

# EUROPEAN GOVERNANCE PAPERS

No. N-07-01

**Manuele Citi and Martin Rhodes**

New Modes of Governance in the EU:  
Common Objectives versus National  
Preferences

## EUROGOV

**EUROGOV** is funded by  
the EU's 6<sup>th</sup> Framework Programme, Priority 7



European Governance Papers

EUROGOV

ISSN 1813-6826

<http://www.connex-network.org/eurogov/>

The European Governance Papers are a joint enterprise by



---

Date of publication: January 16, 2007

*New Modes of Governance in the EU: Common Objectives versus  
National Preferences*

© 2007 Manuele Citi and Martin Rhodes

Manuele Citi – European University Institute – [Manuele.Citi@eui.eu](mailto:Manuele.Citi@eui.eu)

Martin Rhodes – Professor, Graduate School of International Studies, University of  
Denver – [Martin.Rhodes@du.edu](mailto:Martin.Rhodes@du.edu)

---

Citing this **EUROGOV** paper:

Citi, Manuele and Martin Rhodes. 2007. New Modes of Governance in the EU: Common Objectives versus National Preferences. *European Governance Papers (EUROGOV)* No. N-07-01, <http://www.connex-network.org/eurogov/pdf/egp-newgov-N-07-01.pdf>.

---

© Each **EUROGOV** Paper and its format and content (texts, images, data etc.) are protected by legislation on Intellectual Property, and may not be used, reproduced, distributed, modified, publicly disclosed, conveyed or transformed in any other way without the explicit permission of the Author(s). The common scientific citation is exempted from these property rights.

## Abstract

The emergence in the European Union of new modes of governance (NMG) such as the Open Method of Coordination (OMC) has produced an enormous literature that falls into four broad categories: a theoretical approach seeks to explain why such methods emerged and locates them in existing theories of European integration, policy-making and institutional change; a strongly normative approach extols the non-hierarchical, deliberative virtues of NMG and ‘soft’ law and prioritizes the potential of the OMC as a font of ‘social learning’; a more empirical approach assesses new modes in operation across different policy areas and countries; and a more critical approach assesses the claims made on the OMC’s behalf as an effective instrument of policy making. Apart from our concern to critically review this literature, our aim is also to focus in on one of its greatest deficiencies: the absence, hitherto, of a comprehensive, multi-level framework for analysis, capable of specifying the conditions under which OMC practices are likely to produce a convergence of member state policies on common objectives. In doing so we also bring into our account a parallel literature – on policy diffusion and learning – that is frequently referred to by studies of the OMC and other new modes of governance but is rarely integrated systematically into their analysis.

**Keywords:** Europeanization, open coordination, governance, policy learning, policy diffusion, deliberative democracy

## Table of Contents

<b>1</b>	<b>INTRODUCTION.....</b>	<b>4</b>
<b>2</b>	<b>THE LISBON STRATEGY AND NEW MODES OF GOVERNANCE .....</b>	<b>8</b>
<b>3</b>	<b>ASSESSING POLICY CONVERGENCE CAPACITY.....</b>	<b>10</b>
3.1	Simple benchmarking and/or recommendations .....	11
3.2	Voluntary policy objectives + benchmarking and peer pressure.....	12
3.3	Voluntary policy objectives + benchmarking and peer pressure + structured coordination process .....	13
3.4	Legally-binding policy objectives + benchmarking and peer pressure + structured coordination process .....	13
3.5	Legally binding regulations .....	15
<b>4</b>	<b>THE RATIONALITY OF POLICY LEARNING and TRANSFER .....</b>	<b>15</b>
<b>5</b>	<b>CONCLUSION .....</b>	<b>21</b>
	<b>List of References .....</b>	<b>23</b>
	<b>List of Figures.....</b>	<b>29</b>

## 1 INTRODUCTION\*

The emergence in the European Union of new modes of governance (NMG) such as the Open Method of Coordination (OMC) has produced a flurry of analyses concerning its nature and significance. This extensive literature falls into four broad categories. A theoretical approach seeks to explain why such methods emerged and locates them in existing theories of European integration, policy-making and institutional change (e.g. Magnus Johansson 1999; Ioannou and Niemann 2003; Wessels 2003; Schäfer 2004). Then there is a strongly normative approach that extols the non-hierarchical, deliberative virtues of new modes of governance and 'soft' law and prioritizes the potential of the OMC as a font of 'social learning' (e.g., Sabel and Zeitlin 2003; Mosher and Trubek 2003; Cohen and Sabel 2003, 345-375; Eberlein and Kerwer 2004). A third, more empirical approach assesses new modes in operation across different policy areas and countries (Zeitlin et al 2005; De la Porte and Pochet 2003 scan the field<sup>1</sup>). Finally, a more critical approach assesses the claims made on the OMC's behalf as an effective instrument of policy learning and transfer within the EU's multi-level polity (e.g. De la Porte 2002; Héritier 2003, 105-126; Scharpf 2002 and 2003, 79-104; Kröger 2004; Eckardt 2005; Heidenreich and Bischoff 2006).

The first, theoretical approach is concerned with explaining the emergence of new modes of governance in the EU is probably the least developed – at least in terms of the quantity of work devoted to it. In one of the few analyses of this kind, Ioannou and Niemann's (2003) survey suggests that a neo-functionalist approach can explain the emergence of the OMC, for example, via the 'spillover' from the development of the single market and EMU, and the consequent loss of national policy-making instruments for promoting employment growth (see also Scharpf 2002). However, intergovernmentalist and rational-choice institutionalist analyses are better at explaining why governments chose this particular alternative to the conventional Community Method of legislation and why they delegated so little authority to the European supranational authorities responsible for it. Indeed, Schäfer (2004, 13) argues that governments supported the soft-law OMC for 'sovereignty-protecting' reasons – "because of its low degree of legalization and limited potential for unintended consequences".

The second, normative approach has been strongly inspired by two closely-related concerns: first, the idea that the OMC can contribute to alleviating Europe's democratic deficit; and second that it can bring the purported virtues of deliberative policy-making to the EU – i.e., the involvement of what Eriksen and Fossum (2001) call 'strong publics' in promoting debate and the search for consensus and 'truth' via 'reasonable' discussion. However, such arguments raise several counter-positions: that even if the EU suffers from a 'democratic deficit', involving interest groups in a

---

\* The authors wish to thank Caroline de la Porte and Ingo Linsenmann for their comments on earlier drafts of this chapter. This is a revised version of a chapter to appear in M. Pollack, B. Rosamond and K. E. Jorgensen (eds.), *The Handbook of European Union Politics*, Sage Publications, 2007.

<sup>1</sup> See also the Cologne-based Govecor project (<http://www.govecor.org>), which explores the emergence of new modes of socio-economic governance in the EU. Access to a wide range of pertinent literature can also be found on the OMC Research Forum site of the EU Centre of Excellence at the University of Wisconsin-Madison <http://eucenter.wisc.edu/OMC/open12.html>.

form of 'weak Euro-corporatism' would not necessarily do anything to correct it (in fact, the experience of national corporatism might suggest the opposite); that the legitimacy conveyed by deliberation may well lack real *political* legitimacy, both because it is divorced from the approval of general publics (i.e. through elections) and from the genuine expertise of policy-makers (Ryfe 2005); that while those promoting deliberation believe it raises consciousness and fosters the search for 'truth', it may also generate the costs of "wasted time, procrastination and indecision, stalling in the face of needed change, and unfair control of agendas" (Shapiro 2002). In reality, there is nothing intrinsically democratic in deliberation processes as such. Indeed, the third, more empirically-focused literature, provides a wealth of detail about the ways in which particular new methods of governance, especially the multiple varieties of OMC, are conducted in practice, and provides ample material for assessing those normative claims (we refer to much of the empirical literature below, but see especially Govecor 2004).

That assessment is carried out in a fourth literature which, more analytical and critical in its approach, brings a useful antidote to the normative perspective by revealing how little new modes of governance, and the OMC in particular, conform to deliberative ideals (De la Porte and Nanz 2004; Kröger 2004). It notes the challenges they pose to more traditional (and often more democratic) forms of decision making, including the Community Method (Smismans 2004 refers to the OMC as the 'Open method of centralisation' because of its centralising, non-democratic nature); it illustrates the low degree of integration or influence of such methods within national policy-making communities (Govecor 2004; Zeitlin and Pochet with Magnusson 2005); it considers the trade-offs between experimentalism and efficacy that inevitably afflict them; and it advocates the need to link 'soft' and 'hard' forms of governance – the first 'in the shadow' of the second, or as 'hybrid' instruments and processes – if real outcomes, rather than mere 'cheap talk', are to result (Scharpf 2002; Héritier 2003, 105-126; Kröger 2004; Rhodes 2005; Trubek and Trubek 2005; Trubek, Cottrell and Nance 2005).

Apart from our concern to provide a critical survey and review of this literature – we touch on all four streams in the literature, and comment on their most important arguments and claims in the analysis that follows – our aim is mainly to focus in on what we consider to be one of its greatest deficiencies: the absence, hitherto, of a comprehensive, multi-level framework for analysis, capable of specifying the conditions under which OMC practices are likely to produce a convergence of member state policies on common objectives. In doing so we also bring into our account a parallel literature – that on policy diffusion and learning. This literature and its core concepts is frequently referred to by studies of the OMC and other new modes of governance (it is central to many of the more normative studies), but its many important insights are rarely integrated systematically into their analysis. It is important that we do this, for four reasons.

The first is that a core (though often rhetorical) question in much of the literature to date is: "does, or can, the OMC work?" With few exceptions, however, there is little attempt to answer this question systematically. The second and closely related reason is that much analysis frames the question "does, or can it, work" in terms of 'improving governance', defined largely in terms of openness, inclusion and extent of participation (see De la Porte and Nanz 2004 for a critique). The subsequent step is

often to *assume* on the basis of fragmented evidence rather than clearly *ascertain* the contribution that these instruments can make to enhancing ‘policy learning’ as a major mechanism for advancing collective decision-making and regulation. Third, while the overwhelming focus of the literature is thus on the potential of NMG for what Scharpf (1998, 2) calls ‘input legitimacy’, whereby “collectively binding decisions should originate from the authentic expression of the preferences of the constituency in question”, much less well understood or considered (though see Scharpf himself in Scharpf 2002, and Bursens and Helsen 2005) is their capacity for achieving ‘output legitimacy’, i.e. the effective application of collectively binding decisions that serve a constituency’s common interest. We argue that any instrument of policy, no matter how elaborately developed, will be ignored and abandoned unless ‘output legitimacy’ is also achieved or achievable.

A fourth and final reason for focusing on the effectiveness of OMCs is that in the absence of a frank and analytically-focused discussion of the policy convergence capacity of these instruments, the literature and debate on new modes of governance and the OMC has tended to polarise on normative grounds. This is frequently linked to other but closely-related political debates on the desirability of a strengthened European ‘social dimension’ (i.e., a greater elevation of social welfare policy to the EU level) and the need to correct the EU’s purported ‘democratic deficit’, as revealed by the debate on ‘constitutionalizing’ the OMC in the European convention (Tsakatika 2004; Moravcsik 2005; Trubek and Trubek 2005). While one popular academic thesis maintains that both input *and* output legitimacy can be achieved via deliberation and mutual learning (e.g. Sabel and Zeitlin 2003; Eberlein and Kerwer 2004; see Zeitlin 2005a, 447-503 for a discussion), the opposing view (e.g. Chalmers and Lodge 2003) holds that the OMC fails miserably on both counts. For ultra-sceptics Alesina and Perotti (2004, 8) the OMC is largely an innocuous exercise in “Euro-verbosity”, but one with damaging “Kafkaian” dimensions. They opine that not only is it a waste of time and money, but it “has set back the level of the debate and understanding by the public by giving the impression that some EU institutions actually know how to solve the problem of European employment if only national governments cooperated”. More sober, schematic assessments are clearly needed.

We argue that any analysis of the potential of NMG for producing effective policy convergence must begin by examining the links between policy inputs and outputs in the EU’s multi-level polity. Within that architecture, policy confluence or convergence is determined both by supranational factors (i.e., common institutions, concerns and objectives) and by national factors (domestic interests and preferences, the costs of domestic implementation and openness to policy transfer). For that reason, two different variables need to be taken into account – one from a ‘top-down’ perspective, the other from a ‘bottom-up’ perspective. In so doing we respond to calls in the general EU policy literature as well as by OMC specialists for a focus on the two-way, reciprocal relationship between Europe and its member states rather than on the search for one-way impacts (e.g., Boerzel 2003; Zeitlin 2005b, 16; Trubek and Trubek 2005, 356-357; Heidenreich and Bischoff 2006). We also respond to calls (e.g., by Trubek, Cottrell and Nance 2005) for the need to bridge the divide between rationalism and constructivism in studies of national and international governance when considering the influence of ‘soft’ and ‘hard’ law, and the need a synthetic approach in understanding the ‘hybridity’ of the two (cf. Abbott and Snidal 2000; Finnemore and

Toope 2001. See Trubek and Trubek 2005 for a useful discussion of these two conceptions of law).

Thus, following an increasingly common method for understanding EU policy transposition or transfer (e.g. Boerzel and Risse 2003, 57-80; Schimmelfennig and Sedelmeier 2005, 1-28; Paster 2005; Epstein 2006), we characterize the interaction between top-down and bottom-up policy pressures and influences in terms of a 'logic of consequences' and a 'logic of appropriateness'. If we are to take the aspirations of policy makers seriously, the 'top-down' explanatory variable is the capacity of different European modes of governance to induce national policy change towards common objectives. This may involve material incentives and coercion via hard law (*the logic of consequences*) and/or the non-coercive transposition of norms, ideas and 'collective understandings' via communication, socialization and social learning (*the logic of appropriateness*) (March and Olsen 1998). We call this *policy convergence capacity*. As we argue below, this capacity varies in line with various combinations of policy instrument and the particular blending (or 'hybridity') of 'soft' and 'hard' law in any given new mode of governance.

From a 'bottom-up' perspective, policy transfer is driven by national actors, interests and preferences, revealing both the logics of consequences *and* appropriateness. In the first instance, the adoption of a policy will depend on the balance of power between pro- and anti-EU reform coalitions and the degree of expectation that it will help resolve domestic policy problems. Policy makers will also be influenced by 'altered material payoffs' (Simmons and Elkins 2004) induced by external pressures, be they competitive (a desire to achieve the results delivered by the policy reform elsewhere) or coercive (as in conditionality or obligations in the EU under binding legal instruments). In the second instance, an ideational process of consensus-creation may involve learning via channels of communication and socialization, or even shifts in what Nedergaard (2005), who takes a social constructivist approach to studying the OMC, calls "language-constituted relations", whereby new concepts become 'hegemonic' in a particular epistemic community. This is the main achievement of the OMC to date according to some analysts (e.g. Jacobsson 2004). Under such circumstances, 'altered reputational payoffs' are created either by a desire to conform to an ideational consensus or by cultural emulation linked to shared beliefs (Simmons and Elkins 2004). We understand behaviour under both logics to be rational, however, and characterize them together as the *rationality of policy transfer*.

In the following we propose a comprehensive analytical framework for assessing the effectiveness of the various forms of OMC and NMG that have been developed in different EU policy areas. By "effectiveness" we mean the extent to which these instruments are capable of producing convergence in policy output in the pursuit of common, EU-wide policy objectives. Our claim is that in a multi-level polity such as the EU, the degree of convergence of a member state's policy will not necessarily increase in line with the intensity of supranational practices of 'coordination' (benchmarking, peer pressure, etc.). National factors and conditions (domestic preferences and interests, implementation costs etc.) will actively promote or disrupt the process of policy coordination. Our aim below is therefore to flesh out a multi-level framework of analysis, capable of bringing together the top-down and bottom-up factors that influence the behaviour of national policy-makers in the pursuit of common objectives. Before doing so, we explain, in part two, why the OMC is considered to be a

'new mode of governance' and place it alongside and differentiate it from other, pre-Lisbon, NMGs. In part three, we begin our exploration of the effectiveness of new modes of governance and the various OMCs by merging the different top-down factors found in the literature on policy transfer into a single explanatory variable – policy convergence capacity. In part four, we account for the rationality of policy transfer from a bottom-up perspective, and assess the scope conditions under which new, non-hierarchical modes of policy diffusion under new modes of governance can be effective. Part five concludes.

## 2 THE LISBON STRATEGY AND NEW MODES OF GOVERNANCE

The Lisbon European Council of March 2000 is remembered for two key innovations – a set of highly ambitious economic development objectives and the launching of the OMC. The objectives sought to make the EU “the most competitive and dynamic knowledge-based economy of the world, capable of a sustainable economic growth, better work places and greater social cohesion” by 2010. The second formally ‘elects’ the OMC as the new ‘soft-non-legislative’ tool for achieving convergence on the declared goals. As defined by the Lisbon Council Presidency Conclusions, the OMC has four key elements (European Council 2000, 12):

- fixing guidelines for the Union combined with specific timetables for achieving the goals (...) 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 practice;
- translating these European guidelines into national and regional policies by setting specific targets; and
- periodic monitoring, evaluation and peer review organised as mutual learning processes.

The Lisbon summit and subsequent European Councils called for the Commission, Council and member states to extend the OMC to other areas. As a result, there are now explicit OMCs in social inclusion (adopted by the Nice Council in 2000), pensions (Stockholm 2001), health care (Göteborg 2001), research and innovation (Spring European Council 2003) and numerous other ‘OMC-like’ processes in information society, enterprise and e-business and education (de la Porte and Pochet 2003). Related new modes of ‘soft’ governance have also emerged in climate change policy for example (Usui 2005). A critical distinction needs to be made between these post-Lisbon innovations and the pre-Lisbon Luxembourg, Cardiff and Cologne processes - which, respectively, cover employment policy (in the European Employment Strategy, or EES), structural reform policy and wage monitoring – and the Broad Economic Policy Guidelines (BEPGs) in macro-economic policy (Ioannou and Nieman 2003). While the EES and the BEPGs are Treaty-based, the other OMCs, and especially the ‘OMC-like’ processes, have a more ambiguous legal and institutional status.

At first sight, the OMC is merely a collection and reorganisation of instruments and processes stemming from the tradition of soft law. Practices such as the benchmark-



ing of national policies, peer review and monitoring are very similar to processes, which have long been in use by international organizations, such as the OECD (Casey 2004; Armingeon and Beyeler 2004). Nor is the EU's use of soft law new as such: it has long been employed, in the form of recommendations, codes of practice, 'solemn declarations' and action programmes to preview, accompany or set the agenda for hard law measures (Rhodes 2005). Nevertheless, the OMC does depart from those previous examples in its ambitions and procedures.

Regarding ambitions, the OMC is considered superior by its advocates to both uncoordinated national 'free riding' and the hard-law-based Community Method (Rodrigues 2002, 1-27; Vandenbroucke 2002, viii-xxiv). Under the OMC, member states are free to choose their own policy instruments, and consensus among governments on otherwise divisive policies should – at least in principle – be easier to reach. Second, the OMC is thought to allow advances with 'positive integration' now that 'negative integration' – the removal of national barriers to the freedom of movement of goods, services, capital and people – has reached its limits. By the early 21<sup>st</sup> century, the integration project had moved closer to the core areas of welfare states (e.g., immigration, fiscal and pension policies). Traditionally regulated by national social contracts, the top-down regulation and uniform application of EU law in these areas would not only be illegitimate but 'unthinkable' (Scharpf 2002). Elsewhere, in innovation policy, for example, the complexity and uniqueness of national innovation systems render centrally-determined policies dysfunctional (Kaiser and Prange 2004).

Third, advocates argue that the OMC provides a pragmatic answer to concerns about the legitimacy of the EU. Although medium and long-term political objectives are deliberated at the supranational level, the full content of policies is supposed to be shaped, implemented and democratically endorsed in the member states. As for procedures, attaining those objectives requires extensive process innovation (Borràs and Jacobsson 2004). Thus, the OMC is supposedly characterized by the following: it is an intergovernmental rather than Commission-led approach; it is therefore subject to political monitoring at the highest EU level (European Council and Council of Ministers); it is based on an iterative process that implies a higher commitment and degree of peer pressure than ad-hoc, soft-law processes; and whereas the latter have been confined to discrete, unconnected policy areas, the OMC is meant to recognize their functional inter-dependence and the potential for spillovers between them.

But as encoded by the Lisbon strategy, the OMC is only a template. Empirical reality reveals great variation: there are in fact as many new modes of governance (of both the OMC and non-OMC variety) as there are policy areas, each with their different histories, formats, procedures and rationales (Radaelli 2003; Borràs and Jacobsson 2004):

- *budgetary policy* coordination is based on quantitative parameters fixed by the Stability and Growth Pact. A multi-lateral surveillance procedure produces recommendations and a sanctioning mechanism for non-compliance can levy fines when budgetary deficits are exceeded. The policy cycle is based on an annual reporting and review process;
- *macroeconomic policy* coordination is based on the Broad Economic Policy Guidelines and specific indicators against which national policies are evaluated or

'benchmarked'. There are no sanctions for non-compliance, but individual recommendations and 'peer pressure' can be applied. The policy cycle is based on an annual reporting and review process;

- *employment policy* coordination is based on the Luxembourg Process. National Action Plans (NAPs) are evaluated against employment guidelines (quantitative targets and indicators) formulated within the European Employment Strategy (EES). There are no sanctions for non-compliance, but reliance on recommendations and 'peer pressure'. The policy cycle is annual.
- *social inclusion policy* coordination is based on qualitative common objectives and benchmarking on quantitative indicators. There are no sanctions, but peer pressure can be applied. The policy cycle is biannual.
- *research and innovation policy* coordination is based on the benchmarking of national performance against common indicators (e.g., an innovation scoreboard or trend chart) and since 2003 on a periodical (biannual) review of national strategies. Peer pressure is applied via the negative publicity given to the weakest performers.
- *pension reform policy* coordination is based on qualitative common objectives and strategy reports. Benchmarking is very limited, although peer pressure can be applied. There are no sanctioning mechanisms. The policy cycle is triennial.
- '*OMC-like*' processes in information society, enterprise and e-business and education in which open-ended, experimental forms of 'coordination' have emerged, primarily involving *ad hoc* agenda setting and policy framing by the European authorities.

The balance between 'hard' and 'soft' governance shifts rapidly and fully in favour of the latter as one descends this list. While budgetary, macroeconomic and employment policy coordination are all cases of pre-Lisbon policy innovation, have treaty bases and operate to different degrees in what Scharpf (1997) calls the 'shadow of hierarchy', social inclusion, pensions and research and innovation are all 'pure OMCs'. In the former group, the logics of consequences and appropriateness are combined; in the latter group the second logic operates alone.

### **3 ASSESSING POLICY CONVERGENCE CAPACITY**

There have been many more analyses of OMC processes than in-depth attempts to assess their national-level impact (though see Govecor 2004 and Zeitlin et al. 2005). The problem with measuring or even estimating the impact or influence of the 'pure OMCs' within the member states, as opposed to the EU-level of policy communities and policy dialogue, is twofold (Borras and Greve 2004; Eberlein and Kerwer 2004; Heidenreich and Bischoff 2006). First, 'impact' is hard to define. Should we consider as 'impact' the fact that different member states ascribe to common cognitive frameworks and devise common indicators for benchmarking progress towards common objectives? Or should we consider it exclusively in terms of national-level policy outcomes? If the former, then what is the importance of such a change and will it lead to effective reform? If the latter, is impact the national achievement of objectives and indicators or actual policy convergence? Second, it is difficult, and

perhaps impossible to ascribe effects to the OMC itself, rather than to parallel processes or unrelated developments. Is an increase in a country's employment rate, for example, due to the EES/OMC or changing macroeconomic conditions? These complications also reveal one of the OMC's core weaknesses: meeting the demands of 'output legitimacy' through evidence-based assessment.

There have been few attempts to subject the OMC and other new modes of governance to systematic, variable-based analysis. Nonetheless, existing work (e.g. Radaelli 2003; Borràs and Jacobsson 2004; Borràs and Greve 2004) does alert us to two critical factors for understanding potential impact: the presence of sanctions and the extent of institutionalization. The Europeanization literature (e.g. Héritier and Knill 2001; Radaelli 2003; Featherstone and Radaelli 2003; Bulmer and Padgett 2005) also provides tools for understanding domestic change. The work of Börzel and Risse (2003, 57-80) is especially useful in noting the importance of 'facilitating factors' for policy transfer, such as supportive and cooperative institutions and policy entrepreneurs. Impediments (e.g. multiple veto points) will also be important, as will the definitions and defence of national interests. Member states jealously guard their sovereignty and may have rational reasons for resisting further Europeanization – even in its 'soft' OMC guise (Schäfer 2004). As a result, securing compliance with European policies is always problematic – even under the Community Method and hard law (e.g., Conant 2002).

In order to analyze different types of NMG, we establish a single common variable for locating different policy instruments and their various combinations<sup>2</sup>. In Figure 1 we define this variable in terms of five discrete steps, and calibrate convergence capacity accordingly.

*Figure 1*

### **3.1 Simple benchmarking and/or recommendations**

The first step of the variable, where convergence capacity is lowest, includes instruments in the purest 'soft-law' tradition, such as recommendations and benchmarking. The Commission uses recommendations to take official positions or recommend a certain course of action regarding a national policy or policy outcome. This indirect instrument of pressure has no strength to compel and is often ignored, though in some cases it may have the effect of 'moral suasion'. Developed initially in the 1970s by corporations for evaluating company quality, productivity and competitiveness, benchmarking has also been adopted more recently by the public sector. The OECD has used benchmarking in its periodical reports for many years to assess and compare the policy performance of western countries (Casey 2004). In the EU, its use has been most prominent in EMU's Maastricht membership criteria and the Stability and Growth Pact (SGP). From there it has been extended (though in the absence of SGP-type sanctions) to employment policy, social policy and research and innovation (Arrowsmith *et al.* 2004).

---

<sup>2</sup> See De la Porte & Pochet (2002, 27-68) for an earlier approach along these lines.

In theory, benchmarking may exert a certain influence by 'naming and shaming' weak performers, especially when comparative data are able to trigger responses from a country's media, political-economic elite and public opinion. But recent analysis of the OECD's use of benchmarks to diffuse 'best practices' in employment and social policy reveals little efficacy at work (Armingeon and Beyeler 2004). Its convergence capacity in the EU is also likely to be low, especially in the absence of effective peer review and peer pressure and attention from the media and mass publics. Groenendijk (2004) distinguishes between three different types of benchmarking that could be successfully employed in EU policy making: benchmarking for horizontal policy learning, benchmarking for vertical policy transfer and benchmarking for monitoring and surveillance. But he argues that while current OMC benchmarking methods akin to the first two types are poorly designed and therefore fail to function as intended, the third cannot succeed unless linked to clear, minimum standards that are subject to enforcement.

Benchmarks are at their strongest when used to monitor and publicise national indicators and when linked to the potential for 'harder' policy interventions (as with deficit levels in the case of the Stability and Growth Pact – see below). They have 'moderate strength' when they take the form of non-binding guidelines and indicative targets when accompanied by monitoring reporting requirements and the threat of legislation, as in the European Climate Change Programme (Usui 2005). They are at their weakest, as in education policy, where there are no concrete targets for individual countries, but merely 'reference levels' of average European performance. The latter have little real meaning and certainly no impact, apart perhaps from some kind of (unmeasurable) shaping or standardisation of policy language when linked to the development of a transnational policy community (Gornitzka 2005).

### **3.2 Voluntary policy objectives + benchmarking and peer pressure**

This more complex form of OMC involves different types of instrument. First, unlike simple benchmarking, there is a clearly defined, though voluntary, set of objectives that member states freely decide to pursue – a public expression of will that implies a degree of commitment to meeting them. Second, unlike in education policy, for example, benchmarking here is explicitly aimed at measuring national performance and progress towards common goals. Third, national performance is assessed through political monitoring at the highest level. Finally, there is an iterative process of joint progress evaluation, which in principle triggers reactions from other national leaders (peer pressure).

This type of OMC has been used in research and innovation policy and pension reform. In the former, there are clearly stated political objectives (those of the Lisbon Strategy), the benchmarking of national performance (European innovation scoreboards and trend charts), as well as an annual review of national performance and the identification of best practices (in the Competitiveness Council). The pensions OMC is weaker: eleven broad common objectives have been agreed to and progress presented in 'national strategy reports' is reviewed periodically in the Employment, Social Policy, Health and Consumer Affairs Council. But benchmarking is still limited in effect, and the peer review mechanisms weak. Eckardt (2005, 247) concludes that although the OMC on pension reforms provides an additional input into the policy-making process, "it does not fundamentally alter the incentive structure of national

political markets". Policy convergence capacity is therefore still very low. Conditions that might ensure greater efficacy are (i) pressure for compliance at the national level from politico-economic elites and public opinion and/or (ii) pressure on national executives when national policies are questioned in the Council of Ministers.

### **3.3 Voluntary policy objectives + benchmarking and peer pressure + structured coordination process**

In step three, benchmarking constantly feeds mechanisms of peer review and pressure within a system of structured coordination – a process for coordinating national policies in line with common guidelines underpinned by national convergence plans. In principle, this process increases member state commitment to common goals. This is the case for employment policy – the European Employment Strategy (EES) – coordinated under the Luxembourg process. The latter is implemented through an annual cycle, which begins with the European Council's adoption of employment guidelines and priorities for national policy initiatives. Each state is responsible for formulating its own National Action Plan (NAP), which specifies the employment objectives to be pursued. The Commission and the Council then assess the NAPs in a joint employment report, issuing legally non-binding recommendations on the performance of individual states (for a detailed account, see Rhodes 2005). A similar approach is used in EU environmental governance, though the threat of legislation regarding emissions levels, for example, adds a strong 'shadow of hierarchy' to the process (Usui 2005).

This combination of instruments is also found in macroeconomic policy which has had a specific process of coordination since 1992. The common Broad Economic Policy Guidelines (BEPG) are elaborated annually by the European Commission and adopted by the Council (ECOFIN), while compliance and policy convergence is monitored through an annual review of national implementation reports. In principle, convergence capacity is more powerful given the combination of instruments within a structured and iterative policy process. It is not just the higher degree of institutionalization that counts, but the greater level of commitment secured from national executives via implementation reports. However, the absence of sanctions in cases of non-compliance still allows for important instances of deviance.

### **3.4 Legally-binding policy objectives + benchmarking and peer pressure + structured coordination process**

This is the most powerful form of non-legislative governance, because it establishes a legally-binding policy objective, while still leaving governments to choose their own paths and policies for implementation and convergence. Non-compliance is punishable by sanctions. But there is only one example of this mode of governance in the EU – budgetary policy under the Stability and Growth Pact (SGP). The SGP of 1997 established a threshold for national deficits of 3 per cent of GDP so as to avoid 'regional spillover' – i.e., the negative externality produced when an increase in the deficit spending of a given member state leads to a rise in Eurozone interest rates (Hodson and Maher 2001). The principal concern of the SGP was to safeguard sound government finances so as to strengthen, in turn, the conditions for price stability and sustainable growth.

The pact is enforced through a multilateral surveillance mechanism, in which each member state submits an annual stability and convergence programme to the Council of Ministers (ECOFIN) (Hodson 2004; Hodson and Maher 2004). In cases of non-compliance, a sanctioning mechanism is set in motion. In a first phase the Council makes recommendations to the member state, which are not made public. Then, if the Council establishes that there has been no effective action, it may make open recommendations that are widely publicized. If the member state persists in ignoring the Councils' recommendations, the Council may invite the European Investment Bank to reconsider its lending policy towards the member state; require the offending state to make a non-interest bearing deposit with the Community until the excessive deficit is corrected; and impose fines of an appropriate size. In addition, the Excessive Deficit Procedure allows the Council to issue an 'early warning' before a breach of the deficit limit has occurred.

The key distinguishing feature here is the incentive structure for compelling member-state compliance. Under the SGP, both 'competition incentives' (exposure to market sanctions for individual countries and the EU as a whole) and 'cooperation incentives' (peer pressure on poor performers) combine with the ultimate power of the entire 'club' to apply sanctions (Morelli, Padoan and Rodano 2002). But in reality, the functioning of the pact – which has seen Portugal, France, Germany and Italy all breach the 3 per cent limit since 2001 – reveals the limits even of sanctions (which ECOFIN has proven reluctant to levy), the failure of markets to react adversely (suggesting that the formal sanctions were never seen as credible) and the ultimate reliance of the SGP on soft law (Hodson 2004; Hodson and Maher 2004). The 'near death' of the pact in 2004 has led some economists to advocate returning fiscal discretion to national governments and the achievement of discipline by peer pressure and bad publicity alone (Alesina and Perotti 2004: 15).

Nevertheless, Fritz Scharpf (2001) has argued that similar procedures could be adopted in other areas where looser forms of coordination have failed. Thus, the legislation of the Council and the Parliament under the Community Method could be limited to setting core objectives to be implemented at the national level, coupled with a form of open coordination in which member states would declare their intentions in a national plan. Their performance would be monitored by the Commission and evaluated by peer review. The Council would have the power to intervene with tighter legislation in the case of general implementation problems and initiate infringement proceedings along the lines of the SGP's excessive budget procedure. For Scharpf (2001, 2003, 79-104), this method of coordination employed 'in the shadow of legislation' would allow European law to avoid the excessive detail that vexes member states, as well as an indiscriminate delegation of legislative competences to the Commission. However, the proposal hits up against the problem that the functional pressures for extending an SGP-like process to social policy, for example, do not exist (Moravcsik 2005, 366). To the extent that member-state commitments have been secured under the SGP, they are closely linked to the negative externalities that can be created by a loss of fiscal discipline among its signatories. Such competition or cooperation incentives are not at all present in the same way for social policy.

### 3.5 Legally binding regulations

This is the classical mode of regulation, or Community Method, long employed for the development and consolidation of the EU's internal market. This method goes beyond inducing the convergence of national policies on common objectives, because it produces rules whose *content* is equally legally binding across all member states. It is conducive to the greatest degree of impact, even if evasion and implementation deficits are frequent and full convergence or harmonization does not always occur (Conant 2002).

This 'old' mode of governance was useful and effective for the 'market making' policies, but is inappropriate (not to mention inadvisable) for 'market *correcting*' policies (Scharpf 2001). Market integration, although never completely conflict-free, was a widely-shared goal achieved through uniform rules of integration, liberalization and harmonization. Many of these policies were initiated by the Commission and the European Court of Justice in their roles as 'guardians of the Treaty', and they could count on the support of national actors expecting to benefit from access to a larger, liberalized European market. By contrast, uniform market-correcting regulations would be opposed by both national governments and actors, for at least three reasons: uniform policy convergence would undermine the 'social contracts' enshrined in their different welfare regimes; it would have deleterious effects on economic growth (firms, workers and consumers in Portugal and Greece, let alone the Czech Republic or Lithuania, cannot afford the environmental, labour or social standards deemed essential by their Finnish or Danish counterparts); and the inherent differences and political salience of national health and pension systems render EU harmonization unrealistic (Schludi 2003). Thus, this method has been abandoned as a tool for dealing with new EU integration challenges in favour of the new modes of intervention discussed above.

## 4 THE RATIONALITY OF POLICY LEARNING and TRANSFER

One of the assumptions underlying the Lisbon Presidency's conclusions was that the OMC would bring about greater convergence on EU goals by spreading 'best practices' among member states. It was assumed that an increased exchange of information concerning each country's national policies and processes, and the periodic assessment of these achievements, would foster a process of 'mutual learning', which, in turn, would produce an alignment of national policies.

As the literature on new modes of governance reveals, however, the concept of policy learning is very ill-defined. In the context of EU policy making it has multiple mechanisms and meanings, including 'experience comparison' and knowledge diffusion through repetitive policy cycles, peer review and pressure, the development of a common policy discourse and common indicators, or even 'cognitive convergence' as well as the strategic use of knowledge for imitating successful models and practice. The scholarly study of the OMC has widely incorporated the concept of learning, but without specifying its scope or questioning its utility – or even considering the conditions under which it might actually function. Eberlein and Kerwer (2004), for instance, merge policy learning with a theoretical framework of 'democratic experimentalism' and 'directly-deliberative polyarchy' drawn from Sabel and Cohen

(1997) and Dorf and Sabel (1998). This theory is based on a simple model in which a central 'forum' coordinates local deliberating units and distributes information about the effectiveness of different local-level policy experiments. At the end of the process, information on multiple, parallel experiments is successfully converted into 'best practices'. In essence, this notion of deliberation underpins both the European Commission's understanding of the OMC and many academic treatments of the subject. But while it may have heuristic and normative value, it seems largely innocent of the insights available from empirical studies of learning and policy diffusion and has been described as quite utopian regarding the potential for citizen participation (Shapiro 2002; Ryfe 2005).

Given the intergovernmental nature of OMC practices, and the role played by national interests in the game, any analysis of the convergence capacity of OMC instruments must take account of the role of bargaining, the centrality of conflicting interests and the rationality of choices in policy transfer (Kröger 2004). Policy-makers are not seeking the truth, but power and the consensus required for re-election. They may be open to discussing best practices and successful foreign policy models, but will not accept blind commitments to processes and policies in areas as politically salient and sensitive as welfare state recalibration and tax policy. Convergence on 'talk' hardly ever means convergence in decisions. No process of policy transfer from abroad is painless, and no domestic policy change is ever simple to implement; it always carries the possibility of failure, and always implies political costs. And since the transposition of successful policies or best practice is voluntary in all OMC processes, we need to assess the conditions under which it is rational for a member state to transfer a policy in the absence of coercion.

Scholars of public policy analysis such as Dolowitz and Marsh (1996, 2000) provide evidence of such processes worldwide. They classify different types of policy transfer according to six factors: the reasons for engagement in policy transfer, the actors involved, the content transferred, the source from which the lessons are drawn, different degrees of transfer, and the factors that restrict or facilitate the process. As in our own exercise above, they conceptualize policy transfer in terms of a scale of compulsion, running from lesson-drawing to outright coercion. But while they identify many of the factors facilitating non-coercive policy transfer – such as 'dissatisfaction with the status quo' or situations of 'conditionality' – they do not consider systematically the conditions for rational policy transfer. A more recent literature (Simmons and Elkins 2004; Elkins and Simmons 2005; Way 2005; Meseguer 2005; Epstein 2006) has begun to provide the basis for such an assessment.

Taking our cue from those innovations, we outline below five scope conditions under which it is rational for national policy makers to transfer a policy (either a policy objective/outcome or a 'best practice') in the absence of coercion and a sixth, extremely broad condition for the *non-rationality* of transfer (Figure 2). Although the first three are more conducive to a logic of consequences, and the latter two to a logic of appropriateness, in effect – and in contrast to unproductive efforts to separate these modes of behaviour, deriving from March and Olsen (1998) – we argue that *both* are always present (see Epstein 2006 for an extended discussion). We also argue that the more these conditions are present, and the more they reinforce one another, the more likely it is that actors will engage in some form of learning or emulation. However, policy learning analysis alerts us to several provisos.



First, 'bounded learning' – in which the analytical skills of actors are limited and subject to cognitive biases – is the norm. 'Rational learning', by contrast, in which analytical capabilities are maximal and shared by all actors, leading to convergence in policy decision making, is extremely rare. Second, there are many reasons why 'bounded learning' may go wrong, including the fact that policy makers (like most individuals) are 'cognitive misers' and often have difficulty assessing the consequences of various policies (Ryfe 2005). And third, strong evidence suggests that simple policy emulation – a 'blind' act that lacks the degree of reflection required to map 'best practice' or to consider the consequences for policy outcomes – is much more common than either rational or bounded learning (Dolowitz and Marsh 2000; Elkins and Simmons 2005; Meseguer 2005).

### Figure 2

The first scope condition is *policy failure, uncertainty and insecurity*, i.e., circumstances in which policy makers realize that a policy is failing but are uncertain how to proceed. Failure may be imputable to changing external factors, e.g., when a country's innovation policy fails, not because it is inappropriate or ineffective, but because that country is 'falling behind' in international competition. It then becomes rational for policy makers to look around for effective policies and programmes elsewhere, and engage in policy transfer via learning or emulation. Following Way (2005), we use 'insecurity' to convey the tendency for governments or leaders with tenuous grips on power to jump on policy bandwagons and believe the claims made on behalf of new policy models by external actors – e.g. international organizations, amongst which we can include the EU. The 'mimetism' or 'isomorphism' involved is driven as much by the search for legitimacy as for successful models, suggesting that the logic underpinning this process is as much one of appropriateness as it is of consequences (DiMaggio and Powell 1991, 63-82).

An example of this kind of policy transfer at work in the EU is the adoption of Economic and Monetary Union. The inflationary crisis of the 1970s revealed that governments could not easily keep the demand for inflation under control. One solution was to inhibit the *supply* of inflation by removing monetary policy discretion from the political system, and at Maastricht monetary policy was transferred from governments to a non-majoritarian institution – the European Central Bank – charged with maintaining price stability. EMU gained legitimacy as a policy solution at a time of great uncertainty and policy failure because there was a successful model – German monetary policy as administered by the Bundesbank – to emulate (Radaelli 2001; McNamara 2002). In those policy areas where pure OMCs are being used, there are varying degrees of uncertainty. In labour policy, years of high rates of unemployment across Europe have arguably made policy makers highly susceptible to policy transfer, as has the common challenge of demographic change to the long-term sustainability of Bismarckian pension systems and escalating costs in health care. But as the example of EMU reveals, uncertainty is not enough: a successful and easily apprehended 'model' or policy alternative must also be available. We return to this issue below.

The second scope condition is *external conditionality*. Formally, conditionality is a mutual arrangement under which a government promises to implement certain policies in return for specified amounts of assistance – usually financial or technical – from an international organization or agency (Checkel 2001). The International Monetary Fund and the World Bank have long employed such instruments and incentives for persuasion, relying on lending programmes for encouraging policy transfer. In the EU, conditionality has been employed in negotiations with the Accession Countries: those countries that accept a process of reform for the incorporation of the *acquis communautaire* are entitled to proceed to the next stage of membership. The available incentives for policy transfer are thus not only financial but also eminently political, and can create conditions under which it is rational to transfer a policy. The degree of rationality will depend on the extent to which the target country relies on the resources promised in return for compliance. There have been some loose attempts to link the employment OMC with a degree of financial conditionality through new conditions on member state use of European Social Fund resources. From 2007 their use should conform to national EES obligations. Numerous proposals (e.g. by the Sapir and Kok Reports) to strengthen OMC-type instruments have proposed an even greater use of conditionality (Sapir et.al. 2004; Kok 2003). But as a growing literature reveals, material conditionality and payoffs for compliance rarely function well or succeed in the absence of *socialization* (Epstein 2005). We return to this point below under conditions four and five.

The third scope condition is *functional interdependence*. Here, two or more countries adopt policies with potentially harmful, cross-border effects. Examples often referred to in the EU are fiscal, tax or labour policy where ‘beggar-thy-neighbour’ practices to redirect foreign investment flows could result in ‘races-to-the bottom’ (Radaelli 2000). When such policies are harmful – both to those countries which participate in the ‘race-to-the-bottom’ and those that do not (for all countries there is a risk that capital income taxes, for example, will slowly diminish) – it becomes rational for all to collaborate to prevent a downward policy spiral. Indeed, the fear of such practices has been one of the major rationales for strong support of both centralized EU policies and OMCs in social and employment policy. But in the EU to date, neither a compulsory range of tax rates nor a single European tax system has been adopted by EU member states; nor has there been much progress in moving beyond an EU social or employment policy based on intergovernmental bargaining and the standard Community Method (Rhodes 2005). This could be because upward policy transfer is hampered, either by the bounded rationality of policy makers or by the salience of the policy itself at the national level.

But equally important is that, by contrast with internal market competition policy and the EMU/SGP deficit criterion, negative externalities and the potential for downward policy spirals in other policy areas is actually quite limited (cf. Scharpf 2002). A rule of thumb for assessing the success of novel mechanisms of coordination in the EU is the presence of such externalities. In the absence of a much higher levels of cross-border labour flows, or trends for countries to diminish welfare spending in the search for competitive advantage, or greater evidence than presently exists for widespread tax competition, there are equally few incentives to compel serious national actor engagement in even the softer forms of social and employment policy coordination advanced under the EES/OMC (Moravcsik 2005).

Four, *consensus and normative consistency*. This condition refers to the nature of the message being communicated, but also to the nature of the social and cultural environment in which that message is received. Analyses in areas ranging from privatization and trade liberalization to central bank independence have shown that policy makers engaged in policy transfer use cognitive short cuts, favour clear foreign models of success, and limit the number of changes to national circumstances as they seek to implement (or rather emulate) those models – all evidence of the prevalence of bounded as opposed to rational learning (Meseguer 2005). The clarity of principles involved in say, central bank independence (price stability and political autonomy), makes the CBI model highly conducive to transfer. The contrast with many of the forms of policy transfer envisaged under the EU's multiple OMCs is clear.

To take the example of employment, beyond a general agreement to focus on supply-side reforms there is little consensus on how to improve Europe unemployment problems: there are at least several competing 'models' of labour market organization in the EU, each presenting different 'lessons' of how to achieve varying trade-offs between labour market flexibility and employment security. Nor does much normative or discursive consistency flow from expert opinion or 'deliberation' in the European Employment Strategy (EES) policy process (Nedergaard 2005), with major differences apparent over the desirable degrees and forms of labour market regulation. Many of the 'messages' contained in general EES strategy reports or specific recommendations to national authorities reveal rather transparent and ineffectual attempts to paper over such inconsistencies. Thus, the European Commission's (2003) report on *The Future of the European Employment Strategy* recommends both greater flexibility in contractual arrangements and restrictions on the segmentation of the labour market into different categories of workers – two clearly contradictory goals (Raveaud 2005, 123-139; Rhodes 2005, 279-304). Such inconsistencies may be responsible in part for what has been identified as 'asymmetric' policy learning across different member states (Büchs 2004). More normative consistency is displayed, however, in the social inclusion OMC, since combating poverty is less susceptible to ideological disputes.

Five, *domestic receptivity*. A lack of consensus and normative consistency in the 'policy message' is inevitable in a policy area as politically salient and contested as employment or pensions in a Union of 25 member states. But so too is diversity in the national contexts where that message is received, adding cultural and institutional differences to the already considerable organizational impediments to policy transfer. Both benchmarking and mutual learning face formidable obstacles under such circumstances. While benchmarking complex social systems – e.g., labour markets and pensions 'beggar-thy-neighbour' leads to reductive and often inappropriate targets and guidelines (Schludi 2003; Room 2005), mutual learning hits up against a barrage of differences across countries in rules, procedures and norms, not to mention cultural and cognitive understandings (Greonendijk 2004; Büchs 2004). As revealed by Casey and Gold (2005), these impediments have severely limited the transfer of employment policy content, instruments and programmes in the peer review process of the EES.

On the other hand, the recent literature on policy transfer is replete with examples of the ways in which domestic receptivity can be enhanced by international institutions,

via both socialization and material incentives. While Epstein (2006) shows how international organizations can exploit the reputational payoffs or 'social recognition' for Central and Eastern European elites in gaining support for their policy reforms, Dai (2005) demonstrates how the EU has enhanced compliance with the soft law of international agreements regarding climate change by boosting the electoral leverage and informational status of pro-compliance constituencies. Many of the EU's OMCs rely on the creation of pan-European epistemic communities to diffuse new policy norms (Heidenreich and Bischoff 2006 discuss their development in social and employment policy) and use elements of social recognition and information resource empowerment to strengthen the hand of government officials (and sometimes also national NGOs) in domestic policy-making arenas.

Some important successes have been noted – especially in creation of common notions and principles of policy assessment, backed up by new, standardized data sets regarding, for example, adequate pensions and poverty levels. There are also examples, as in the case of the social inclusion OMC, of national actors (in this case poverty action groups) being energized in lobbying for domestic policy change. But creating a strong national constituency in favour of a particular reform is much harder than promoting an epistemic community of officials and experts, or creating isolated islands of domestic support inside ministries and bureaucracies – the main achievement to date in the case of social and employment policy (see Kröger 2004 and Friedrich 2006 on social inclusion; Heidenreich and Bischoff 2006 on employment). Much more common are either what Johnson (2006) calls 'wormhole effects', that link specific national policy elites into a transnational network but do not engage other domestic political and economic actors (and therefore fail to facilitate the domestic receptivity for reform), or, the disturbance of existing power relations among elites, with quite different consequences for receptivity and policy outcomes from one country to the next, as Büchs (2004) discovers in her study of the EES.

Finally, the conditions for rational policy transfer should be analytically balanced by a set of conditions under which it is *not rational* to transfer a policy. There are indeed many different instances in which this may be true, but it is possible to group them into a common generic condition: *when the costs of policy transfer are higher than expected benefits*. 'Costs' and 'benefits' should not to be simply understood in economic terms. There can be heavy political, or social costs in the adoption of a new policy, and the importance of those factors should never be discounted. We should also not forget the costs that are often involved in breaking path-dependent configurations, in both institutions and policy choices (Pierson 2000; Peters, Pierre, and King 2005). Indeed, the costs of policy transfer are routinely referred to in the peer review process of the most developed OMC, the European Employment Strategy, to explain why 'best practices' are so hard to identify and transfer (Casey and Gold 2005)<sup>3</sup>.

Given these costs, as well as the loss of output legitimacy incurred from unfulfilled policy expectations, many policy makers are now unconvinced of the merits of the OMC when dealing with politically salient issues, notably unemployment. André Sapir, the co-author of the influential *Agenda for a Growing Europe* (Sapir et al.

---

<sup>3</sup> For detailed information, see EES Mutual Learning Programme <http://www.mutual-learning-employment.net/peerreviews/>.

2004), and currently an external member of the European Commission's Group of Economic Policy Analysis (GEPA), has concluded that the attempt to coordinate labour markets and social policy through the EES is "probably an obstacle rather than catalyst for reform because it tends to blur the responsibility between national and EU authorities (...) and is a sure recipe for voters' dissatisfaction with the European Union" (Sapir 2005: 12-13).

## 5 CONCLUSION

The new challenges facing the European Union, such as those envisaged by the Lisbon Strategy, have led policy makers to adopt experimental, new modes of governance – namely the Open Method of Coordination – as the standard mode of policy making in certain policy areas. This is because new modes of governance allow in principle for the coordination and steering of national policies towards common EU objectives, while also respecting the autonomy and the diversity of each member state. The key factor to study, from a public policy point of view, has thus become the behaviour of member states in the 'space' created by these new modes, i.e. the extent to which member states effectively make their policies converge on common goals. However, policy convergence through non-legislative instruments is a highly complex behavioural phenomenon whose explanation cannot be traced to either national or supranational factors but rather to a combination of both.

We have reviewed the literature on this subject from within a framework designed to address and bring some order to this complexity. We did so by integrating two different approaches: a top-down approach, which seeks to explain how different modes of governance have different degrees of policy convergence capacity; and a bottom-up approach, which shows how different degrees of policy convergence are the result of incentive and preference structures that, from a national point of view, make the transfer of policies 'rational'. Our main point in carrying out this exercise was not just to mobilise and synthesise some of the key insights from the more empirically and analytically-oriented literatures. It was also to critically assess more normative approaches. The latter have made great claims on behalf of new modes of governance, such as the OMC, specifically for its deliberative, democratic potential but also for its capacity to effectively move the European policy agenda forward via novel processes (peer review, policy learning etc.) in the post-Lisbon era. We have taken those claims seriously, and they largely inspired our attempts to link material with non-material (ideational) influences in understanding the potential for non-coercive forms of policy intervention and transfer.

Our conclusion is that theoretical and empirical research into new modes of governance and the voluntary adoption of policies need to move beyond normative preoccupations and reconsider the importance of the fundamental factors that drive the behaviour of national policy-makers. These include national interest, the rationality and utility of policy transfer, the political salience of policy areas and domestic costs of policy change. This list does not claim to be exhaustive. But an approach that considers the scope conditions under which non-coercive policy transfer can occur via mechanisms of socialization and material influence can provide, in future research, a deeper understanding of such innovations, as well as their potential for influencing national policies. Our analysis suggests, however, that simple solutions

are not available for enhancing the utility of new modes of governance such as the OMC. Increasing levels of participation and therefore the formal quality of deliberation in such processes, or politicizing the OMC, as the more normative literature has strongly advocated (e.g., Tsakatika 2004; Zeitlin 2005b), will not necessarily have any effect in themselves on policy delivery and outcomes or even add to the political saliency of the method. Nor will a formal institutionalization of such procedures, either by giving them a stronger Treaty-base or by sanctifying them in the (presently defunct) European Constitution. As our analysis suggests, success actually depends on a complex combination of material and non-material conditions which are unlikely to be present in all policy areas, in all member states or at all times. The contingencies influencing policy outcomes are therefore many, indicating that despite their recent proliferation, the employment of 'new' modes of governance may quickly revert to older, tried and tested, approaches to policy making when policy effectiveness proves lacking and the political salience of the issue area is high.

## List of References

- Abbott, Kenneth W., and Duncan Snidal. 2000. Hard and Soft Law in International Governance. *International Organization* 54(3): 421-456.
- Alesina, Alberto, and Roberto Perotti. 2004. The European Union: a Politically Incorrect View. National Bureau of Economic Research, Cambridge, Mass. Working Paper 10342. <http://post.economics.harvard.edu/faculty/alesina/papers/europeanunionfeb04.pdf>
- Armington, Klaus, and Michelle Beyeler. 2004. *The OECD and European Welfare States*. Cheltenham UK and Northampton, MA, USA: Edward Elgar.
- Arrowsmith, James, Keith Sisson, and Paul Marginson. 2004. What can 'Benchmarking' Offer the Open Method of Coordination? *Journal of European Public Policy* 11(2): 311-328.
- Borrás, Susan, and Jacobsson, Kerstin. 2004. The Open Method of Coordination and New Governance Patterns in the EU. *Journal of European Public Policy* 11(2): 185-208.
- Borrás, Susan, and Bent Greve. 2004. Concluding Remarks: New Method or Just Cheap Talk? *Journal of European Public Policy* 11(2): 329-336.
- Börzel, Tanja A. 2003. How the European Union Interacts with its Member States. Working Paper, Political Science Series, Institute For Advanced Studies, Vienna, November.
- Börzel, Tanja A., and Thomas Risse. 2003. Conceptualizing the domestic impact of Europe. in K. Featherstone and C. M. Radaelli eds. *The Politics of Europeanization*. Oxford: Oxford University Press.
- Büchs, Milena. 2004. Asymmetries of Policy Learning? The European Employment Strategy and its Role in Labour Market Policy Reform in Germany and the UK. Paper presented to the Espanet Conference, University of Oxford, 9-11 September.
- Bulmer, Simon, and Stephen Padgett. 2005. Policy Transfer in the European Union: an Institutional Perspective. *British Journal of Political Science* 35(1): 103-126.
- Bursens, Peter, and Sarah Helsen. 2005. The OMC: a Legitimate Mode of Governance? Paper presented to the EUSA 9<sup>th</sup> Biennial Conference, Austin, Texas, March 31-April 2.
- Casey, Bernard H. 2004. The OECD Jobs Strategy and the European Employment Strategy: Two Views of the Labour Market and the Welfare State. *International Journal of Industrial Relations* 10(3): 329-352.
- Casey, Bernard H., and Michael Gold. 2005. Peer Review of Labour Market Programmes in the European Union: What can Countries Really Learn from One Another. *Journal of European Public Policy* 12(1): 23-43.
- Chalmers, Damian, and Martin Lodge. 2003. The Open Method of Coordination and the European Welfare State. ESRC Centre For Analysis of Risk and Regulation Discussion Papers 11 (June). London School of Economics and Political Science. <http://www.lse.ac.uk/collections/CARR/pdf/Disspaper11.pdf>
- Checkel, Jeffrey T. 2001. Why Comply? Social Learning and European Identity Change. *International Organization* 55(3): 553-588.
- Cohen, Jonathan, and Charles F. Sabel. 2003. Sovereignty and solidarity: the EU and the US. In *Governing Work and Welfare in a New Economy: European and American Experiments*, edited by J. Zeitlin and D. M. Trubek. Oxford: Oxford University Press.
- Commission of the European Communities. 2001. *European Governance. A White Paper*. COM(2001) 428 Final.

- Conant, Lisa. 2002. *Justice Contained: Law and Politics in the European Union*. Ithaca and London: Cornell University Press.
- Dai, Xinyuan. 2005. Why Comply? The Domestic Constituency Mechanism. *International Organization* 59(2): 363-398.
- De La Porte, Caroline. 2002. Is the Open Method of Coordination Appropriate For Organizing Activities at European Level in Sensitive Policy Areas? *European Law Journal* 8(1): 38-58.
- De La Porte, Caroline, and Patrizia Nanz. 2004. OMC – a Deliberative-Democratic Mode of Governance? The Cases of Employment and Pensions. *Journal of European Public Policy* 11(2) : 267-88.
- De La Porte, Caroline, and Philippe Pochet. 2002. Supple coordination at EU Level and the key actors' involvement. In *Building Social Europe Through the Open Method of Coordination*, edited by C. De La Porte and P. Pochet. Brussels: P.I.E.-Peter Lang.
- De La Porte, Caroline, and Philippe Pochet. 2003. The OMC Intertwined with the Debates on Governance, Democracy and Social Europe. Research prepared for the Belgian Minister for Social Affairs and Pensions. <http://www.ose.be/files/docPP/researchOMC.pdf>
- DiMaggio, Paul J., and Walter W. Powell. 1991. The iron cage revisited: institutional isomorphism and collective rationality in organizational fields. In *The New Institutionalism in Organizational Analysis*, edited by W. Powell and P. DiMaggio. Chicago: Chicago University Press.
- Dolowitz, David P., and David Marsh. 1996. Who Learns What from Whom? A Review of the Policy Transfer Literature. *Political Studies* 44(2): 343-357.
- Dolowitz, David P., and David Marsh. 2000. Learning from Abroad: the Role of Policy Transfer in Contemporary Policy-Making. *Governance: An International Journal of Policy and Administration* 13(1): 5-24.
- Dorf, Michael C., and Charles F. Sabel. 1998. A Constitution of Democratic Experimentalism. *Columbia Law Review* 48(2): 267-473.
- Eberlein, Burkard, and Dieter Kerwer. 2004. New Governance in the European Union: a Theoretical Perspective. *Journal of Common Market Studies* 42 (1): 121-142.
- Eckardt, Martina. 2005. The Open Method of Coordination on Pensions: An Economic Analysis of its Effects on Pension Reforms. *Journal of European Social Policy* 15(3): 247-267.
- Elkins, Zachary, and Beth A. Simmons. 2005. On Waves, Clusters, and Diffusion: a Conceptual Framework. *Annals of the American Academy of Political and Social Science* 598, March: 33-51.
- Epstein, Rachel. 2005. The Paradoxes of Enlargement. *European Political Science* 4(4): 384-394.
- Epstein, Rachel. 2006. Cultivating Consensus and Creating Conflict: International Institutions and the (De)Politicization of Economic Policy in Postcommunist Europe. *Comparative Political Studies*, October (Forthcoming).
- Eriksen, Erik O., and John E. Fossum. 2001. Democracy through Strong Publics in the European Union. ARENA Working Papers. WP 01/16.
- European Council. 2000. *Presidency Conclusions*. Lisbon European Council, 23 and 24 March.



- Featherstone, Kevin, and Claudio M. Radaelli, eds. 2003. *The Politics of Europeanization*. Oxford: Oxford University Press.
- Finnemore, Martha J., and Stephen Toope. 2001. Alternatives to 'Legalization': Richer Views of Law and Politics. *International Organization* 55(3): 743-758.
- Friedrich, Dawid. 2006. Policy Process, Governance and Democracy in the EU: the Case of the Open Method of Coordination on Social Inclusion. *Policy and Politics*, Forthcoming.
- Gornitzka, Åse. 2005. Can Policies be Coordinated Cross-Nationally in Areas of National Sensitivity? The Embryonic Case of Education Policy, Europe and the Open Method of Coordination. Paper presented at the NOPSA Conference, Reykjavik 11-13 August.
- Govecor. 2004. Self-Coordination at the National Level: Towards a Collective 'Gouvernement Économique'. Final National Reports.  
[http://www.govecor.org/data/20040512190033\\_govecor%20final%20national%20reports%20twopagesprint.pdf](http://www.govecor.org/data/20040512190033_govecor%20final%20national%20reports%20twopagesprint.pdf)
- Groenendijk, Nico S. 2004. The Use of Benchmarking in EU Economic and Social Policies. Paper presented at the Danish Association for European Studies, University of South Denmark, Odense, September 24-25.
- Heidenreich, Martin, and Gabrielle Bischoff. 2006. The Open Method of Coordination: a Way to the Europeanization of Social and Employment Policies? *Journal of Common Market Studies*, Forthcoming.
- Héritier, Adrienne. 2003. New modes of governance in Europe: increasing political capacity and policy effectiveness? In *The State of the European Union: Law, Politics and Society*, edited by T. A. Börzel and R. A. Cichowski. Oxford, Oxford University Press.
- Hodson, Dermot. 2004. Macroeconomic Coordination in the Euro-Area: the Scope and Limits of the Open Method. *Journal of European Public Policy* 11(2): 231-248.
- Hodson, Dermot, and Imelda Maher. 2001. The Open Method as a New Mode of Governance: the Case of Soft Economic Policy Coordination. *Journal of Common Market Studies* 39(4): 719-46.
- Hodson, Dermot, and Imelda Maher. 2004. Soft Law and Sanctions: Economic Policy Coordination and Reform of the Stability and Growth Pact. *Journal of European Public Policy* 11(5): 798-813.
- Ioannou, Demosthenes, and Arne Nieman. 2003. Taking Stock of the Open Method of Coordination: Nature, Modus Operandi and Theoretical Perspectives. Dresdner Arbeitspapierer Internationale Beziehungen, Technische Universität Dresden, Nr. 8.
- Jacobsson, Kerstin. 2004. Soft Regulation and the Subtle Transformation of States: the Case of EU Employment Policy. *Journal of European Social Policy* 14(4): 355-370.
- Johnson, Juliet. 2006. Two-Track Diffusion of Central Bank Embeddedness: the Politics of Euro Adoption in Hungary and the Czech Republic. *Review of International Political Economy*, Forthcoming.
- Kaiser, Robert, and Heiko Prange. 2004. Managing Diversity in a System of Multi-Level Governance: the Open Method of Coordination in Innovation Policy. *Journal of European Public Policy*, 11(2): 249-266.
- Kok, Wim. 2003. *Jobs, Jobs, Jobs: Report of the Employment Taskforce*. Brussels, November. [http://ec.europa.eu/employment\\_social/employment\\_strategy/pdf/etf\\_en.pdf](http://ec.europa.eu/employment_social/employment_strategy/pdf/etf_en.pdf)
- Kröger, Sandra. 2004. 'Let's Talk About It': Theorizing the OMC (Inclusion) in Light of its Real Life Application. Paper For the 2004 Meeting of the Jean Monnet Chair of the Institut d'Études Politiques, Paris, 11 June.

- Magnus Johansson, Karl. 1999. Tracing the Employment Title in the Amsterdam Treaty: Uncovering Transnational Coalitions. *Journal of European Public Policy* 6(1): 85-101.
- March James G., and Johan P. Olsen. 1998. The Institutional Dynamics of International Political Orders. *International Organization* 52(4): 943-69.
- McNamara, Kathleen. 2002. Rational Fictions: Central Bank Independence and the Social Logic of Delegation. *West European Politics* 25(1): 47-76.
- Meseguer, Covadonga. 2005. Policy Learning, Policy Diffusion, and the Making of a New Order. *Annals of the American Academy of Political and Social Science* 598, 67-82.
- Moravcsik, Andrew. 2005. The European Constitutional Compromise and the Neo-Functionalist Legacy. *Journal of European Public Policy* 12(2): 349-386.
- Morelli, Pierluigi, Pier Carlo Padoan, and Lisa Rodano. 2002. The Lisbon Strategy to the New Economy: Some Economic and Institutional Aspects. Paper presented to the XIV Villa Mondragone International Economic Seminar, Rome, June 27.
- Mosher, Jim S., and David M. Trubek. 2003. Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy. *Journal of Common Market Studies* 41(1): 63-68.
- Nedergaard, Peter. 2005. The Open Method of Coordination and the Analysis of Mutual Learning Processes of the European Employment Strategy. International Centre for Business and Politics, Copenhagen Business School, Working Paper No. 1,.
- Paster, Thomas. 2005. The New Modes of Governance: Combining Rationalism and Constructivism in Explaining Voluntarist Policy Coordination in the EU. *Österreichische Zeitschrift Für Politikwissenschaft* 34(2): 147-161.
- Peters, B. Guy, Jon Pierre, and Desmond S. King. 2005. The Politics of Path Dependency: Political Conflict in Historical Institutionalism. *The Journal of Politics* 67 (4):1275-1300.
- Pierson, Paul. 2000. Increasing Returns, Path Dependence, and the Study of Politics. *The American Political Science Review* 94 (2):251-267.
- Radaelli, Claudio M. 2000. Policy Transfer in the European Union: Institutional Isomorphism as a Source of Legitimacy. *Governance, An International Journal of Policy and Administration* 13(1): 25-43.
- Radaelli, Claudio M. 2003. *The Open Method of Coordination: a New Governance Architecture for the European Union?*. Stockholm: Swedish Institute for European Policy Studies.
- Raveaud, Gilles. 2005. The European employment strategy: from ends to means. In *Europe and the Politics of Capabilities*, edited by R. Salais and R. Villeneuve. Cambridge: Cambridge University Press.
- Rhodes, Martin. 2005. Employment policy: between efficacy and experimentation. In *Policy-Making in the European Union*, edited by H. Wallace, W. Wallace and M. Pollack. Fifth Edition, Oxford: Oxford University Press.
- Rodrigues, Maria J. 2002, Introduction: for a European strategy at the turn of the century. In *The New Knowledge Economy in Europe: a Strategy for International Competitiveness and Social Cohesion*, edited by M. J. Rodrigues. Cheltenham: Edward Elgar.
- Room, Graham. 2005. Policy Benchmarking in the European Union: Indicators and Ambiguities. *Policy Studies* 26(2): 117-132.
- Ryfe, David M. 2005. Does Deliberative Democracy Work? *Annual Review of Political Science* 8: 49-71.

- Sabel, Charles F., and Jonathan Cohen. 1997. Directly-Deliberative Polyarchy. *European Law Journal* 3(4): 313-340.
- Sabel, Charles F., and Jonathan Zeitlin. 2003. Networked Governance and Pragmatic Constitutionalism: the New Transformation of Europe. [http://www.law.nyu.edu/Kingsburyb/Spring03/Globalization/Charlesabelpaper\\_Updated.Pdf](http://www.law.nyu.edu/Kingsburyb/Spring03/Globalization/Charlesabelpaper_Updated.Pdf)
- Sapir, André et. al. 2004. *An Agenda For a Growing Europe*. Oxford: Oxford University Press.
- Sapir, André. 2005. Globalization and the Reform of European Social Models. Background Document For Presentation at the ECOFIN Informal Meeting, Manchester 9 September. [http://www.bruegel.org/Repositories/Documents/publications/working\\_papers/SapirPaper080905.pdf](http://www.bruegel.org/Repositories/Documents/publications/working_papers/SapirPaper080905.pdf)
- Schäfer, Armin. 2004. Beyond the Community Method: Why the Open Method of Coordination was Introduced to EU Policy-Making. *European Integration online Papers (EIoP)*, 8/13. <http://eiop.or.at/eiop/texte/2004-013a.htm>
- Scharpf, Fritz W. 1997. *Games Real Actors Play: Actor-Centred Institutionalism in Policy Research*. Boulder, CO: Westview Press.
- Scharpf, Fritz W. 1998. Interdependence and Democratic Legitimation. Max-Planck Institute For the Study of Societies, Working Paper 98/2, Cologne.
- Scharpf, Fritz W. 2002. The European Social Model: Coping with the Challenges of Diversity. *Journal of Common Market Studies* 40(4): 645-70.
- Scharpf, Fritz W. 2003. Legitimate diversity: the new challenge of European integration. In *The State of the European Union: Law, Politics and Society*, edited by T. A. Börzel and R. A. Cichowski. Oxford: Oxford University Press.
- Schimmelfennig, Frank, and Uli Sedelmeier. 2005. Introduction: conceptualizing the Europeanization of Central and Eastern Europe. In *The Europeanization of Central and Eastern Europe*, edited by F. Schimmelfennig and U. Sedelmeier. Ithaca and London: Cornell University Press.
- Schludi, Martin. 2003. Chances and Limitations of 'Benchmarking' in the Reform of Welfare State Structures – the Case of Pension Policy. University of Amsterdam, Amsterdam Institute for Advanced Labour Studies. [http://www.uva-aias.net/files/working\\_papers/WP10.pdf](http://www.uva-aias.net/files/working_papers/WP10.pdf)
- Shapiro, Ian. 2002. Optimal Deliberation? *The Journal of Political Philosophy*, 10(2): 1-16.
- Simmons, Beth A., and Zachary Elkins. 2004. The Globalization of Liberalization: Policy Diffusion in the International Political Economy. *American Political Science Review* 98(1): 171-189.
- Smismans, Stijn. 2004. EU Employment Policy: Decentralization or Centralization Through the Open Method of Coordination. EUI Working Paper, Law, 2004/1. Florence: European University Institute.
- Trubek, David M., and Louise G. Trubek. 2005. Hard and Soft Law in the Constitution of Social Europe: the Role of the Open Method of Co-Ordination. *European Law Journal* 11(3): 343-364.
- Trubek, David M., Patrick Cottrell, and Mark Nance. 2005. 'Soft Law', 'Hard Law' and European Integration: Toward a Theory of Hybridity. University of Wisconsin Law School. Legal Studies Research Paper Series, No. 1002, November.

- Tsakatika, Myrto. 2004. The Open Method of Co-Ordination in the European Convention: an opportunity lost? In *Political Theory and the European Constitution*, edited by L. Dobson and A. Follesdal. London: Routledge.
- Usui, Yoichiro. 2005. New Modes of Governance and the Climate Change Strategy in the European Union: Implications for Democracy in Regional Integration. Paper presented at the 1st CREP International Workshop, Tokyo 12-13 September.
- Vandenbroucke, Frank. 2002. Forward: sustainable social justice and 'Open Co-Ordination' in Europe. In G. Esping-Andersen et al. *Why We Need a New Welfare State*. Oxford: Oxford University Press.
- Way, Chris. 2005. Political Insecurity and the Diffusion of Financial Market Regulation. *Annals of the American Academy of Political and Social Science* 598: 125-144.
- Wessels, Wolfgang. 2003. (Open) Methods of Self Coordination: New Modes of Governance As a Typical Step in the Evolution of the EU System. Beitrag für den Arbeitskreis Politische Steuerung Der Deutschen Vereinigung für Politische Wissenschaft, Mainz, 25 September.  
[http://www.govecor.org/data/20030929115937\\_Methods\\_of\\_Coordination\\_\(Wessels\\_DVPW\).pdf](http://www.govecor.org/data/20030929115937_Methods_of_Coordination_(Wessels_DVPW).pdf)
- Zeitlin, Jonathan. 2005a. The Open Method of Coordination in action: theoretical promise, empirical realities, reform strategy. In *The Open Method of Coordination in Action: the European Employment and Social Inclusion Strategies*, edited by J. Zeitlin and P. Pochet with L. Magnusson. Brussels: P.I.E.-Peter Lang.
- Zeitlin, Jonathan. 2005b. Social Europe and Experimentalist Governance: Towards a New Constitutional Compromise? *European Governance Papers (EUROGOV)* No. C-05-04.  
<http://www.connex-network.org/eurogov/pdf/egp-connex-C-05-04.pdf>
- Zeitlin Jonathan, and Philippe Pochet, with Lars Magnusson, eds. 2005. *The Open Method of Coordination in Action: the European Employment and Social Inclusion Strategies*. Brussels: P.I.E.-Peter Lang.

## List of Figures

Figure 1: *Policy Convergence Capacity*

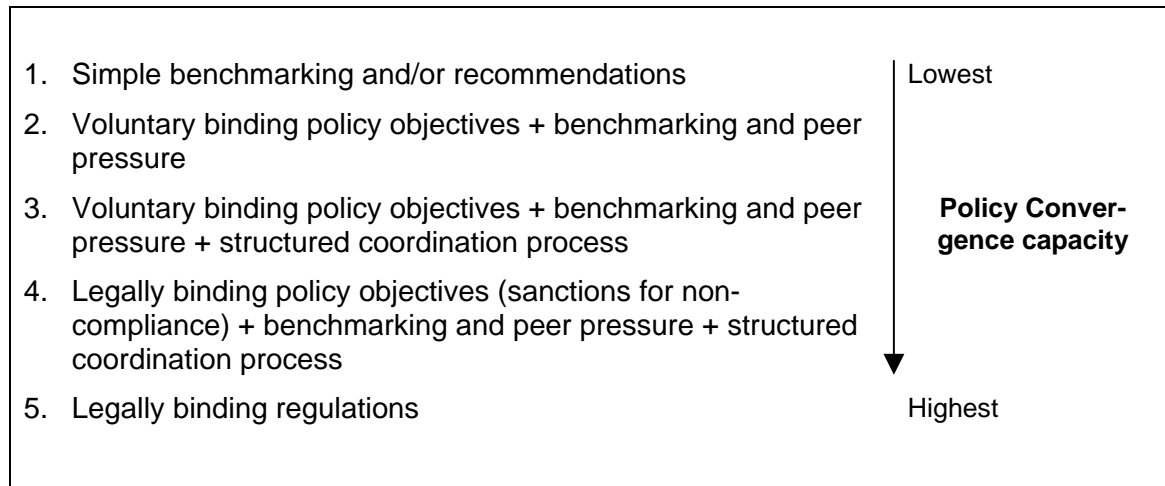


Figure 2: *The rationality and non-rationality of policy transfer*

<b>Conditions for the rationality of policy transfers</b>	<ul style="list-style-type: none"> <li>- Policy Failure and High Degree of Uncertainty</li> <li>- External Conditionality</li> <li>- Functional Interdependence</li> <li>- Consensus and Normative Consistency</li> <li>- Domestic Receptivity</li> </ul>
<b>Conditions for the non-rationality of policy transfers</b>	<ul style="list-style-type: none"> <li>- Costs of policy transfer are higher than expected benefits</li> </ul>