

Innovation in EU governance? Six proposals for taming open co-ordination

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Almut Metz

Innovation in EU Governance? Six Proposals for Taming Open Co-Ordination

This paper was developed within the project 'Greater Europe' that the Bertelsmann Foundation in Guetersloh jointly conducts with the Center for Applied Policy Research (C·A·P) in Munich. The paper was inspired by presentations and discussions at the workshop 'The Open Method of Coordination (OMC) as a new mode of governance' that took place at the Bertelsmann Foundation on 7-8 April 2005.

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Innovation in EU Governance? Six Proposals for Taming Open Co-Ordination

Summary

Open methods of co-ordination (OMCs) have their origins in European Economic and Employment Policy. Within the framework of the Lisbon Strategy, these mechanisms have developed into a kind of panacea, since a high degree of openness has made them an easily accessible instrument of EU policymaking. Five years down the road, however, open co-ordination is still too 'open' to be a manageable policymaking tool. The hesitation of EU member states towards open co-ordination results primarily from the concept's linguistic and conceptual vagueness. Thus, the most important challenge confronting open co-ordination involves the establishment of a common understanding of the concept as such.

The basic idea of open co-ordination – co-ordination rather than legislation; open to various actors, policies, and methods; transparent and open to the public – presents considerable opportunities for EU policymaking. But five years of open co-ordination have revealed more deficits than positive results. The key to success lies in taming open co-ordination through six measures:

- clearly defining the overall objective of each respective OMC,
- developing a methodological tool to identify promising fields of application,
- enhancing member states' commitment to the OMCs,
- making open co-ordination more democratic,
- respecting heterogeneity, and
- constitutionalising open co-ordination.

1. Introduction

Open co-ordination, which has its origins in European Economic and Employment Policy, seems to be about everything and, as a consequence, about nothing. Within the framework of the Lisbon Strategy, open methods of co-ordination (OMCs) have developed into a kind of panacea, since a high degree of openness has made them an easily accessible instrument of EU policymaking. Since the official launch in spring 2000, open co-ordination has expanded to numerous fields of application and has developed a large variety with regard to legal basis, procedures, and the actors involved.

Five years down the road, however, open co-ordination – which was presented as a method ‘designed to help the member states to progressively develop their own policies’ in the March 2000 Presidency Conclusions – is still ‘open’, i.e. vague, in many ways. The term ‘open method of co-ordination’ is misleading, as over the years a number of OMCs have emerged within different policy fields that differ qualitatively. It is therefore more accurate to speak of ‘open *methods* of co-ordination’ rather than just one method.

Open co-ordination:
a vague concept

Furthermore, there is still insufficient systematic empirical evidence to demonstrate the effectiveness of OMCs, and their potential as new modes of governance applicable at the European, national and sub-national levels, as well as within civil society, needs further clarification. The democratic legitimacy of OMCs is also highly disputed, as open co-ordination is dominated by national and European executives. Finally, there is no convincing system of categories that might serve as a methodological tool to identify promising fields of application.

All these problems can be traced back to an important distinction regarding the overall objective of open co-ordination: Is it meant to facilitate a trans-national exchange of best practice that thereby provides an important tool to promote policy learning? Or are OMCs meant as instruments of policy co-ordination?

Policy learning or
policy co-ordination?

A major reason for open co-ordination’s current ‘exhaustion’ lies in its high degree of openness. A concept that is so vague and diverse is difficult to translate into actual policymaking, especially within a system like the European Union (EU), which is already very complex with regard to its policymaking procedures. It is above all a question of perception of the decision-makers. Thus, the most important challenge confronting open co-ordination involves the establishment of a common understanding of its objectives and main features.

In exploring the current application and future potential of OMCs, this paper first defines open co-ordination and investigates a concrete example of OMC practice. Based on this clarification, the opportunities and procedural risks of OMCs are then discussed in depth. Finally, the paper proposes a number of strategies and measures for strengthening open co-ordination. The central argument is that reforming open co-ordination by reducing its degree of openness (‘taming’ open co-ordination) will enhance its potential as a future mode of governance.

2. Defining open co-ordination – a linguistic and conceptual challenge

A question of perception

One of the main problems when dealing with OMCs is that it is often not clear what is actually meant by open co-ordination. The hesitation of EU member states towards open co-ordination results primarily from the concept's linguistic and conceptual vagueness. Perceptions and ideas of open co-ordination shape the member states' ways of actually handling the instrument, and in the case of OMCs, the uncertainties have led to a reluctance to utilise the methods.

Two examples illustrate this argument: (i) The German *Länder*, above all the Free State of Bavaria, for a long time perceived the OMCs as another example of Brussels' appetite for competencies and therefore fiercely rejected them. (ii) From the perspective of post-socialist member states, open co-ordination was interpreted as a tool reminiscent of the state-controlled economic targets they were happy to escape at the beginning of the 1990s.

As an attempt to define open co-ordination, the Lisbon Presidency Conclusions' passages (fixing guidelines, timetables and targets; establishing indicators and benchmarks; translating guidelines into national and regional policies; monitoring and evaluating the processes) are not very illuminating, as they offer only a very general and broad picture.¹

Broadly speaking, open co-ordination is an exchange of information between the member states through mutual feedback processes composed of elements that support learning (i.a. by setting common objectives), and that are meant to include executives and parliaments at the European, national and sub-national levels as well as civil society. The aim of open co-ordination is to pool information on national practices and to identify best practices in the EU member states that might serve as guidance for others.

A question of definition

When it comes to details, it is clearly a matter of interpretation and definition as to what open co-ordination comprises, and scholars as well as practitioners have developed different approaches. This paper distinguishes between two major types of co-ordination that are part of the Lisbon Strategy: pre-Lisbon and post-Lisbon (i.e., 'open') co-ordination.

The term 'pre-Lisbon co-ordination' is used here to connote co-ordination in European Economic Policy (Art. 99 TEC) and European Employment Policy (Art. 128 TEC). The Broad Economic Policy Guidelines were introduced as part of European Economic Policy by the Maastricht Treaty in 1992. As an addition to economic co-ordination, the heads of state and government launched the European Employment Strategy, a co-ordination process within Employment Policy, at the 1997 Luxemburg summit. The 2005 Spring European Council in Brussels designated these co-ordination processes – the Broad Economic Policy Guidelines and Employment Guidelines – as core mechanisms of the Lisbon Strategy.²

This pre-Lisbon co-ordination is flanked by a number of processes of open co-ordination that were gradually set up after the spring 2000 summit in Lisbon. These latter co-ordination mechanisms were designed to strengthen the social pillar of EU integration as an addition to economic and monetary integration within the common market. Since the member states were reluctant to transfer further

competencies to the community but nevertheless felt the need for deeper cooperation, a soft mechanism was chosen. However, its fields of application rapidly moved beyond social affairs (see below).

Because the term 'open method of co-ordination' was officially introduced at the Lisbon summit, only the post-Lisbon mechanisms are referred to as OMCs in this paper. Open co-ordination is distinguished from hard co-ordination above all in the sense that it lacks an explicit formal treaty basis.

In order to gain a deeper understanding of OMCs, it is necessary to take a closer look at currently existing OMCs, although they are difficult to track within EU policymaking. In this paper's understanding of open co-ordination (post-Lisbon co-ordination), a dozen OMC processes are currently in operation, all of which were approved between 2000-2002. These encompass the following policy fields (the date and location/forum of adoption are provided in parentheses):

- Better Regulation (European Council, Lisbon 2000)
- Education and Training (European Council, Lisbon 2000)
- Enterprise Policy (European Council, Lisbon 2000)
- Information Society (European Council, Lisbon 2000)
- Research and Development (European Council, Lisbon 2000)³
- Social Inclusion (European Council, Stockholm 2001)⁴
- Environmental Policy (Gothenburg 2001)
- Health Care/Care for the Elderly (Gothenburg 2001)⁵
- Migration Policy (Commission Communication, July 2001, as a follow-up to 1999 Tampere European Council decision)⁶
- Youth Policy (based on a Commission White Paper, November 2001)⁷
- Pensions (European Council, Laeken 2001)⁸
- Tourism (Council Resolution, May 2002)⁹

A dozen OMC processes
launched

Clearly, these fields of application differ qualitatively, as does the corresponding will of member states to truly cooperate in these bastions of national sovereignty. As a result, the specific OMCs differ with regard to (i) their objectives (more/less defined; qualitative/quantitative; short-, medium-, or long-term), (ii) their procedural characteristics (targets, indicators, benchmarks, timetables, national or community action plans), and (iii) their institutional set-up (role of actors and levels involved).¹⁰ In light of this variety, former Belgian Minister Vandembroucke's description of OMCs as not a 'fixed recipe but a cookbook containing various recipes, lighter and heavier ones' is quite illuminating.¹¹

Large variety of OMCs

However, certain general characteristics can be identified that locate the OMCs somewhere in between the community method and an intergovernmental approach. Open co-ordination

- does not require a transfer of legal responsibilities to the supranational level,
- is a non-binding, iterative process without formal constraints,
- has great flexibility with regard to the fields of application and the detailed structure of the processes,
- is open to various actors at the European, national, and sub-national levels, and
- gives important roles to the European Council (which serves as the main forum for the designation and adoption of OMCs), specific Council formations (which decide on the specific design of OMCs), and the Commission (which coordinates and monitors OMCs).

General characteristics

Open co-ordination
in practice: the field
of Social Inclusion

The Social Inclusion OMC provides a helpful example to illustrate OMC practice. This OMC already represents a relatively formalised process that contains a considerable number of elements of open co-ordination. In Social Inclusion, open co-ordination works as follows¹²: based on the Lisbon Presidency Conclusions, the Council (Employment and Social Policy) set up common targets to fight poverty and social exclusion. These targets were formally adopted by the European Council in Nice in December 2000.

The Social Inclusion OMC features a dual structure that involves (i) National Action Plans for social inclusion (NAPincl) and (ii) a supporting Community Action Programme. Based on formal recommendations by the Commission and the European Social Protection Committee, the member states submitted their first NAPincl – including proposals for best practices – in June 2001, which were then evaluated by the Commission. After contentious discussions of the Commission's draft report, the Commission and the Social Protection Committee reached agreement on a Joint Report on Social Inclusion that was adopted by the European Council in December 2001. The Report contained statistical indicators on poverty and social exclusion and served as a basis for the second round of the NAPincl in 2003. Following the OMC principle as an ongoing process of review and adjustment of targets and indicators, the Commission again evaluated the NAPincl, and the European Council adopted a second report in March 2004.¹³

The second strand, the Community Action Programme conducted by the Commission, was adopted by the Council and the European Parliament in December 2001 and commenced operations in January 2002. With a budget of 75 million Euros for the period 2002-2006, the programme will support member state cooperation in combating social exclusion.

While the Social Inclusion OMC thus contains a large variety of elements of open co-ordination (indicators, targets, best practices, National Action Plans, and a Community Action Programme) other OMCs – such as those for Pensions, Health Care/Care for the Elderly, Youth Policy, and Tourism are (currently) less formalised. The large variety of OMCs, the specific challenges that OMCs face in their particular fields of application, and the lack of systematic empirical evaluations give rise to methodological problems: at this stage, it is difficult to fully measure the advantages and disadvantages of open co-ordination in specific policy areas.

However, with the experience gained over five years since the launch of the first OMCs in Lisbon, it is possible to discuss open co-ordination generally as a new instrument of multilevel governance, to identify various opportunities and deficits in the OMC approach, and thereby to evaluate its potential for EU policymaking.

3. Opportunities and deficits of open co-ordination

Deficits discussed

Academics as well as practitioners have discussed a number of problems related to open co-ordination in the Lisbon framework, above all with regard to

- the effectiveness of the methods, which is difficult to measure and needs further empirical study,
- the principle of subsidiarity and, correspondingly, the division of competencies,
- the relationship and distinction between open co-ordination and the community method, and
- the OMCs' 'democratic deficit' due to its executive character.¹⁴

All these findings suggest that economic stagnation and insufficient reforms in a number of member states only partially explain the disappointing mid-term review of the Lisbon Strategy at the Spring 2005 European Council. Another crucial deficit of the Lisbon Strategy is its governance mechanism, i.e., the OMCs.

OMCs currently fall far short of providing a formalised and complete concept such as the community method. Rather, they can be described as a 'laboratory of integration'.¹⁵ In this sense, open co-ordination also offers opportunities for the future of EU policymaking. The following paragraphs discuss the opportunities presented by open co-ordination as well as particular structural deficits that the existing OMCs have revealed over time.

Laboratory of integration

3.1. Opportunities of open co-ordination

The basic idea of open co-ordination – co-ordination rather than legislation; open to various actors, policies, and methods; transparent and open to the public – provides the ground for a number of opportunities for EU policymaking:

Merits of flexibility

- *No formal transfer of competencies*: with OMCs, the member states are and continue to be free in their decisions concerning national policies. If there is political consensus amongst the member states, open co-ordination can be implemented without changing the distribution of competencies in the Treaties, which is always a politically sensitive issue.
- *Flexibility*: Open co-ordination is a flexible instrument that can be extended pragmatically to various institutional settings and administrative procedures without requiring further elaboration in the Treaties.¹⁶
- *Lower 'threshold for participation'*: OMCs were installed in policy areas where member states are not willing to give up further competencies to the EU, but nevertheless feel the need to co-operate more closely. Because open co-ordination lacks formal sanctions, member states' resistance to further co-operation is reduced.
- *A means to complement 'hard' economic integration*: Since member states are and probably will remain reluctant to surrender further sovereignty in certain sensitive policy areas (such as Social Policy), open co-ordination can complement economic integration by providing an instrument for the further development of a European approach to Social Policy.
- *Potential for participatory, bottom-up governance*: Open co-ordination can develop into a new instrument of truly democratic multilevel governance, complementing the existing instruments of EU policymaking that are either intergovernmental or supranational.
- *Making learning a value in itself*: Open co-ordination, a concept taken from the private sector, makes learning an integral part of the political process. This unique form of co-operation within the EU might prove to be a competitive advantage for the Union by effectively supporting member states on their way to becoming knowledge-based economies.
- *Dealing with diversity*: Open co-ordination is an instrument that builds on diversity. Diversity is often perceived as an obstacle to EU policymaking rather than as an advantage. However, by aiming toward a 'convergence on the level of ideas'¹⁷ rather than legal harmonisation, open co-ordination might demonstrate that the potential benefits of diversity have not been sufficiently exploited by the EU.

3.2 Deficits of open co-ordination

An overly flexible concept

Despite these positive aspects, the potential of open co-ordination remains under-exploited. The Kok report provides an important overview of the weaknesses of open co-ordination.¹⁸ In its contribution to the mid-term review of the Lisbon Strategy in spring 2005, the High Level Group pointed out that the main deficits of the Strategy are (i) a general lack of member state commitment and political will toward the overall Lisbon objectives, (ii) an overloaded agenda, and (iii) poor co-ordination as well as conflicting priorities. With specific regard to the OMCs, the experts criticised the weak involvement of the European Parliament, a lack of public pressure on the member states, and insufficient dialogue among national parliaments, citizens, public authorities, and stakeholders.

In addition to these problems, a number of horizontal aspects of open co-ordination require further discussion. These include:

- *No consensus on the overall objective of open co-ordination:* What is the clear objective of a proposed OMC? Does a particular OMC seek to establish a process of policy learning or a process of policy co-ordination? What steps must be undertaken to reach this objective? The European Council was too vague on this issue. Consequently, a considerable number of problems have arisen during the planning and implementation of the various OMCs.¹⁹
- *Criteria for potential fields of application missing:* Currently, the main rationale for implementing an OMC in a specific policy area is connected to the distribution of competencies, i.e., OMCs can be established only where the EU does not have further legislative competencies. It is questionable whether this approach represents the best way to identify the most appropriate policy fields for instituting OMCs. Irrespective of the actual distribution of competencies, which policy fields are most conducive to OMCs? What are the criteria for identifying suitable fields of application?
- *Lack of member states' commitment to open co-ordination:* OMCs are non-binding and leave member states great room for manoeuvre in organising processes at the national and sub-national levels. While this flexibility is one of the advantages of open co-ordination, it also allows participating member states to circumvent co-ordination processes or engage in OMCs as an exercise in symbolic politics, with consequent negative effects on outcomes. Furthermore, only a limited number of national officials are involved in peer reviews or the formulation of National Action Plans. As a result, the direct impact of open co-ordination at the national level is quite low. How can ownership of OMCs be improved?
- *Lack of democratic participation:* OMCs currently exacerbate the democratic deficit of EU policymaking. They are in many ways bureaucratic exercises for European, national, and sub-national administrations. Neither parliaments nor stakeholders are sufficiently involved, and the processes lack transparency. This type of governance is one of the reasons why EU citizens are dissatisfied with the Union's policymaking, as the failed referenda on the Constitutional Treaty in France and the Netherlands have recently shown. Is there a way to make the OMCs more democratic?
- *The obstacle of heterogeneity:* The objective of enhancing member state ownership of the Lisbon process turned out to be highly ambitious. Among other factors, this has to do with different priorities among the EU-25 member states regarding the three pillars of the Lisbon agenda, i.e., economic growth, social

coherence, and environmental sustainability. The failed referendum in France demonstrated that French public opinion places a high priority on a more social Europe. In contrast, the UK and many new member states appear to have a greater interest in economic growth than the development of common social policies. Already diverse, the EU has become even more heterogeneous as a result of enlargement. Does this diversity present a significant obstacle to open co-ordination? Or, as mentioned above, is open co-ordination the key for coping effectively with this diversity?

- *Non-Constitutionalisation of open co-ordination*: Open co-ordination (i.e., post-Lisbon co-ordination) is not anchored in the Treaty of Nice as an official policymaking instrument. Part III of the Constitutional Treaty mentions the use of open co-ordination in certain current and potential fields of application (Social Policy, Research and Technological Development, Health Policy, and Industrial Policy) but contains no horizontal article on open co-ordination. An important reason for the Convention's ultimate decision not to include the method as a general principle into the Draft Constitutional Treaty was that the concept's vagueness had turned it into a kind of non-word amongst EU and national officials. As a consequence, if the Constitution is ultimately ratified – an uncertain prospect at the moment – open co-ordination will enter constitutional law in a rather unsystematic way. If the Treaty of Nice continues to serve as the EU's legal basis, OMCs will remain unmentioned in primary law. But if open co-ordination is to move beyond the realm of symbolic politics and develop into an effective, democratic instrument of multilevel governance, it must be established as a formal instrument of governance in the Treaties.

While one of the main advantages of open co-ordination is its flexibility and 'openness', the above list of deficits reveals that this high degree of flexibility also presents an obstacle to open co-ordination. How can one tackle the deficits of open co-ordination without giving up its flexibility? The following section offers six proposals to meet this challenge.

Reconciling flexibility and effectiveness

4. Six proposals for taming open co-ordination

4.1. The overall objective of open co-ordination

The objectives of open co-ordination are likely to vary depending upon the policy field addressed, and the corresponding processes need to be designed in a manner that allows these objectives to be effectively achieved. The EU tried to respond to this problem by setting up different kinds of open co-ordination over time. But the European Council, which has the right to initiate OMCs, has remained too vague in its definitions, trying to bridge the different approaches and objectives of the member states in respective policy areas. This vagueness has turned into a burden for daily political practice: different understandings of the broad European Council definitions emerged within the EU bodies, leading to institutional rivalries and a diffusion of different practices. Therefore, from the very beginning, there should be a clear consensus, at the level of the European Council, on the objectives and procedures of each respective OMC. This means that OMC reforms must address the decision-making phase and not only, as is often argued, the implementation phase.

Clear consensus on objectives

If the objective of an OMC is to promote a learning exercise for member states, a conceptual framework for policy learning must be developed. If the OMC's goal is

to co-ordinate policies, then the OMC must be set up to meet specific requirements of policy co-ordination.

Defining an objective also involves identifying the most appropriate instrument to achieve this goal. This does not necessarily imply choosing open co-ordination. The community method or a mix of both might be an alternative (see Section 4.2).

4.2. Potential fields of application

There are different approaches to identifying the potential policy fields to which OMCs might apply. From a strictly legal point of view, OMC processes can be established only where the EU does not have further legislative competencies. Supporters of the community method argue that if OMCs were applied in areas where the EU possesses legislative competencies, they would create a kind of 'legislation through the back door' that would threaten the community method.²⁰ Others suggest that OMCs or OMC-type processes could also flank existing EU legislative instruments, as is already happening in areas such as Asylum and Immigration Policy and Environmental Policy.²¹ However, the existing distribution of competencies should not be regarded as permanent. Consequently, it is important to think open co-ordination beyond the present division of competencies.

Identifying promising fields of application

What are promising fields of application? This question is closely related to the issue of defining the objectives of open co-ordination. Ederveen et al. suggest that one parameter for distinguishing among relevant policy fields is the existence of cross-border externalities or international spillover.²² There are policy areas with a strong potential for external spillover from one country to another, such as Research and Development, whereas others do not have strong direct effects on other member states (e.g., employment rates). Ederveen et al. argue that OMCs should not be applied in areas possessing strong spillover potential, i.e., areas that could enhance EU-wide competitiveness in the short or medium term, because open co-ordination is a relatively weak tool (due to its non-binding nature and lack of sanctions). They suggest that policy areas with strong potential for external spillover be regulated within the framework of EU legislation rather than through open co-ordination. In contrast, areas with less potential for external effects fit better into OMC processes that support trans-national learning in a long-term perspective. If an OMC is set up as a learning process, the EU's diversity is not an obstacle but rather a resource and a condition for progress. In such cases, the design of the learning process is of crucial importance.

European approach to learning patterns

Learning implies comparing the situation in one member state or region to another. This requires a careful preliminary analysis to determine if and how the various units can be compared. Consequently, the EU needs to develop a framework for learning patterns that takes the specific challenges of specific sectors into consideration (e.g., the highly competitive character of national innovation policies that presents an obstacle to effective learning²³). Such a framework will require a European 'culture of strategic management'.²⁴

Content-driven rather than legal approach

In contrast to the legal-based approach, this content-driven approach to potential fields of application involves the conceptualisation of OMCs beyond the policies covered by the Lisbon agenda, and beyond the actual division of competencies, since competencies might be questioned and transferred to OMCs and vice versa.

It also means evaluating existing OMCs to find out whether open co-ordination is an appropriate tool at all. Discussing open co-ordination in connection with the issue of competencies might be politically sensitive, as it touches directly on a politically volatile subject, but it would also provide a new facet to the debate on the distribution of competencies within the multilevel system of the EU. From this perspective, OMCs do not present a threat to the community method but rather represent a new tool for improving the EU's governance mechanisms.

4.3. Enhancing the member states' commitment to open co-ordination

There are three primary ways to improve the commitment of member states to OMCs: public pressure, formal constraints, and financial incentives.

Public pressure

Public pressure through the mechanism of naming and blaming has not been particularly effective in the OMCs launched thus far. Beyond the fact that formal sanctions are not part of the OMC framework, the main reason for this failure is the low profile of OMCs within national political processes: they fall within the purview of small circles of national administrations. As a consequence, open co-ordination suffers from a lack of political, public and media attention. Lisbon is perceived as one of the many faceless, apolitical, technocratic, and complex EU processes that are difficult to communicate to a broader public. Moreover, although there has been recent improvement, member states have largely failed to draw a clear line between the Lisbon economic and social reform agenda and the domestic reform processes in their own countries. But as the 'PISA shock' proved, comparing national practices and publicly ranking them can actually put pressure on governments to undertake reforms in order to perform better. One cannot expect that this pressure will occur if OMCs remained relatively hidden within administrations. On the contrary, as peers among peers, national administrations might show consideration for other administrations rather than blaming them. Public pressure can only grow if Lisbon receives greater attention within broader national debates.

Making open co-ordination a reference point in national debates

Formal constraints: the stick

A second option involves the introduction of formal sanctions. This strategy would face a major hurdle, however: it is unlikely that member states would voluntarily introduce sanction mechanisms, and even if they did, the example of the Stability and Growth Pact has demonstrated that constraints can be handled quite loosely. Finally, since open co-ordination must be conducted primarily at the national level in order to function effectively, the sanction 'stick' should be handled carefully in order to avoid being counterproductive.

Careful management of constraints

Financial incentives: the carrot

As a third alternative, financial incentives could reinforce member state commitment to OMCs. The High Level Group suggested restructuring the EU budget according to the Lisbon priorities, in order to encourage member states to meet the Lisbon targets. But this would require a fundamental reform of the EU budget, which, in light of the current state of negotiations on the Financial Perspective

Linking Lisbon to the new Financial Perspective

2007-2013, is not a very realistic scenario. Furthermore, one of the main advantages of OMCs is that they do not affect the Community budget (except for Research and Development and Environmental Policy). Financing areas of open co-ordination will therefore be a highly difficult task. But the EU set an example that this 'carrot' can be effective: in 1999, the European Social Fund (ESF) was established as an instrument to implement the EU's Employment Strategy. Ever since, member states must guarantee that national measures receiving ESF co-financing support the objectives of the Employment Strategy, i.e. Lisbon. In other areas, the linkage between EU finances and the Lisbon Strategy is still weak and needs to be further developed.

4.4. Making open co-ordination more democratic

If open co-ordination is to become an official part of the EU policymaking toolbox in the long run, it must become more democratic. This can be achieved through greater transparency as well as the increased involvement of the European Parliament and national parliaments.

Transparency

Commission management of OMCs

Transparency is an important requirement for getting the media and public involved. OMCs are difficult to trace in EU and national policymaking processes because of their open, flexible, and multilevel character. Thus, information on all OMC processes should be systematically documented (legal basis, actors involved, measures taken and state of play) and made available to the public. The Commission, which already plays a coordinating and monitoring role, has the resources and independence to manage OMCs (by collecting data, conducting analysis, identifying best practices, and providing government and public access to relevant information).²⁵ Within the Commission, there should be a clear delegation of responsibility for OMC management ('Mr. OMC'). The Commission should develop an official OMC scoreboard (as is already provided, for example, by the Centre for European Reform) and discuss it with both the media and involved actors on a regular basis.

Effective communication with regard to open co-ordination is a challenge unto itself, as it requires OMCs to have a transparent structure, e.g., a limited set of indicators that are digestible by the public and media.²⁶ But making OMCs media-friendly may clash with the need for accuracy and member state acceptance, which require a larger set of indicators that also respect national diversity. On the other hand, a 'more compact' OMC would not only correspond to media needs but also promote a more manageable process. Thus the requirements of policymakers and the media are not necessarily opposed.

Furthermore, it would help to develop a new terminology for communicating the Lisbon Strategy: Open co-ordination is an expression that is both overly technical and confusing. Officials at the EU and national levels have all but abandoned this terminology, and its vagueness has made it a difficult concept to translate into concrete policymaking processes. More illustrative terms such as 'trans-national learning' or 'competition of ideas' might offer useful alternatives.

Involving Parliaments

Strengthening parliamentary discussion of and participation in OMCs offers an additional avenue for making OMC processes more democratic. The Standing Committee that was established in the European Parliament during the Lisbon mid-term review should be upgraded to the status of a Committee dealing horizontally with economic, social, and environmental questions. The EP should establish a plenary session on the Lisbon agenda before each Spring European Council and invite representatives of national parliaments to these debates.²⁷ The participation of national parliaments should also be enhanced by extending the Constitutional Treaty's early warning mechanism to areas of open co-ordination.

Plenary sessions of the EP and national parliaments on Lisbon

4.5. Dealing with heterogeneity through differentiation

Open co-ordination is trapped in a dilemma: On the one hand, comparison and learning require a certain degree of diversity. On the other hand, an excessive diversity of preferences might hinder open co-ordination, as member states might chose to ignore such diffuse processes.

Creating OMC islands within the EU

Differentiated integration is a promising strategy in light of the growing diversity of an enlarged EU. Member states that share objectives and face similar problems in specific fields – e.g., because they possess similar social welfare systems – could decide to establish an OMC together. Limiting OMCs to smaller groups of member states would provide a further benefit in that peer pressure works much better in groups of smaller size. 'OMC islands' could develop within the EU, and additional third countries could be invited to participate, as is already the case in the European Charter for Small Enterprises. Combining open co-ordination and the concept of differentiated integration might thereby prove to be an important innovation within EU policymaking.²⁸

4.6. Constitutionalising open co-ordination

Treaty provisions matter in the EU.²⁹ One might make the counterargument that, for example, the introduction of provisions on enhanced co-operation into the Treaties has had no positive effect on the application of enhanced co-operation as yet. In contrast to enhanced co-operation, however, OMCs already exist without formally being part of the Treaties. A provision on open co-ordination would acknowledge existing OMC practice and make it more binding and transparent.

To preserve the flexibility of open co-ordination, there should be no absolute, exclusive list of fields of application. Instead, a horizontal article should be formulated. This article could delineate the key features of open co-ordination (a prototype OMC) from which diverse variations might develop according to the different requirements of respective policy fields. The article could broadly define open co-ordination as a mutual feedback process that is composed of elements to support learning; that includes executives and parliaments at the European, national, and sub-national levels as well as civil society; that must be compatible with other requirements resulting from primary and secondary law and from EC policies; and that must respect the objectives of the Treaties. Details on the procedures could then be listed in a catalogue that might include the following components:

Setting a constitutional framework

- OMCs must be initiated by a formal decision of the European Council, and this decision must include a clear definition of the OMC and delegate the operational set-up to the Commission and Council;
- During the set-up of an OMC, the Commission and Council must consult all concerned actors within the relevant policy field (including, e.g., the private sector and civil society) in order to develop suitable OMC objectives and processes;
- The Commission must report systematically and regularly to the European Parliament and national parliaments;
- OMC processes must be regularly documented and reviewed through transparent procedures managed by the Commission; these procedures should evaluate not only the outcome of the OMC but the OMC process itself;
- The early warning mechanism must be applied to OMC processes (i.e., national parliaments and the European Court of Justice must be involved).

Greater transparency and democratic legitimacy

This catalogue of measures would reduce the excessive ‘openness’ of current OMC processes and enhance the transparency and democratic legitimacy of open co-ordination. This clarification of procedures and principles would also affect decision-makers’ perception of open co-ordination: having a clear ‘road map’ (what you see is what you get) rather than a vague concept that can be variably interpreted might enhance the – heretofore inadequate – commitment of member states to open co-ordination. Nevertheless, since these recommendations contain neither a definitive list of fields of application nor a detailed design that must be applied to all OMCs, the method’s flexibility would be preserved.

5. Concluding remarks

Political framework of the EU as a competitive advantage

Cross-border comparisons of national practices, as is performed within OMCs, are not new. But such comparisons go further within the EU context than in other institutions such as the OECD, because the EU offers a political framework that is lacking in other international arenas. In that sense, the unique system of the EU – with its formalised co-operation and multilevel exchange of information and ideas – can turn out to be a competitive advantage, even without the existence of formal constraints.

So far, the history of open co-ordination has been very short, and the experience of a few years has probably revealed more weaknesses than positive results. In light of these performance deficits, open co-ordination certainly does not represent a policymaking panacea. However, this does not mean that its inherent potential cannot be further developed and realised, or that it should be dropped as an instrument of governance.

The promise of a laboratory of integration

Lisbon was initiated in 2000 as an umbrella strategy grouping existing priorities and policies in order to establish greater coherence from the top. The launch of the first OMC generation was characterised by a significant amount of randomness. From a bottom-up perspective, much progress remains to be made in making open co-ordination an effective instrument of governance. In that sense, open co-ordination will remain a ‘work in progress’ and a ‘laboratory of integration’ during the upcoming years. The strategies and measures proposed in this paper seek to reduce the concept’s vagueness and thereby to help transform open co-ordination from a second-best alternative to a democratic and effective option in multilevel governance.

Notes

- 1) European Council (Lisbon, 23-24 March 2000), Presidency Conclusions, paragraph 37. All Presidency Conclusions can be downloaded at http://www.europa.eu.int/european_council/conclusions/index_de.htm. See also Colin Shaw, Paper presented to the workshop 'The Open Method of Coordination (OMC) as a new mode of governance', Bertelsmann Foundation, Guetersloh, 7-8 April 2005 (unpublished).
- 2) European Council (Brussels, 22-23 March 2005), Presidency Conclusions, chapter II C.
- 3) European Council (Lisbon, 23-24 March 2000), Presidency Conclusions.
- 4) European Council (Stockholm, 23-24 March 2001), Presidency Conclusions, paragraph 28.
- 5) European Council (Gothenburg, 15-16 June 2001), Presidency Conclusions, paragraphs 19-25 (Environmental Policy), paragraph 43 (Health Care/Care for the Elderly).
- 6) COM (2001) 387 final, July 2001.
- 7) Neuer Schwung für die Jugend Europas. Weißbuch der europäischen Kommission, Luxemburg 2002.
- 8) European Council (Laeken, 14-15 December 2001), Presidency Conclusions, paragraph 30, and Joint Report from the Social Protection Committee and the Economic Policy Committee on objectives and working methods in the area of pensions (14098/01 + COR 1 (nl)).
- 9) Shaw 2005.
- 10) For a systematic approach, see Shaw 2005.
- 11) Quoted in Jonathan Zeitlin, 'Social Europe and Experimentalist Governance: Towards a New Constitutional Compromise?' European Governance Papers No. C-05-04 (May 2005), p.7 (<http://www.connex-network.org/eurogov>).
- 12) See Ute Behning, 'Die "neue Methode der offenen Koordinierung". Versuche der integrationstheoretischen Klassifizierung einer neuen Form des sozialpolitischen Regierens in der Europäischen Union', Österreichische Zeitschrift für Politikwissenschaft 33:2 (2004), pp. 127-136.
- 13) Drawing together work in Social Inclusion, Pensions, and Health Care these OMCs were streamlined in the third round of NAPs in 2005 ("Joint Report on Social Protection and Social Inclusion"), see http://europa.eu.int/comm/employment_social/social_inclusion/jrep_en.htm.
- 14) For an OMC bibliography see <http://www.eucenter.wisc.edu/OMC/index.htm>.
- 15) Claus Giering and Almut Metz, 'Laboratory for Integration. Opportunities and Risks of the "Open Method of Coordination"', EU-Reform-Spotlight 02/2004 (<http://www.eu-reform.de>).
- 16) However, this does not mean that, as Kenneth Armstrong concludes, OMCs are completely void of laws: '(...) rather than OMC standing in opposition to law, it may require us to think more imaginatively about what is happening to law in the European Union.' Kenneth Armstrong, 'The Open Method of Coordination: How "Soft" a Mode of Governance?' Paper prepared for the workshop 'The Open Method of Coordination (OMC) as a new mode of governance', Bertelsmann Foundation, Guetersloh, 7-8 April 2005 (unpublished).
- 17) Claudio M. Radaelli, 'The Open Method of Coordination: A new governance architecture for the European Union?' SIEPS Rapport 1 (2003), p. 9 (<http://sieps.su.se>).
- 18) Facing the Challenge: The Lisbon Strategy for Growth and Employment. Report from the High Level Group chaired by Wim Kok. November 2004 (http://europa.eu.int/growthandjobs/pdf/kok_report_en.pdf)
- 19) In the field of pensions, for example, there was 'institutional competition between the Economic Policy, Social Protection and Employment Committees, and the corresponding Councils and Directorates-General of the Commission, to shape the agenda of pension coordination and benchmarking'. See Caroline de la Porte, Philippe Pochet, and Graham Room, 'Social benchmarking, policy making and new governance in the EU', Journal of European Social Policy 11:4 (2001), pp. 291-307.
- 20) The main characteristics of the community method are the monopoly of initiative of the Commission, joint decisions of the Council (usually through qualified majority voting) and the European Parliament, and supervision through the European Court of Justice.
- 21) See Ingmar von Homeyer, 'The role and performance of the OMC in EU environmental policy', Paper prepared for the workshop 'The Open Method of Coordination (OMC) as a new mode of governance', Bertelsmann Foundation, Guetersloh, 7-8 April 2005 (unpublished).
- 22) Sjeff Ederveen, Albert van der Horst, and Paul Tang, 'Is the European Economy a Patient and the Union its Doctor?' ENEPRI Working Paper No. 35 (2005), pp. 38-40 (<http://www.enepri.org>).
- 23) Robert Kaiser and Heiko Prange, 'Die Offene Methode der Koordinierung in der europäischen Innovationspolitik: Grenzen und Perspektiven', integration 2/2005, pp. 162-172.
- 24) Maria J. Rodrigues, 'Introduction: For a European strategy at the turn of the century'. In: Maria J. Rodrigues, ed., The New Knowledge Economy in Europe. A Strategy for International Competitiveness and Social Cohesion (Celtenham/Northampton: E. Elgar, 2002), pp. 1-27.
- 25) See also Centre for European Reform/Institut Montaigne, 'A manifesto for Europe: 20 steps to relaunch the EU' (2005), paragraph 19 (www.cer.org.uk).

26) Bernd Schulte, 'The implementation capacity of the Open Method of Coordination in related policy areas: Selected cases', Paper prepared for the workshop 'The Open Method of Coordination (OMC) as a new mode of governance', Bertelsmann Foundation, Guetersloh, 7-8 April 2005 (unpublished).

27) See Mario Telò, 'Governance and government in the European Union: The open method of coordination'. In: Maria J. Rodrigues, ed., *The New Knowledge Economy in Europe*, pp. 242-271.

28) See also Janis Emmanouilidis, 'Der Weg zu einer neuen Integrationslogik – Elemente flexibler Integration in der Europäischen Verfassung'. In: Werner Weidenfeld, ed., *Die Europäische Verfassung in der Analyse* (Gütersloh: Verlag Bertelsmann Stiftung, 2005), pp. 149-172; Janis Emmanouilidis, Claus Giering and Almut Metz, 'Flexible Integration – Aktuelle Konzepte der europäischen Integration vor dem Erweiterungshintergrund', Report, Center for Applied Policy Research, Munich (2004, unpublished).

29) See also Zeitlin 2005.

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