money would be spent and enforcing mechanisms are missing which, it is feared, could discredit the OMC inclusion for good. Another criticism relates to the policy approaches transported through the OMC inclusion:

<sup>188</sup> Civil servant Berlin, September 2005.

<sup>189</sup> Civil servant German Association of Cities, June 2005.

<sup>190</sup> Civil servant German Association of Counties, June 2005.

<sup>191</sup> Civil servant German Association of Cities, May 2005.

<sup>192</sup> Civil servant German Association of Counties, June 2005.

<sup>193</sup> Civil servant Ministry of Labour and Social Affairs / delegate to SPC 2, November 2005.

“Agreements are not good as such just because they were reached at EU-level and negative consequences cannot be excluded for the future. The OMC, through its objectives and goals, transports policy approaches and solutions. The risk exists that problems are only looked at from a certain angle and to overlook those fields which are outside of the respective paradigm” (Paritätischer Wohlfahrtsverband 2002: 8).

NGOs agree that the OMC inclusion was too labour market centred. Other remarks relate to a too narrow time frame, the poor public visibility, to the absence of independent evaluation of policies, and the lack of proportion between efforts and effects.

As in France, NGOs are not by definition against the streamlining of the different social OMCs but do perceive certain risks, such as the possibility of even lesser consultation, and the possibility of reducing the fight against poverty to economic and labour market related questions (Deutscher Verein 2003b). But they also hope that “streamlining can secure that social policy attracts more attention in the global policy of the EU” (nak 2004: 14). At federal level, according to a civil servant, there were intensive discussions at state secretary level whether the re-organisation of the OMCs should be used in order to opt against it, eventually leading to the death of the process. However, one did not dare to do so as one feared the conflict at EU-level.

Actors agree that the OMC inclusion did not have any impact on policy development, in particular due to the principle of subsidiarity:

„As far as I can see, there are no political decisions prepared with reference to the OMC or the NAPs. At best, the welfare associations or others come up with demands relating to them. Every time, though, they are being told that the NAP is in no way binding for the regions and that there will not be a regional action plan. The diversity of social policy legislation at federal and regional level has much more effects and can do well without the NAP, as it is only an ulterior report of this diversity. I am not aware of any legislative project that was started with reference to the NAPs”<sup>194</sup>.

„The NAP up until now has not been the source of legislative activities or the introduction of programmes or measures, not at federal level nor in the Saarland. This does not mean that certain goals are not supported. However, they precede the NAPs. (...) The NAP has no importance in our work”<sup>195</sup>.

The absence of impact is an evaluation shared by the local level for which the OMC simply “does not offer a detectable value. It is a bureaucratic method of apparent participation which works in favour of big units, in favour of a centralist reality. It is an additional effort with dubious results, not efficient or effec-

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<sup>194</sup> Civil servant Baden-Württemberg, September 2005.

<sup>195</sup> Civil servant Saarland, September 2005.

tive. No stimulus for reforms can be detected in the NAPs or the OMC<sup>196</sup>. Additionally, it would not be in the interest of local actors would not have an “in describing the poverty situation in a clearer way as they don’t have any more money for poverty policies”<sup>197</sup>. It is therefore rather safe to assume that in “Germany, the OMC inclusion did not have a lot of influence. It mainly remained an administrative process. There was too much resistance of the local and regional authorities”<sup>198</sup>.

Summarizing, resources were not perceived as sufficient and the idea that learning occurs via this OMC was strongly rejected. The existence of the OMC inclusion was often appreciated, but other than keeping the issue of poverty on the agenda – through plans that many rather see as a drag –, which was identified as an added value, no impact on policy development was acknowledged. The lack of such an impact is associated to the marked resistance of regions and local municipalities against the European process.

### 6.1.2 *Legitimacy*

It was shown that opportunities for different actors to participate, intervene or to be consulted were quite scarce. How do the French actors themselves evaluate the participatory side of the OMC inclusion? Opinions of the different actors form a very coherent picture. Structures for participation and consultation are said to be in place, particularly through the CNLE, but consultation and participation of actors other than the administration would have remained insufficient. Particularly NGOs thought that the dialogue was not sufficiently established between them and the politicians. Even when NGOs are consulted – in the framework of the CNLE – this would happen only a few days before a given document is handed over to the next instance and when it is already completely drafted. The ministry would have “consulted absolutely nobody” and “no one but the administrations is mobilised”<sup>199</sup>. EAPN France therefore regrets that the NAPs were not elaborated jointly by the administration and the NGOs, that the request to set up working groups in order to prepare them was not even reacted upon and that they were not associated to the developments of indicators at all. It also finds that the social partners need to be better included in the process. Finally, NGOs regretted that people touched by poverty were not included in the preparation of the NAPs (EAPN 2003; Bultez 2004). Overall, they think that the

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<sup>196</sup> Civil servant German Association of Counties, June 2005.

<sup>197</sup> Civil servant German Associations of Cities, June 2005.

<sup>198</sup> Scientific observer 2, July 2005.

<sup>199</sup> NGO-coordinator of OMC inclusion, January 2004.

“political will was clearly not there to mobilise all actors”<sup>200</sup> (see also Bultez 2004) and therefore the OMC inclusion remained a process of a few insiders: “I think that in France, the NAP is more a subject of the administrations than of the politicians. I don’t think that the ministers are very interested. They get rid of it by leaving it to the administrations”<sup>201</sup>. Besides the political resistance, NGO address too heavy procedures, too many commissions, and too many actors which are not coordinated as reasons for the poor quality of the participatory process (see also CNLE 2006).

The administrative staff confirmed that besides them, only the NGOs had been interested in the process, that the regional and local actors were completely missing and that both in 2003 and in 2005, consultation was barely existent<sup>202</sup>, leading one official to conclude that the NAP would unfortunately remain “a European exercise”<sup>203</sup>, i.e. texts being produced for Brussels, as confirms a colleague who notes that “the NAP is a communication text directed towards Europe. The NAP is known by nobody”<sup>204</sup>. This is not surprising in a situation where politicians do not get involved in the process and where “the administrations have paid more attention to the OMC than the politicians, both national and European”<sup>205</sup> while one notes a “kind of *absenteeism* of parliamentarians in this action”<sup>206</sup>.

Actors agree that the visibility of the process is quasi inexistent (“nulle”, “zero”, “aucune”, “processus clandestin”, “totalement inconnu”): “The NAP inclusion remained strictly confidential, only known by the *états majors* in Paris. No publicity whatsoever was organised around this plan”<sup>207</sup>. One official even had doubts if the minister of social affairs knew about the NAPs<sup>208</sup>, adding that “Europe” was “not his thing”. The shared understanding is that both the administration and NGOs had engaged in the process<sup>209</sup> while particularly the political leadership had refused to take the NAPs as a reference and to communicate about it, thereby showing its lack of political support. Not surprisingly,

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<sup>200</sup> EAPN vice-president, June 2004, EU-officer ATD Quart Monde, September 2005.

<sup>201</sup> NGO-coordinator of OMC inclusion, January 2004.

<sup>202</sup> Civil servants DGAS 1, 2, January 2004 and September 2005.

<sup>203</sup> Civil servant DGAS 1, January 2004.

<sup>204</sup> Civil servant 2, September 2005.

<sup>205</sup> President EAPN-France 2, September 2005.

<sup>206</sup> Sénateur, January 2004.

<sup>207</sup> President EAPN-France 2, September 2005.

<sup>208</sup> Civil servant DGAS 2, September 2005.

<sup>209</sup> This scenario is clearly confirmed by the selection of the interviewees both in France and Germany. Those being capable of giving precise information about this OMC process are very few and located in the federal ministries and the larger NGOs. But even in the latter, several central employees in both member states were not able to give me any information and a few times did not even know about important aspects of the process.

both the administration and NGOs regret the absence of public debate around the process. The lack of engagement of the territorial authorities for once seemed to be motivated politically since the elections of spring 2004: "It's the major problem in France. With regard to the European process, there is nothing. For the moment, it was not even possible to make them participate. This year, we tried to introduce a mechanism in order to involve the regions and départements. It was not possible due to political reasons"<sup>210</sup>. Additionally, their absence seems also related to a lack of knowledge of the process itself: "Of course, all know the measures in the fight against poverty mentioned in the NAPs, but the existence of these plans is not identified" (Legros 2004b: 10). This lack of knowledge is explained by the President of EAPN-France as follows:

"We are today in the second phase of decentralisation, particularly with regard to social policy. Since two years, NGOs try to set up a conference about the regional implementation of the NAPs. The DGAS was with us at the beginning, but much less so since. Too many things are currently debated between the départements and the state for such a conference to be possible. Between the départements and the state, things are getting worse. The debate is about the conditions of competences transfer between the départements and the state with regard to the RMI and other insertion measures"<sup>211</sup>.

Summarizing, the legitimacy was apprehended by actors in such a way that the process happens in darkness and is known by nobody, and that the only ones who got involved were the central administration (by duty) and the NGOs (by interest).

In Germany, regional and local actors as well as NGOs repeatedly voiced their discontent about what they perceived to be insufficient consultation by the federal level leading to a situation where the multitude of their activities and views would not be adequately represented: "Particularly with respect to the first NAP, the mobilisation through the federal level was very insufficient. It has improved since, but still needs improvement"<sup>212</sup>. Other common discontent related to the short notices on which invitations to meetings and to reactions would be sent out, rendering meaningful participation difficult if not impossible: "It is absurd to include the local level in such a haste, in a week. That is not possible. At least four weeks would be necessary"<sup>213</sup>. A NGO representative formulated this resistance in a dialectic way, stating that "the opportunities for participation are as reduced as is the interest of the regional and local levels. One brings about the

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<sup>210</sup> Civil servant DGAS 2, September 2005.

<sup>211</sup> President EAPN-France 2, September 2005.

<sup>212</sup> Ibid.

<sup>213</sup> Civil servant German Association of Counties, June 2005.

other. Regions and local authorities are simply missing”<sup>214</sup>. Another NGO representative added that the sub-national levels also resisted the process due to a fear of additional financial burdens that could be imposed on them by the process. NGOs regret the absence, by and large, of the local and regional levels in the process, at both domestic and European levels, partly attributed to a too strong control of the OMC by the executive who would not encourage openness to and participation of a larger public. To them, this absence is one of the main reasons why the OMC inclusion did not work in Germany. The government’s role of being a party and a mediator at a time would render its position problematic and be a barrier to the participation of the sub-national levels. The reasons given for the limited participation include that the government simply does not seek to implement the OMC inclusion (but to execute it instead), or that the governmental understanding of participation was instrumental, only inviting other actors or institutions if it were in need of consultation. If participation happened at all, so the NGO-coordinator, then because the European Commission supported the participatory approach (Kröger 2002)<sup>215</sup>. The low degree of consultation by the government was not without effect: “At first, interest of German welfare associations was well developed, almost enthusiastic. But with the non-success grew the numbers of critical comments and participation has decreased over years”<sup>216</sup>.

With regard to representation and deliberation, it is perceived as critical that civil servants discuss and bargain issues that should be dealt with by the concerned politicians, thereby anchoring the process at the administrative level while excluding politics<sup>217</sup>. One must assume that deliberation only happens to a very limited degree as the respective meetings are so scarce, as other issues than the OMC inclusion also figure on the agendas of these meetings while they only last a few hours, and as invitation to the meetings happened on very short notice so that preparation time was limited. This expectation is confirmed by both NGOs and researchers which took part in the meeting, noting that the consultation processes were “rather anecdotic”<sup>218</sup>, that these consultations are rather an occasion to “give one’s blessing to the NAP than real consultation”<sup>219</sup>. If deliberation happens, one would also expect to be able to detect some influence of that deliberation in the results. However, NGOs state that they were not included in the first NAP; in the second NAP, some formulations were taken over and a few good practices were included in the annex, leading EAPN-Germany to conclude

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<sup>214</sup> NGO-coordinator of OMC inclusion, June 2005.

<sup>215</sup> See Knodt 2006 and Kröger 2008 for a critical account of the consultation practices of the Commission.

<sup>216</sup> NGO-coordinator of OMC inclusion, June 2005.

<sup>217</sup> NGO-coordinator of OMC inclusion, June 2005.

<sup>218</sup> EU-officer Paritätischer Wohlfahrtsverband, July 2005.

<sup>219</sup> EU-officer Deutscher Caritasverband, May 2005.

that “even where consultation was broadest, one can hardly see a connection between the consultations and the content of the plans” (nak 2004). The lack of political debate is also regretted by regional actors: “The EU enters the field of competences of member states without really politically discussing it. The process lacks bindingness. Is it just a playground? One has to try to engage in discussion and to advance politically, but not to implement things which have never officially been decided”<sup>220</sup> (see also nak 2004; Parität 2002).

As in France, visibility of the OMC inclusion process is judged to be hardly existent. This might be a little bit more surprising as to the difference of France, the NAPs, besides being “discussed” in the advisory board, several months after being sent to Brussels, were “discussed” in parliament, and also figured several times on the agenda of the second chamber of the regions, and as overall, more actors were – at least formally – included in the process. However, NGOs find that there is no transparency, that the process is not known at the regional and local levels (nak 2004), but only in “circles of experts”<sup>221</sup>, being an “affair of EU-insiders”<sup>222</sup>. The low visibility is partly seen as a danger for the democratic legitimation of the process (Deutscher Verein 2003a) as decisions are being taken in closed circles. The reasons provided for the low visibility varied between the “public relations work of the federal government being a disaster”<sup>223</sup>, the process not being “marketable in the public sphere”<sup>224</sup>, or a lack of resources to give the strategy a greater visibility (nak 2004: 13). A similar picture as in France emerges as the process was perceived as being dominated by the central administration while regional and local actors were strongly under-represented, the visibility of the process judged very low and the deliberative character of the consultation process very limited as the executive was not very responsive to external input.

## 6.2 EU-level

Finding out how the delegates to the SPC and the ISG evaluate the OMC inclusion was only possible in a limited way as these actors tend to be very reserved in interviews, particularly if they are not conducted in face-to-face situations as has mostly been the case:

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<sup>220</sup> civil servant Mecklenburg-Vorpommern, September 2005.

<sup>221</sup> EU-officer Diakonische Werk, July 2005.

<sup>222</sup> EU-officer Paritätischer Wohlfahrtsverband, July 2005.

<sup>223</sup> EU-officer Deutscher Caritasverband, May 2005.

<sup>224</sup> EU-officer Diakonisches Werk, July 2005.

“There are huge differences and interests in different situations. However, it is quite difficult to be more concrete, since I don’t think I can share more concretely what went on in this particular occasion, or in any other case. Since these discussions are not public, I am sorry, but I am not in the position to provide more concrete information”<sup>225</sup>.

Therefore, the following evaluation of the OMC inclusion process by actors involved at the EU level will necessarily be limited in scope. Additionally, issues of democratic legitimacy were not dealt with in the interviews so that the respective variables will not be evaluated here. Instead, the focus was on the functioning of the committee, its perceived importance, if conflicts arose and if so, about which issues and how they were eventually solved, observed learning dynamics, the overall evaluation of the OMC inclusion and changes since Eastern enlargement.

Two delegates reported that over the years, the professional grade of the delegates in their home ministries had decreased, a development they regretted. Their interpretation was that after the first years, the OMC had consolidated and that as of 2005, the SPC dealt with issues of practical cooperation rather than with substance. The importance attached to the work of the SPC can also be derived from the amount of time that people spend with SPC-related work. Here, most interviewees said that this work would take them 1-2 days a month, three delegates answered five days a month while the president of the SPC at the time of the interview stated that approximately one third of her daily work was dedicated to SPC-related activities. Asked which delegations are particularly active in the SPC, Belgium, France, Poland and the UK clearly were the most mentioned (between 5-7 “votes”). However, many insisted that activism depended on the issue on the agenda.

Turning to the issue of learning, it can be assumed that a dominance of discussion would speak more and a dominance of bargaining less in favour of a learning environment. Out of the 12 delegates to the SPC which were interviewed, ten thought that the discussion parts would be dominating, while two delegates found that the balance was about equal. Generally, the delegates found that much emphasis is paid on finding a consensus. But almost all delegates also mentioned situations of bargaining or conflict: “The discussions take place on a traditional international basis by giving and taking on the suggested documents (texts) until a compromise has been reached”<sup>226</sup>. Situations of conflict related to the “huge differences and interests in different situations”<sup>227</sup>, to the ways of comparing national approaches, to the Commission when it wanted to rank the member states in its first Joint Report, to precise wordings of texts that will be

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<sup>225</sup> Hungarian delegate to the SPC, September 2005.

<sup>226</sup> Danish delegate to the SPC, October 2005.

<sup>227</sup> Hungarian delegate to the SPC, September 2005.



adopted later on, to certain member states being keener on (certain) indicators than others, or to the mid-term evaluation of the Lisbon strategy: “Sometimes there are real bargaining situations, as it was for example in the course of discussing the revision of the Lisbon strategy, where member states articulated very different opinions, according to their specific interests”<sup>228</sup>. Mostly, however, bargaining, if it happens, would take place between the different chairs of different committees, in the ISG or on a bilateral basis, between a single member state and the Commission: “Bargaining normally only happens in the framework of the country fiches. If so, the Commission is the adversary, never other member states”<sup>229</sup>. Note the word “adversary”. One delegate from the EU-10, however, found that in some instances, the old member states would negotiate before the meetings in order to form coalitions. Two delegates mentioned that if bargaining did not take place often, that is because the “decisions” would not be binding: “I have to admit, that the SPC is not for us a place where important decisions are made. This is not the mandate of the SPC. (...) That is why there is not significant bargaining”<sup>230</sup>. This evaluation was shared by a German delegate to the SPC who noted that consensus was always reached: “This means, that there are only very minimal standards to which one agrees”<sup>231</sup>. The Finnish delegate confirmed the strong tendency of avoiding truly political issues when stating that “the real question is: what is the role of social protection? And this is not really discussed”. He noted another reason how the SPC tended to avoid conflicts: “Diverging views have been left to the Council”<sup>232</sup>. However, there also exists a more conflict-driven interpretation of the situation in the SPC: “It happens again and again that consensus is not found. France and Luxemburg are very much concentrating on quantitative goals, not so the federal government. Quantification is seen as a reduction of the political capacity to act”<sup>233</sup>.

That bargaining happens is confirmed by the Italian delegate who noted that “sometimes, individual states fight hard to maintain their prerogatives”<sup>234</sup>, and by the Luxemburg delegate who notes that there “certainly also is bargaining, in particular when texts and documents need to be agreed upon and formulations acceptable to all have to be found”<sup>235</sup>. The British delegate sees both logics in place: “The bulk of the meeting will be discussion. There can be a little

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<sup>228</sup> Hungarian delegate to the SPC, September 2005.

<sup>229</sup> German delegate to the ISG, November 2005.

<sup>230</sup> Estonian delegate to the SPC, October 2005.

<sup>231</sup> German delegate to the SPC 2, November 2005.

<sup>232</sup> Finnish delegate to the SPC, November 2005.

<sup>233</sup> German delegate to the SPC 1, October 2005.

<sup>234</sup> Italian delegate to the SPC, November 2005.

<sup>235</sup> Luxemburg delegate to the SPC, October 2005.

negotiation when it comes to wordings or when texts are written and need to be balanced in content. But there is much more working towards consensus”<sup>236</sup>.

So far, there are thus both indications for a consensus-oriented culture and situations of bargaining. However, bargaining seems to appear more often between the member states (or a single member state) and the Commission. How were the Commission and its position in the committees viewed by the delegates? Half of the delegates confirmed the tendency of the Commission to be more ambitious than member states: “It is obvious that the Commission’s legitimate agenda is to be as ambitious as possible. Whereas the member states in some instances do not have the same interest in being as ambitious as the Commission”<sup>237</sup>. From this perspective, the Commission is seen to act “in some cases against the subsidiarity principle in social policy”<sup>238</sup>. As often, the strongest view was expressed by a German delegate:

“Yes, the Commission often acts beyond its competences, there is always a tendency to rank, as just now, with the fiches. Of course, the Commission always tries to get through with its ideas, but we always reject that. It’s like an oriental bazaar where bargaining takes place. The worst thing that can happen to the Commission is that it is not taken seriously anymore, that it is not taken into consideration. We have and want fewer quantitative indicators than the Commission wanted” (German delegate to the SPC, October 2005).

One delegate differentiates between the SPC and the ISG:

“As for the ISG, its role is very positive. The Commission prepares documents and is very responsive to the needs of the different delegations. It does not seem to press its own agenda very strongly, but is at the service of Member States. It seems that this is somewhat different in the SPC where the Commission is more strongly interested in its own agenda”<sup>239</sup>.

Some delegates did not find the leading role of the Commission problematic, estimating that the Commission and the national delegates are pushing in the same direction and that the Commission was doing a good job, helping to find consensus. One delegate used a functional explanation in order to explain the behaviour of the Commission: “The Commission is not very interested in the OMC. Within the Commission, there is no acceptance”<sup>240</sup>, meaning that if the committees wanted to be successful in their attempt to advance “social Europe”, national delegates and Commission had to stand united<sup>241</sup>.

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<sup>236</sup> British delegate to the SPC, September 2005.

<sup>237</sup> Danish delegate to the SPC, October 2005.

<sup>238</sup> Finnish delegate to the SPC, November 2005.

<sup>239</sup> Dutch delegate to the ISG and the SPC, November 2005.

<sup>240</sup> German delegate to the ISG, November 2005.

<sup>241</sup> See Pochet 2003 for the same argument in the context of the OMC pensions.

Asked if learning processes had been initiated and if so, what had been learned, half of the delegates found that the peer review programme is helpful for learning processes. However, none of them could identify a concrete example where policy learning had happened due to such a peer review. In the committees, topics would be too general to initiate learning processes. Also, “many member states don’t have learning as their first interest. Some may be more interested in pushing social Europe”<sup>242</sup>. However, these more political discussions are avoided and left to the Council: The real question is what is the role of social protection? And this is not really discussed”<sup>243</sup>. Therefore, “mutual learning is at best a side effect. There is no learning happening. If it is so much accentuated, that is to emphasize that national competences are not being touched”<sup>244</sup>. If there is an added value, this would not be learning, but mutual information. However, “if the effort is always worth it is questionable”<sup>245</sup>.

There are also a few voices that come to different conclusions, such the Danish delegate who noted that the “OMC is a good tool to promote mutual learning processes. For example in Denmark we have learned from other countries in the EU how to reconstruct debt of the poor in the effort to ease their integration on the labour market”<sup>246</sup>. Three delegates mentioned additional information as the clearest result of the OMC inclusion while a few mentioned other effects of the OMC inclusion such institution-building, particularly of the national NGOs, and particularly in the new member states such Hungary where “organizations participate in many transnational exchange projects and European NGO networks play a significant role in empowering Hungarian NGOs. (...) In this respect joining European NGO-networks really helps them learning lobbying practices”<sup>247</sup>. Other mentioned institution building relates to improved interministerial coordination or the entry of the poverty and exclusion vocabulary into the national debate: “Poverty as such and in particular social exclusion were not very familiar in Finnish discussions. They arrived due to European discussions and now it’s normal to speak about it”<sup>248</sup>. While delegates of different member states thus acknowledge some effects of the OMC inclusion, the idea that it influenced policy development is broadly rejected:

“It cannot be directly claimed that the OMC has governed the aim and scope of welfare policy or created new incentives for reform and modernisation. Current political measures

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<sup>242</sup> Dutch delegate to the SPC and ISG, November 2005.

<sup>243</sup> Finnish delegate to the SPC, November 2005.

<sup>244</sup> German delegate to the SPC 2, November 2005.

<sup>245</sup> German delegate to the SPC 1, October 2005.

<sup>246</sup> Danish delegate to the SPC, October 2005.

<sup>247</sup> Hungarian delegate to the SPC, September 2005.

<sup>248</sup> Finnish delegate to the SPC, November 2005.

cannot be said to have been directly guided to any extent worth mentioning by experience in other member states within the framework of the OMC. (...) The OMC has contributed to increased cooperation in the form of exchanges of experience and knowledge. The OMC has contributed to a greater understanding of the existence and nature of social exclusion in EU member states, it has clarified that there are different problems in different countries and that national systems differ. The basis for deliberations on political reform and focus of policies at the national level is not just factual knowledge but also, and to a greater extent, value judgements and ideological assessments of different action alternatives. It does not seem probable at least in the short term that the OMC could contribute to changing ideologically anchored attitudes<sup>249</sup>.

With regard to the commonly agreed indicators, there seems to be broad agreement that they are helpful and generally reflected the most urgent problems of poverty and social exclusion in the member states. A clear divide can be found here between older and newer member states, the latter ones pushing for more indicators and partly for different ones. This is reflected in the desire to have more non-monetary indicators, e.g. to reflect the situation of Sinti and Roma or of rural poverty and to have indicators of material deprivation and an absolute: "We would find it necessary to develop common non-monetary indicators, e.g. in the fields of accommodation, health status and education, and indicators according to different groups"<sup>250</sup>. However, as already observed, different national approaches to statistics in particular in the older member states have thus far hindered the development of deprivation indicators. While France and the UK have been very much arguing for sophisticated indicators, there are also concerns, e.g. from the Danish, German and Italian delegations who find that some indicators are not useful or politically desirable. Along these lines, the German delegate questions the usefulness of the 60% median income indicator. If this indicator would be set at 970 Euro (which in Germany would be the 60% threshold), one could ask why German social assistance remains below that threshold.

Another issue was whether delegates remarked changes due to Eastern enlargement, and for new member states, if they saw differences between old and new member states. It is noteworthy that most old member states delegates had not realised important changes (or changes at all), to the point that the political work would not have been affected by enlargement. Some delegates from the older member states noted that their more recent colleagues were more silent, but were beginning to become more outspoken. This contrasts with the perception of several delegates of EU-10:

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<sup>249</sup> Swedish delegate to the SPC, October 2005.

<sup>250</sup> Hungarian delegate to the SPC, September 2005.

“Definitely most of the EU10 delegates are not as comfortable as old members in expressing themselves or interacting with their colleagues or the Commission. This of course means that their opinions are not as visible as the rest. Most of talking time still belongs to the EU15 members. But lately newcomers have started to be slightly more courageous”<sup>251</sup>.

The organisation of meetings in any case changed after Eastern enlargement, more issues are dealt with in “written procedure. Also, since Ireland took over the presidency, we try to only intervene when we have something different to say”<sup>252</sup>. Still, everything would take “much longer. One round for one question takes two hours. Other than that, there is a space problem, so that only one person, the spokesperson, can sit at the table and not the national expert anymore”<sup>253</sup>. Additionally, there seems to be an overkill with new information to the point that it would be “impossible to keep an overview, and in the end, one only knows less”<sup>254</sup>.

Another important issue is language. Most of the documents – with the exception of official decision – only arrive in English, while during the meetings, translation is only available for six to seven languages. Three out of four delegates from new member states said that “yes, language is an issue. Almost one year and half after the accession of the 10 new Member States, there is only one new Member State for which the interpretation in its own language is introduced”<sup>255</sup>. Delegates from the new member states thought it was discriminative that at times, all old member states could use their mother tongue but none of the new member states, and that sometimes, linguistic problems would make international cooperation difficult, an evaluation shared by the Scandinavian delegates. Real awareness of the language issue, in the old member states, seems to only exist in the UK: “There is a language issue. Particularly for the delegates of the new member states, for example, if something arrives in French, they don’t necessarily have the facilities to translate it. Also, there is a real problem of interpreters. Normally, there are between 5-10 languages available”<sup>256</sup>. However, the available languages tend to be languages from EU-15 member states as these are the languages better covered by translators and “the other countries only sometimes. This is being discussed. French, English and German may become the only language, but the others countries do not agree in particular with the choice of German”<sup>257</sup>. Indeed, language is a playground through which

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<sup>251</sup> Estonian delegate to the SPC, October 2005.

<sup>252</sup> British delegate to the SPC, September 2005. Evidently, organising work in written procedures does not allow for deliberation.

<sup>253</sup> German delegate to the ISG, November 2005.

<sup>254</sup> Ibid.

<sup>255</sup> Slovenian delegate to the SPC, October 2005.

<sup>256</sup> British delegate to the SPC, September 2005.

<sup>257</sup> Italian delegate to the SPC, November 2005.

political power games are played to the point that the German official governmental policy is that one does not take part in meetings where German translation would not be assured<sup>258</sup>.

Evaluating the work of the SPC thus far, delegates repeatedly mentioned – as positive results – that social policy would now be on the EU agenda, that the existence of the SPC had been consolidated and that with the different social OMC, first steps of exchange of information had taken place. Critical remarks related to the re-organisation of the (streamlined) OMC process, one delegate noting that “nobody knows how the feeding-in process is supposed to work”<sup>259</sup>, the low political priority given to the process<sup>260</sup> and the overall weakness of the SPC which, “due to the many areas it covers, the SPC is not as strong a committee as others (employment, for example), where there is much more homogeneity in the issue and thus always the same people that meet”<sup>261</sup>. One delegate criticised the new member states who would “all take this terribly serious; we rather see it as a political process. The new member states don’t have the scepticism towards the Commission who wants to undermine their competences, but perceive it as the good money spender”<sup>262</sup>.

Summarizing and despite the limited evaluation, it was shown that delegates do not over-accentuate the idea of learning (or the factual happening of learning) and rather focus on the exchange of information. Now and then, as in the Chapter about the indicators, the political nature of the process became very clear particularly when delegates noted that the important discussions with regard to social protection would not take place in these committees but would happen either domestically or be left to the Council, and that this situation would render a consensual climate easier – or, to the contrary, that hard bargaining was taking place –, when the Commission was perceived as an adversary pursuing its own agenda or when delegates spoke of different domestic interests to be defended, particularly when it comes to concrete decisions and their wordings. It also became clear that the OMC in certain member states did have some effects such the introduction of the exclusion terminology (Finland), the dealing with the issue of indebtedness (Denmark) or the institutional strengthening of the NGO-landscape (Hungary). No such remarks, however, were made by either the French or the German delegates.

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<sup>258</sup> As was the case for the indicator conference in September 2001 in Belgium in which there was no German delegation as German did not figure as a conference language.

<sup>259</sup> German delegate to the ISG, November 2005.

<sup>260</sup> Finnish delegate to the SPC, November 2005.

<sup>261</sup> British delegate to the SPC, September 2005.

<sup>262</sup> German delegate to the SPC 2, November 2005.

*The European Commission*

The Commission officials will not openly speak too critically of the OMC and single member states. However, three different officials confirmed that the public visibility of the OMC inclusion and the NAPs remained weak, that the large member states in particular do not have the process as a reference, that there is a cleavage between the political domestic calendars and the one of the OMC inclusion and that limited resources in the Commission limited just what could be done. One longer quote shall suffice here to reflect their evaluation:

“The approaches taken and the degree to which the NAPs contain real commitments vary greatly. I think there are two different reasons why the NAPs are often not as powerful as they should be in some countries. It is difficult for social affairs ministries to be sufficiently powerful to coordinate national policy-making across a whole range of policy areas. In this regard you have to remember that social affairs ministries emerged as big bureaucracies to dispense benefits, but often with very little policy development capacity.

“My second reason for why some NAPs are weak is that some Member States do not accept that the OMC has any role in setting national policy. They see it as purely being about having a framework for exchange and nothing more. Sometimes this is because they feel that the process has nothing to offer them; sometimes it reflects suspicion of the EU's motivation for these processes. In any event, it means that their NAPs are purely reports and that they carry no political weight.

“Formal benchmarking against the practices of the best performing Member States has played no part in our work so far. Again, we argue that fighting poverty is multi-dimensional and, therefore, complicated. That means that benchmarking is hard to do.

“Naming and shaming. They hate it. Look at the very first Joint Inclusion Report. Then look at the draft, prepared by the Commission, on which it was based. There was a section which grouped the way the Member States had prepared the NAPs. It was not a ranking of good and bad social policies. However, that's the way it was discussed in the SPC” (SPC secretariat, June 2005).

## 7 Conclusion and outlook

### 7.1 Conclusion

With regard to *effectiveness*, the *precision of information* was often not given. The objectives were intentionally broad in order to reach a political consensus. The interchangeable use of the terms “social exclusion”, “inclusion” and “social cohesion” reflects the lack of agreement among member states about the reasons of poverty and kinds of remedies (Mabbett 2005; Stanton 2003). It is this lack of precision which has proven helpful to policy-makers, as it allows them to associate the notions of exclusion and inclusion to different visions of society and respective policy traditions (Silver 1994). The consequence was that the operationalisation of objectives became arbitrary and the evaluation of policy performance quasi impossible. Governments took advantage of the vague nature of the common objectives in order to draft governmental reports which are most of the times quite arbitrary enumerations of a quasi endless list of policies, devoid of profound analysis and strategic planning. Member states refused to set targets. Instead, the way of benchmarking intended for the OMC inclusion encouraged „participants to manipulate the evidence to what is seen to be required“ (Arrowsmith et al. 2004: 321). The Laeken indicators lack comparability and contextualisation (Kröger 2005a). Without the latter, however, the information provided by the indicators cannot support supranational learning processes and is insufficient for evaluating and designing anti-poverty policy (Szulc 2004). With the peer reviews, information lacked precision as well, so that participants often did not understand the policy at stake or did not see any added value in the peer review. More generally, it remained unclear exactly what should be learned from one another.

With regard to information about the so-called good practices there are at least four problems. First, there is no definition of what qualifies for “good practice”, leading to a subjective choice of policies or programmes and their labelling as “good practices”. Second, these practices need not be evaluated before being spread supranationally, opening the door for ideological choice (Legros 2005: 20). This is not a surprise, as “good practices” are commonly equated with “innovative”, that is with recent policy measures, adopted by the government(s) in place and not by their predecessors. Third, it is not spelled out who



has the mandate to select “good practices”, resulting in extensive choice of governmental programmes. Finally, the absence of an agreement about how and in how much detail “good practices” should be presented adds to the difficulties, as it is up to the government just how much information is shared (Kröger 2006a). On the whole, it can be concluded that the vagueness of the information rendered coordination possible, but it also defines the limits of its effectiveness.

*Organisational capability building* at the domestic level was limited. NGOs used the process in order to re-structure some of their EU-oriented activities, both in order to monitor the process and to raise awareness of European social policy amongst their constituencies. However, as NGOs became more sceptical about the process, the respective working groups met less often. It therefore remains to be seen which impact this re-organisation will have on the longer run. No additional resources were made available for the consultation process and / or the implementation of OMC inclusion and its related policies but one employee who was hired in the German federal Ministry of Health and Social Affairs to deal with all European social indicators. With practically no new staff being hired, the process had to be dealt with by the staff already in place, for which it was one additional task. The process was anchored at a working unit level of the ministerial bureaucracies in both member states and was not lifted up as time went by. The same holds true for the peer reviews to which employees from lower working units without decision-making power were sent. Inter-ministerial cooperation already existed to some degree in France and was eventually strengthened during the period under review here, while it only seems to exist on paper in Germany. The latter situation is also confirmed for the British, Dutch and the Italian case (Miebach 2004; Idema 2004; Sacchi 2004). No restructuring or the like took place with regard to the central statistics offices in the two member states.

The EU-level scores somewhat better. The SPC and the ISG were institutionalised and anchored in the Treaty. Additionally, the Communitarian Action Programme was used to 1) Set up the EU-SILC, a major development, even though it remains to be seen how it will work in the future and whether it will find acceptance by the member states; 2) Support major European umbrella NGOs such as EAPN or FEANTSA which would not have survived without the financial support and 3) Develop and implement the peer review programme which, while not having led to direct policy transfer or mimicking, nevertheless created a source for contacts and information about policy practices that are extensively documented in the Internet. However, the impact of these organisational processes can only be evaluated on a longer time horizon.

With regard to *monitoring*, no further competences were given to the Commission as the process developed. The latter could not live up to its monitoring function as member states resisted independent evaluation by means of the Joint Reports, refusing any kind of hierarchic ranking, benchmarking and too severe criticism (Mabbett 2004; Radaelli 2004b). As was shown with regard to the country fiches, the only opportunity for the Commission to “publicly” voice its criticism, these are dealt with in complete secrecy until a compromise has been reached, so that it is quasi impossible to find out which criticism existed originally. The SPC and ISG are dominated by the national delegates who decide with which issues they want to move on, in which direction and at which pace. Even if the Commission would have been allowed by member states to engage in independent monitoring, its resources to accompany the process would have been too limited to seriously evaluate 15, 25 or 27 domestic processes (Kröger 2007a). With the revised Lisbon agenda, the role of the Commission has become even more restricted to a supportive role (Pochet 2006; Wendler 2007). Member states cooperate by manipulating the evidence and the implementation to their advantage. They cooperate as long as no binding commitments must be made. Their willingness to cooperate comes to an end, however, as soon as cooperation should mean more than procedural cooperation.

The *receptivity* of the OMC process varied according to actors, levels and time. At the domestic level, a positive identification with it could only be identified at the top NGO level in the first years of the OMC inclusion, both in France and Germany. As time went by, even these actors became more critical (Kröger 2006b). National politicians rejected the process at all levels: central / federal, regional and local, either by ignorance or by active resistance. The bureaucratic staff that mainly had to deal with the process was more inclined to evaluate it in a positive way in France than in Germany, where both opinions about the process as well as readiness to report about it were more nuanced. The ignorance or resistance by politicians led to plans which were not ambitious, without targets and additional funding, to the refusal of actual parliamentary debate, to consultation only during the drafting phase, to the absence of transparent evaluation of national policies, to resistance against meaningful indicators and monitoring through the European Commission, to the support of the streamlined OMC in order to decrease the reporting duties, and to the NAPs mainly being governmental communication texts to the EU. Particularly Germany also had to deal with the strong resistance of the regional and local levels against the European process. On the whole, in France and in Germany, there was no political will to use the OMC as a domestic policy-making instrument, an observation also made for the Netherlands, the UK and Italy (Armstrong 2005; Idema 2004; Miebach 2004; Sacchi 2004). Rather, NAPs started as and remained governmental re-

ports, a sort of beauty contest, to the EU (Armstrong 2005; Büchs and Friedrich 2005; Chalmers and Lodge 2003; de la Porte and Pochet 2004; Kohl and Vahlpahl 2005). Thus, while there was individual, partly organisational commitment in both member states, this receptivity was not sufficient to make the OMC inclusion effective, as central actors, mostly politicians, refused to make usage of the OMC inclusion for domestic policy-making.

The generalised assumption that the OMC inclusion would lead to widespread *learning* processes has proven wrong (Casey and Gold 2005) for France and Germany, and there is similar evidence for the Netherlands (Idema 2004), Italy (Sacchi 2004) and the United Kingdom (Armstrong 2005), while the idea of supranational learning is not rejected by civil servants – this would take place in other contexts, however. It clearly emerges from the empirical evidence that only a weak minority of actors – all backgrounds confused – has taken notice at all of NAPs from other member states. Those who did take notice of some of the NAPs regardless of their organisational background considered them governmental reports to Brussels and thus not a policy-making instrument. Second, there is widespread scepticism that institutional backgrounds are too different for learning to take place in the context of the OMC and therefore do not engage seriously in the process. Third, lack of knowledge of foreign languages also stands in the way of learning processes – particularly since Eastern enlargement – as documents often only appear in English or, as is the case with the country fiches since the introduction of the streamlined OMC, exclusively in the official language of the concerned member state. In the context of the OMC inclusion actors prefer to speak of an exchange of information. Even within the national context there seems to be little interest in learning, as shown by the lack of articulation between the texts of the NAPs and the indicators and the absence of process benchmarking (Barbier 2004b; Mabbett 2005).

At EU-level, even though actors meet much more regularly, national delegates to the SPC and the ISG as well as participants of peer reviews also rather speak of an exchange of information than of learning, equally pointing out to important institutional differences, to the generality of topics, to the SPC not being a relevant forum for learning or to learning generally not being the prime interest of national delegations. In the context of the peer review programme, learning was at best ad hoc and on an individual basis (Casey and Gold 2005; Kröger 2006a), while the programme remained unidentified by a larger public. The peer reviews suffer from the personal sent there, the lack of diffusion of experiences in member states, lack of time and communication problems (Casey and Gold 2005; Kröger 2006a). However, there is some evidence that through the peer reviews the issues of homelessness, over-indebtedness and ethnic minorities have gained in importance and attention in the SPC and the ISG. Learning

as imagined by the architects of the OMC thus did not happen within the framework of the OMC inclusion. The dominating topic with regard to poverty, activation, has been present in France and Germany since the mid-1990s. In both member states respective regulations have hardened since. However, there is no evidence that this happened due to the OMC inclusion – nor that the activation policies contribute to a reduction of poverty. Other major policy changes that are mentioned in the French and German NAPs had already occurred before the introduction of the OMC inclusion or were in a state of preparation at that point of time so that they cannot be connected to the European process.

On the whole, it can be concluded that effectiveness evaluated as learning, and learning needing precision of information, organisational capability building, monitoring, and receptivity by actors performed quite poorly, with slightly better performance in France than in Germany and mixed results at EU-level. However, it also seems useful to recall that particularly in the context of a governance instrument such the OMC inclusion changes induced by the EU-level take time to occur and to manifest.

Turning to the summary of the *legitimacy* of the OMC inclusion, its *access* has not lived up to the aim of mobilising “all relevant bodies”, not in France or Germany, not at EU-level, not, as is reported, in other member states (Armstrong 2005; Brandsen et al. 2005; de la Porte 2007; Idema 2004; Sacchi 2004). Access at the national level was scarce and only took place in the drafting phase, while no access existed during the implementation and the evaluation phases (Hanesch 2002: 6). If the parliament was involved, as it was the case in Germany, it “debated” the NAPs months after they had been sent to Brussels. At EU-level there have only been very few instances where FEANTSA or other non-governmental actors were invited either to the SPC or the ISG. No participation rights have evolved over time both at national and EU-level, and access for actors other than the implementing bureaucracies was thus completely dependent on the good will of the latter.

Territorial *representation* was quasi absent. Directly elected politicians were only passively involved or when it was already “too late”. In France members of parliament (MPs) received the NAPs but were offered no opportunity to comment; in Germany MPs were given such an opportunity long after the document had been handed over to Brussels. In both member states elected politicians theoretically had the chance to participate in the advisory boards, but only took advantage of the opportunity once in Germany where in 2003 three MPs participated in a meeting of the advisory board. Regional territorial representation was weak or inexistent. It did not exist in France due to a lack of political initiative of the central government(s) and due to political opposition from the regions

(Legros 2004b). In Germany the *Bundesrat* did issue a few decisions, but only in order to document its opposition to the OMC inclusion process all together, which it perceived as an intrusion into regional and local competences both from the federal and the European levels (Büchs and Friedrich 2005), where the latter make decisions that the former have to organise and to pay for. Local representation was inexistent. Functional representation occurred to a limited extent in the form of NGO representation. It happened through the few meetings that were dedicated to the NAPs in the advisory boards and through the written statements by NGOs. This representation must be evaluated as quite limited, as it only happened every two years and at a stage where the draft NAPs are already quite advanced. Additionally, the involvement of NGOs decreased over the years after disillusionment with the method had started to spread. Excluded people themselves have only been mobilised very marginally in France. Representatives of the social partners were not present in the process. Bureaucratic representation was strongest compared to the other kinds of representation, as civil servants are those either drafting the NAPs and coordinating the drafting process at the national level or providing the secretariat at the European level. Scientific representation was very limited.

At EU-level territorial representation was indirectly assured through the delegates to the SPC and the ISG, even though this was a mix of territorial and bureaucratic representation, as the delegates were supposed to represent the national governments but at the same time were civil servants at the end of the delegation chain. Regional and local representation was not given at EU-level. Functional representation was scarce. FEANTSA is the only NGO to have taken part several times in the meetings of the ISG. Social partners were absent from the process at EU-level. Bureaucratic representation was assured through the European Commission which provided the secretariat in both committees. Finally, academic representation was rather strong at the beginning of the process when the expertise of Atkinson and colleagues was used to get the indicators started. This representation re-gained a certain momentum at the time of the Luxemburg Presidency; still their influence decreased as the process consolidated. A mix of technocratic and bureaucratic representation that occurred throughout the process was provided through Eurostat. Both for functional and for academic representation, inclusion into the process was conditional upon invitation by the accountability holders and there were no participation rights besides those established for the member states and the European Commission. On the whole, this picture confirms the body of literature which finds that EU politics in general (Auel and Benz 2005; Kassim 2005) and OMC inclusion in particular play in favour of intergovernmental and executive institutions, at the

expense of parliaments (de la Porte 2007; Duina and Raunio 2007; Wendler 2004: 5).

As shown, there was little room for deliberation. Invitations to meetings were sent out late, so that potential participants did not have sufficient time to prepare their positions, and meetings themselves did not leave sufficient time to deliberate. The lack of debate is reflected by the choice of the so-called good practices which almost exclusively are governmental or state-funded programmes as well as in the choice of indicators which have a strong bias towards the labour market and the income while neglecting other aspects of poverty and social exclusion. If the situation is slightly better at EU than at the national level, this seems to be related to the higher frequency of meetings. At the same time, if deliberation happens in the EU committees, this seems to be so when and because important decisions are not made in these committees and because political issues are not discussed. Deliberation was also rendered difficult by language problems, in particular in the context of the peer reviews. Finally, and with regard to *accountability*, transparency was weak both at the domestic and European levels, with most documents and members of groups and committees not being available in the internet or upon request. Particularly in Germany it was difficult to access information through the bureaucracy, the latter trying to keep its information and knowledge about the process as secret as possible. Second, it was shown that no public debate happened in France and Germany with regard to the OMC inclusion process, and this is why it was only known by the few who were directly involved (Legros 2004b). In Germany, MPs refused to mention the European aspect of their debate and therewith prevented media attention about the European process from emerging. Administrations have not been very responsive to external input. At best, certain formulations were included into the NAPs, while other demands of NGOs in particular were turned down. The absence, by and large, of responsiveness to external inputs is also indicative of the NAPs being purely governmental reports to the EU to which no policy-making relevance is attributed.

At EU level transparency scored a little better due to the availability of certain documents in the internet, while public debate was not given either. The ISG has been responsive to the permanent lobbying activities of FEANTSA by commissioning a study about the definition and possible indicators of homelessness and by continuing to make an effort to deal with this topic. No other incidents of responsiveness are reported, while member states refused the intended mechanism of public naming and shaming, thereby not allowing other actors to change the course of action. The core work in the OMC is done by committees whose members are not elected and are not accountable to a larger public. The existing delegation chain of involved actors is so long that the possibility of

public control is non-existent (Bovens 2005; Smismans 2007; Warleigh 2001). Accountability in terms of being responsible to a forum for one's own positions and decisions, with the forum having the possibility to sanction the accountability holder in the case of wrong doing, did not exist in the context of the OMC inclusion and unfolds amongst unaccountable actors (Bovens 2007).

On the whole, it is fair to conclude that the political expectation of enhanced effectiveness through supranational learning was not met by OMC inclusion. The process is an information platform which, however, does not support learning processes, and the workload of which, according to the involved actors, is in no proportion to its outcome. Quite to the contrary, at the end of this study it can be concluded that the OMC inclusion has made learning processes between member states more unlikely, at least in this context, as it politicised learning by bringing anti-poverty policies into the (semi-) public European debate. However, learning processes, in order to be effective and in contrast to the demands of democratic legitimacy, do not require openness and publicity. It did not, as some hoped at the time of its introduction, contribute to positive integration in the field of anti-poverty policy (Collignon 2006), as it cannot oblige member states to European goals. The overall framework of negative European integration, in any event, remains the same and is not challenged by the OMC inclusion (Scharpf 2002). What is more, in the context of the revised Lisbon strategy of 2005 the focus on competitiveness, growth and jobs has become even more distinct, while the European ambition of coordination was given up (Pochet 2006; Wendler 2007), indicating the fragility of the process and its vulnerability in the context of changing political majorities. If the OMC inclusion contributed to a market-enhancing agenda, to a more competitive labour market, must remain an open question at this point due to methodological considerations. Both the NAPs and the commonly agreed indicators were in any case dominated by labour market policies and respective measurements. Therefore, if learning should be encouraged through the OMC, this would rather go into the direction of "policy unlearning" (Offe 2003: 463), implying a dismantling of the continental social model. Indeed, it has been shown that the EES encourages asymmetric learning which supports a neo-liberal welfare agenda (Büchs 2007).

Enhanced legitimacy through the OMC was also not reached. Quite to the contrary, the OMC inclusion has been more exclusive and closed, less open to democratic input than the Community Method (Natali 2005; Rhodes 2005) and has turned out to be "governance with some of the people" (Schmidt 2006: 28-29), unveiling the participatory nature of governance processes as a "myth" (Smismans 2006). The OMC inclusion did not live up to the demands of either liberal or deliberative democracy. There were no participation rights, instead

access was conditional upon invitation, not upon democratically grounded mandates, implying (political) recognition by the implementing bodies. It was not territorial representation or functional representation that was strongest; instead, bureaucratic representation was clearly dominant. Accountability was quasi inexistent as transparency was not given, as discussion happened behind closed doors, thereby preventing a public debate, as the leading representatives did not have to take critical feedback into account, as sanctioning them for this behaviour was not possible and as there was no accountability to courts. Instead, governments, while not directly participating in the OMC processes, are accountable to unaccountable, that is not democratically mandated, officials of the European Commission. Openness of the method was by no means secured, neither in procedural nor in substantial regards. There was by no means participation of all relevant actors but only of a few interested and politically admitted actors, rendering it “difficult to take a critical view without becoming an outcast for the whole OMC community”<sup>263</sup>. Deliberation was not possible and not desired by the governments and transparency hardly given. The intended way of sanctioning through public peer pressure was silenced from the beginning, implying that no one but the “chosen few” who participated in the process could theoretically hold the participants accountable, thereby reducing the number of politically available options. For peer accountability to function effectively, however, the involved actors must be sufficiently representative and pluralist, i.e. weaker interests or actors whose preferences do not coincide with the “mainstream” must not be excluded. The OMC thus appears as a bureaucratic reporting mechanism in which unaccountable actors, in an apparently depoliticised environment, devoid of public debate and democratic control, engage in interaction, the consequences of which cannot directly be tracked down but which might nevertheless exist in terms of a longer-term change of discourse and ways of managing public policies.

## 7.2 Explanation

If one had to explain the German case only by referring to Germano-German factors, then the variables introduced in the third chapter are indeed useful. There is no social exclusion discourse and no social exclusion approach in Germany, actors keep on pointing out to the preferred *Lebenslagenansatz*. This does not only become clear by the terminology of the German NAPs but also by the resistance of the German government against quantified benchmarking and

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<sup>263</sup> European NGO representative, August 2007.



increased interministerial coordination (Lamping 2007; Maucher 2005; Miebach 2004). The absence of a social exclusion discourse and approach is also mirrored by the absence of respective laws and institutions. The lack of such institutions in turn implied a low overall effectiveness. Indeed, the actor constellation in Germany also played a crucial role. The strongly anchored and defended principle of subsidiarity and its strong veto players were a crucial barrier against more mobilisation (Büchs and Friedrich 2005). These veto players – NGO at times included – criticised that decisions are being taken at EU-level by the federal government in an area where it lacks the competences to do so, while the regions and local authorities have to pay for the implementation of these decisions. The existing welfare arrangement assures NGOs (as well as other actors) with other channels of dialogue and negotiation with the government. They are therefore not dependent on the OMC inclusion. The competence structure, while “working” against effectiveness, improved the legitimacy due to institutionalised participation rights of the regions via the *Bundesrat*. It is this competence structure which allowed particularly the regions to activate their traditional opposition against EU competences in the field of anti-poverty policy.

In France there is indeed a social exclusion discourse and related acts and institutions. It is possible that French actors therefore did not see a need for additional action in the field, although this way of reasoning was never mentioned by the interviewees. It is also possible that the low standing in the different cabinets that the Minister of Social Affairs, Borloo, enjoyed from 2002–2005 and his lack of interest in European policies accounts for the poor incorporation of the OMC inclusion in French policy-making cycles and structures. With regard to the actor constellation, the poor consultation practices are in line with the long-standing French tradition of disregarding intermediating interests and the lack of a consultation culture which in turn materialises in the lack of participation rights. Additionally, political opposition of the départements since March 2004 made their incorporation into the process unlikely. While the existing discourse and institutions in France worked in favour of (very) limited effectiveness (indicators, interministerial coordination, possibly the DPT and the “annual” conference against social exclusion), the absence of participation structures and rights explains the very low legitimacy of the process.

The main barrier in both member states, however, was lack of support by the higher political leadership, as it was also the case in other member states (see also Armstrong 2005; Brandsen et al. 2005; Friedrich 2006; Halvorsen and Johansson 2005; Idema 2004; Miebach 2004; Sacchi 2004). The willingness to use the OMC inclusion for a Europeanisation of national anti-poverty policy (debates) was more than limited, resulting in low investments in terms of mobilisation and in not providing officials with policy-making power in the OMC

process. This is particularly astonishing for the French case, where little would have been needed to at least synchronize the existing national debates with the European agenda.

At EU-level the limited dynamics and the draw-back at the time of the revision of the Lisbon strategy can be explained precisely by the resistance of member states against the development of a European anti-poverty policy, which materialised in very weak competences for the EU with regard to anti-poverty policies. Then in turn, weak uploading meant weak downloading and no evolving competences, objectives or targets. To be sure, dynamics were stronger at the EU-level than in member states. However, the respective actors were not strong enough to significantly increase the effectiveness and the legitimacy of the OMC inclusion. It must be remembered that the absence of sanctions was a central condition for member states to accept the inclusion process despite the disagreements over policies (Collignon 2006; Wasner 2003; Wincott 2003). Over the years it remained a weak mechanism where actors “agree to disagree” (Ladrech 2003: 19) and engage in symbolic policy or cheap talk without real political commitment (Sundholm 2001; Wessels 2003). Why was the OMC inclusion not effective and legitimate?

It is difficult to imagine that the OMC inclusion would have come about without the previous experiences of the poverty programmes and the EES, indicating path dependency, and without the political situation as it existed towards the end of the 1990s, which was used as a window of opportunity by social-democratic actors (de la Porte 2005; Wessels 2003). From this angle, there is room for an agency dimension. At the same time, diverging ideas and interests made sure that the OMC inclusion was established as a toothless governance mechanism, in the course of which no competences were transferred and only very weak institutions created. The way the OMC inclusion was conceived, with the Council clearly being the strongest body (Wessels 2003), the very weak treaty base, no institutionalised participation rights of the European Court of Justice, parliaments and / or societal actors, and the limited role of the Commission speak in favour of an intergovernmental explanation (Borrás and Jacobsson 2004; Carmel 2003; Georgopoulos 2005; Schäfer 2005; Sundholm 2001). A close observer put it this way: “The OMC came about because member states resisted having their hands tied, let alone delegating power to the Commission. (...) In essence, the OMC was equivalent to respecting member states’ veto power” (Collignon 2006: 4).

There was certainly path dependency involved in the continuation of the (then streamlined) OMC process. As shown, even the German government, which very much dislikes the OMC inclusion process and would have preferred to abandon it, at the time of the re-orientation of the Lisbon strategy in 2004-

2005 did not dare to veto the continuation of the process. However, while an OMC process continued, it was at the same time re-organised in the context of the streamlined OMC in a way that expresses a weaker common, European ambition, with more irregular reporting cycles, even less precise common objectives, much shorter Joint Reports, no more (theoretical) benchmarking ambition and a still very weak role of the Commission. These features indeed point more strongly in the direction of an intergovernmental reading of the evolution of this OMC. Additionally, it is useful to note that between 2000 and 2007 no new competences in this field were transferred to the EU. The strong focus on learning by politicians should rather be seen as an attempt to clarify that no competences are taken away from the member states. In any case, hopes have been set too high (Schout and Jordan 2007), while the OMC inclusion has not amounted to much more than “cheap talk” (Citi and Rhodes 2006).

There is simply no common vision of the social (yet) (Wessels 2003). The absence of such a common vision explains for the vague inclusion discourse in which all actors can find something to pick and which leaves it completely open who is actually doing the excluding, thereby not touching on existing power configurations (Daly 2006a; Veit-Wilson 2000, 2006). The same absence implied a lack of political ownership by national authorities (Pisani-Ferry and Sapir 2006). However, without a precise definition of a social situation it is impossible to clearly address where you want to go and how you want to get there<sup>264</sup>. In the absence of such a truly common vision, learning in a political context is highly unlikely (Radaelli 2004b; Hemerijck 2004), and particularly such a sensitive policy field as anti-poverty policy makes a highly unlikely candidate for a successful OMC (Héritier 2003). The connection made between the OMC and a social Europe and the European Social Model has further politicised potential learning in the context of the OMC and has thus more or less closed that door.

Due to a lack of a common vision and because redistributive issues are a central resource in political elections, social integration is simply not a priority of member states (Bieler 2003; Scharpf 1999) and has additionally become even more difficult since Eastern enlargement. The Lisbon process with its focus on competitiveness, growth and jobs takes place in the shadow of macro-economic and financial coordination processes and is subordinated to them. This development has become even clearer in the context of the revised Lisbon strategy (Wendler 2007), in which the wing “social cohesion” has been dropped (Colignon 2006). Some scholars therefore see a colonisation of the welfare state by an economic policy-making process (Carmel 2003; Chalmers and Lodge 2003;

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<sup>264</sup> This point may seem trivial, still I would like to thank John Veit-Wilson for his patience in pointing out to me in how far this is true with regard to poverty measurement.

Goetschy 2004; Scharpf 2002), the master discourse of which is competitiveness (Radaelli 2003). The Lisbon rhetoric is not neutral, it transports normative choices among different policy options and a narrow vision of the social (Barbier 2004b; Borrás and Jacobsson 2004; Carmel 2003; Chalmers and Lodge 2003; de la Porte and Pochet 2003; Kohl and Vahlpahl 2005; Radaelli 2004a; Smismans 2004). This narrow vision entails that the social is being governed in order to maintain the economy, not as an end in itself (Carmel 2003: 13). In this context, the inclusion process has taken place in the shadow of the goals of employment and growth, indicating the low priority of “inclusion” policies at EU-level.

Against the background of this low overall priority of anti-poverty policy at EU-level, heads of state and government established a weak governance architecture from which it was wrong since the beginning to expect strong outcomes. As the older learning literature has shown, learning between larger organisations – or even states – needs to follow certain rules to be successful, all of which were ignored in the context of the OMC inclusion<sup>265</sup>. There was thus no independent monitoring, no credible commitment to sanctioning mechanisms (Arrowsmith et al. 2004; Borrás and Greve 2004; Borrás and Jacobsson 2004; Dehousse 2003; Georgopoulos 2005; Radaelli 2004b), no public naming and shaming (Wessels 2003), and no institutional mechanisms that support individual and ad hoc learning to be translated into collective and organisational learning. Institutional differences were not sufficiently taken into consideration (de la Porte and Pochet 2003; Radaelli 2004a), and the importing member states therefore missed crucial information about particular policies. It is, however, crucial to acknowledge the diverging legal, political, social, cultural and administrative frameworks and to not miss crucial information in order to evaluate whether importing parts or a complete policy makes sense at all (Bandelow 2003; Casey and Gold 2005; Dolowitz and March 2000; Groenendijk 2004; Hemerijck and Visser 2003; Schludi 2003). Where information was available, such as the NAPs, the good practices and the commonly agreed indicators, it was insufficient and lacked precision (Krause and Ritz 2006; Room 2004b), giving room to the manipulation of evidence. Furthermore, the demands that governance modes such as the OMC impose on the implementing administrations in terms of resources and coordination culture have by and large been neglected. However, such coordination processes are very labour-intensive if carefully carried out, and it is naïve to believe that administrations have an intrinsic interest in cooperating with other administrations, be they of the same sector or even of a different one, as administrations are also characterised by political rivalries (Schout and Jordan 2007; Christiansen 1996; Hooghe 2001). The point is that the as-

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<sup>265</sup> The respective insights were by and large ignored by OMC literature (Citi and Rhodes 2006).

sumption of learning has been de-contextualised from the larger institutional environment(s) in which it is supposed to happen, and that the embedding institutional structures in which actors are supposed to learn are not necessarily supportive of supranational learning processes (Casey and Gold 2005; Idema and Keleman 2006).

Finally, the political nature of the OMC inclusion process, existing power asymmetries and differences in interests have largely been ignored in governance literature (Arrowsmith et al. 2004; Barbier 2004b; Cammaertz 2006; Kohl and Vahlpahl 2005; Radaelli 2004b; Sudbery and Laffan 2006). However, “learning is a political process and mediated by power relations” (Tucker 2003: 24; de la Porte and Pochet 2003; Wessels 2003) and policy-makers “may be open to reasoned argumentation, but not to the point of overcoming the basic fact that they are engaged with politically-sensitive policies such as the recalibration of the welfare state, industrial policy, and taxation” (Radaelli 2003b: 41). Acknowledging the persistent differences in ideas, preferences and interests, it is often not rational to transfer or mimic a foreign policy because the costs of such a transfer would be too high (Citi and Rhodes 2006).

### 7.3 Outlook

At the end of this study some issues merit more general attention. This holds true for 1) the political economy of the OMC inclusion and the EU more broadly and 2) the effectiveness and legitimacy of European anti-poverty policy.

1) The inclusion discourse transported in the Lisbon strategy embraces at times competing if not contradicting goals and in any event is notoriously vague. As a concept, “inclusion” remained curiously under-defined, most likely one of the conditions of its success at EU-level. Still, it is clear that inclusion is perceived of as activation and integration into the labour market(s). It is also clear that this inclusion discourse reverses the causal chain by not viewing exclusion as arising from conflicts within society but as causing problems for society, based on individual failure. In this context flexibility becomes central, the absence of which will be individually sanctioned. Social control through benefit conditionality (“an offer you can’t refuse”) is thus an important component of inclusion policies (Cosser 1992; Offe 2005). Employers, employees, social partners, social service providers and welfare state bureaucracies are expected to operate in flexible ways, concentrating on short-term goals which are guided by principles of competitiveness. The side-effects of such a focus are rarely discussed, namely that social bonds take time to develop, both within private and professional

frameworks, and that it is rather unlikely for an employee to feel loyal to an employer who makes no binding commitment to the employee. These side-effects, however, can and do have significant consequences for the organisation of a society, the generalised trust and solidarity that is available and the democratic quality of its institutions.

The inclusion discourse is part of a larger European social policy which, to the difference of earlier ambitions of Jacques Delors and colleagues, has not been reconciled with the market but subordinated to it, while visions of market correcting policies do not seem to be on the European agenda anymore, in any event not within the political system of the EU (Salais 2004). In this context, the OMC inclusion contributes to weakening a common space and structure for positive integration (such as the Social Dialogue), as it segments conflicts and political debates into small politics in small talks. It does not allow for public discussion about how welfare systems should be organised and it does not offer a common decision-structure but re-directs social affairs to the domestic level which, however, on its own is incapable of countering the effects of negative integration.

The inclusion discourse and the larger political economy of the EU seem to become more and more immune to criticism. The role that social sciences have played is noteworthy. Political science and with regard to the governance literature mainly assumed the role of the mirror: "O mirror, tell me how beautiful I am and how what I am doing merits a theory" (Salais 2004: 21). The role of the justifier has been taken over by a majority of sociologists who argue that reform and the type of reform that is suggested in the inclusion discourse are without alternatives.

2) With regard to the effectiveness and the legitimacy of a European anti-poverty policy, three answers can be imagined:

- (a) The EU does not lend itself to a common strategy, policy or analysis and measurement. The lack of a common interpretation of poverty and common vision of anti-poverty policy render a common European approach ineffective, while the effects of coordination cannot be democratically legitimated and controlled.
- (b) The EU does not lend itself to a common strategy or policy, but common analysis is a worthwhile enterprise. The expected added value of common analysis is increased knowledge about policies and performances which might in turn help individual member states to better adapt to a changing environment. The OMC goes into this direction.
- (c) There is a need for common European anti-poverty policy. Continuing to insist on the primacy of the nation-state with regard to anti-poverty

policies will not allow for compensating the loss of control over national social policy induced both by European integration and more global socio-economic restructuring processes (Cantillon 2005; Scharpf 2007). If political action is to regain a certain degree of control over socio-economic developments, then concertation at the regional (EU) level is needed. This option also comes in different variants, ranging from constitutionalisation over directives to framework corridors as suggested by Scharpf (2002) or the social dialogue which also allows for national diversity in implementation.

In the light of the achieved institutionalisation in the case of anti-poverty policy and social policy more broadly, answer (a) does not appear as a realistic variant anymore (Offe 1998). Answer (b) needs to evaluate whether learning from each other as promoted by instruments such as the OMC is capable of providing adequate responses to poverty and exclusion in the light of structural diversity and of the political nature of (public) learning processes. It also needs to deal with the fact that the legal framework of positive and negative integration remains unchanged in such a context (Scharpf 2002). It finally needs to deal with the claim that the OMC increases the democratic deficit of the EU.

Answers (b) and (c) would need to assess whether there is not also a case for an additional EU-wide poverty measurement. While national poverty measures are important and continue to be important for the development of domestic anti-poverty policies, EU-wide measures are important in order to provide a picture of regional socio-economic advantages and disadvantages (Fahey 2005). The EU pursues, much longer than a nascent anti-poverty policy, a regional integration strategy, the goal of which is that member states adhere to a similar level of socio-economic development. Both perspectives are valid and can be seen as complementary; from a legal perspective, however, it is the regional version of poverty that the EU is entitled to address. Promoters of answer (c), finally, need to deal with two issues. First, they need to invent ways, probably within the context of hard law, which would make a European anti-poverty policy effective. Second, they need to deal with the issue of democratic legitimacy to which I now turn.

It is obvious that the OMC inclusion suffers from a democratic deficit. One of the most severe aspects of the OMC is that there are no public debate and no possibilities to correct the course of the process (Héritier 2003). The accountability issue indeed covers most of the problematic aspects of governance instruments such the OMC: The weak presence of citizen representatives at least in the respective networks and committees, the lack of visibility, the de-coupling from the democratic circle, the lack of public debate, the lack of possibilities to sanction, and the restrictedness of the process to bureaucrats which are at the

very end of the delegation chain. Additionally critical is that governance instruments such the OMC tend to favour the participation of those who have sufficient resources to get engaged in these processes and of those who do not fundamentally disagree with the respective policy discourse (Kohler-Koch and Rittberger 2006) while leaving all participants but the national governments and the European Commission without participation rights. However, ideational changes as targeted by the OMC are not in need of less institutionalised safeguards as OMC literature sometimes suggests, but in need of more (Kröger 2007d). It is additionally “unclear in how far the democratic quality of a policy process is not threatened (automatically) if the policy under question is subordinated to other policies, such as growth, employment and competitiveness” (Idema 2004: 16).

The OMC and more broadly large parts of the governance literature have directed their attention to what has been characterised as multi-level system. This focus resulted in a situation where another, crucially political dimension has been quite neglected, namely the normative and ideational dimensions which (not only) in the EU oppose neo-liberal forces and those defending a regulated capitalism. It is this ideational dimension which structures actors’ preferences and which would deserve much more attention. First, political choices made at EU-level influence the member states’ capabilities to provide for welfare and therefore the living conditions of their citizens (Scharpf 2007). They therefore should be discussed publicly and be politicised. From this perspective, the EU could gain in legitimacy if it engaged against poverty and social exclusion. Quite to the contrary, however, the OMC contributes to a de-politicisation of EU policies and politics by revoking issues of welfare and redistribution from public debate into closed circles.

Second, it is the existence of alternative political options that constructs a relatively stable political space, while their absence opens the door for destabilising crises. If participation is only accorded to those who more or less share a common interpretation of the world while access is denied to those who significantly disagree (Edquist 2006), a likely result will be that if criticism is not possible within the system, it will become more fundamental and eventually turn into system opposition, as is witnessed by both the extreme right and parts of the radical left. From this perspective, the often cited democratic deficit of the EU is an expression of the very incapability of the European institutions and actors to openly deal with conflicts and to present and discuss political alternatives.

Politicisation of EU-policies is evidently connected to a greater visibility of the European political parties, but also to an increased discussion of European issues by both domestic politicians and the media. By a second step, citizens



must decide whether EU policies are meaningful to them, whether they make sense to be pursued at EU-level and therefore provide the EU with democratic legitimacy. Arguing for anything else than incremental politicisation at this point of time would mean that it has not been understood that the “timing is simply wrong” for major changes in the European integration process (Schmitter 2007: 6) and therefore also for the definite definition of its democratic legitimacy (Lord 2007).

However, there are reasons to believe that there exist structural limitations to the democratisation of international organisations in general, of which the EU is one example (Dahl 1999b): there is no common identity, which is the prime condition for losers to accept agreements and for people more generally to develop trustful relationships beyond individual contacts (Kohler-Koch 2006; Offe 1998), no common public sphere, and the delegation chain is too long for democratic control by the people to be possible, while questions of democratic representation and accountability in the EU remain unresolved (Kröger 2008). The other reason for structural limitations to the democratisation of the EU is a permanent ambition of EU institutions, in particular of the Commission and the EP, to not see their power diminished and to secure a “pole position” in the institutional architecture of the EU (Bouwen 2007; Scharpf 1997). They seem primarily engaged in power games and interested in defending achieved powers. These power games amount to considerable structural and institutional constraints to further democratisation. Democracy, however, needs structures that enable participation and that link this participation to decision-making, and it needs actors that are actively interested in further democratisation.

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