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**The Open Method of Co-ordination:  
A supranational form of  
governance?**

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## ***The Open Method of Co-ordination: A supranational form of governance?***

The “Open Method of Co-ordination” was first introduced in the European arena at the Lisbon Summit of March 2000. To reach the European Union’s goal of becoming “the world’s most competitive and dynamic knowledge-based economy, capable of sustainable economic growth with better jobs and greater social cohesion”, a new method of intervention was needed. The Open Method of Co-ordination (OMC) was, thus, presented as *the* appropriate tool for an integrated approach toward achieving an economic and social renewal. This method is now applied in the employment field and in the fight against poverty and social exclusion. Other sensitive fields, such as pensions and immigration,<sup>1</sup> have been identified as future areas where OMC could be applied<sup>2</sup>. Social partners at the European level have also been called to develop their own experience of OMC. They are now in charge of benchmarking best practices as regard to life-long learning<sup>3</sup> and the quality of industrial relations in Europe<sup>4</sup>.

As the Commission states in its *European Governance White Paper*, OMC is aimed at completing or reinforcing Community action, in particular when there is little scope for legislative solutions<sup>5</sup>. This new form of intervention is not to replace traditional means. Rather, the European Union (EU) would play a role consistent with its supranational position. The objective is to organize a learning process to allow the exchange of experience and best practices.

OMC is gaining ground in the European polity. Since its introduction, many areas that, until then, were considered falling under the sovereignty of Member States are now tackled at a European level. Some commentators even define OMC as a possible new way of *Building Social Europe*<sup>6</sup>. For the time being, it seems that one of OMC’s main interests remains in the new approach to legislation that about it allows. OMC shapes a form of supranational governance by mean of *soft regulation*<sup>7</sup>, providing a dynamic that is interesting to look at, not only from a

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<sup>1</sup> European Commission, Communication on an Open-Method of Co-ordination for the community immigration policy, COM (2001) 387 final, Brussels, 11.07.01.

<sup>2</sup> In its new strategy on health and safety at work, the Commission refers also to the benchmarking of best practices. See European Commission, *Communication Adapting to change in work and society: a new Community strategy on health and safety at work 2000-2006*, COM (2002) 118 final, Brussels, 11.03.2002.

<sup>3</sup> European Council, Barcelona Conclusions, 3-2002, point 29.

<sup>4</sup> European Commission, *Report of the High Group on industrial relations and change in the European Union*, Employment and Social Affairs, Luxembourg, 2002.

<sup>5</sup> European Commission, *European Governance - A White paper*, COM (2001) 428 final, Brussels, 25.07.2001, p. 21-22.

<sup>6</sup> C. De la Porte and P. Pochet (eds.), *Building Social Europe through the Open-Method of Co-ordination*, P.I.E.-Peter Lang, Saltsa, Brussels, 2002.

<sup>7</sup> We refer to “hard law” to design measures that have a legally binding effect and to contrast their situation with “soft law” measures whose legal effect is more uncertain. On this notion see: F. Snyder, *Soft law and institutional practice in the European community*, European University Institute, W.P. N.93/5, Florence, 1993; K.C. Wellens and G.M. Borchardt, “Soft law in the European Community law”, *ELR*, 1989, p.267-319.

European perspective but also from an international one.

The purpose of this article is to analyse this new tool of intervention and underscore its potential to offer a model of supranational governance. The Open Method of Co-ordination is composed of different phases, each one deeply marked by a common feature: co-ordination. The very structure of OMC relies on the presence of a supranational actor able to co-ordinate. But in order to grasp its importance, one cannot consider OMC only from the Lisbon Summit. To have a fully-fledged comprehension of this new regulatory tool, it is necessary to look at the whole development of the European Employment Strategy. It is in the field of employment that this method finds its premises and was first developed. With this background, it is possible to see from where the different components of OMC come, and also to give a clearer picture of the fundamentals of this new form of governance.

The remainder of this paper is organized as follows. Starting from the Delors White paper of 1993, it analyses the contributions that each European Summit has made to the framing of a strategy that was first confined to the employment field and, later, became a method applicable to any sensitive area. OMC is an interesting tool to look at, in particular, in considering new forms of supranational governance in a global context.

### **1. From the White paper to the Dublin Summit: the blueprint for a European employment strategy**

An historical reconstruction of the European Employment Strategy must have as its point of departure the Delors' White paper, *Growth, Competitiveness and Employment*<sup>8</sup>. As its title conveys, the White paper is an ambitious and concerted response to one of Europe's greatest challenges: combating unemployment<sup>9</sup>. In the context of a highly integrated market and in light of monetary union, the problem of unemployment in Europe is a burning one. The Delors Commission, thus, set out a medium-term strategy for both restructuring economies and creating jobs. In this document, the European Commission advocates no 'miracle cure'<sup>10</sup> for unemployment. Rather, the White paper embodies a "lucid analysis of the strengths and weaknesses of European economies"<sup>11</sup> and provides a "macroeconomic reference framework"<sup>12</sup> to guide Member States.

The key idea underlining this document is that unemployment in Europe has common roots and can be best addressed through a common scheme of action, even if the Union currently lacks legal competence in this area. In this context, the White paper underlines the close interrelation between growth, competitiveness and employment. To pull Europe out of recession, a combination of macroeconomic and structural policies was put forward<sup>13</sup>. As the Commission emphasised,

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<sup>8</sup> European Commission, *Growth, Competitiveness and Employment – The challenges and ways forward into the 21st century, White Paper*, Bull. E.C., Suppl. 6/93, Office for Official Publications, Luxembourg, 1993.

<sup>9</sup> The opening sentence of the White paper asks the question "Why this White paper?" and gives the answer: "The one and only reason is unemployment." *White paper*, p. 9.

<sup>10</sup> *White paper*, p.9.

<sup>11</sup> "White paper on Growth, Competitiveness and Employment: a fervent appeal for European cohesion", *International Labour Review*, vol.133, n.1, 1994, p. 120.

<sup>12</sup> *White paper*, p. 12 and 39-53.

<sup>13</sup> *White paper*, p. 48-53. The Commission also addresses recommendations regarding the relevant sectors to invest, for instance the Trans-European networks. See C. Turner, "Trans-European Networks: The White Paper and Beyond", *Intereconomics*, 1994, p. 253-258.

reducing unemployment would reinforce many European social objectives<sup>14</sup>. In an integrated market, social justice and solidarity should be essential elements of economic policies. Consequently, and perhaps surprisingly, the White paper contains explicit numerical targets for job creation: 15 million jobs to be created within five years and the mobilization of 600 billion ECU to this end<sup>15</sup>. Quantitative targets will likewise be reflected in the European employment strategy pronouncements from the Lisbon process onward. This expansionist agenda, which some commentators characterize as the “Commission’s ‘Keynesian’ solutions”,<sup>16</sup> was rejected by Member States reluctant to accept the substantial expenditure required and the erosion of their budgetary independence<sup>17</sup>.

However, the White paper was important in providing a springboard for the subsequent European Employment Strategy. First, it was an initial attempt at a European answer to one of the main scourges affecting European citizens and the credibility of the European integration<sup>18</sup>. By bringing the employment question into a field previously within the competence of single national systems, macro-economic policy aiming to reach full employment was taken into consideration for the first time<sup>19</sup>. Although the vigorous approach announced has barely been implemented<sup>20</sup>, the White paper had the merit of placing employment policy within the context of economic integration and monetary union. It marks a common awareness of the compelling need to give a European dimension to the fight against unemployment<sup>21</sup>.

Following the White paper, employment became a prominent part of the agenda of every subsequent European Council. Moreover, while this document is “neither a source of obligations, nor a legislative programme, not yet a plea for broader Union powers”<sup>22</sup> but rather a “moral commitment by Member States to follow the development guidelines it contains”<sup>23</sup>, it nonetheless constitutes an important piece of work. The White paper introduces a shift of method “from harmonisation to the definition of pertinent policies”<sup>24</sup> and thus opens the way to a Community approach by means of *soft-law*<sup>25</sup>. It is worth noting that the procedural approach, which is a central component of *soft-law*, can be considered as a reaction from Member States to the expansionary

<sup>14</sup> European Commission, *European Social Policy – a way forward for the Union*, COM (94) 333, p. 17.

<sup>15</sup> *White paper*, p.11.

<sup>16</sup> D. Ashiagbor, “EMU and the Shift in the European Labour Law Agenda: From ‘Social policy’ to ‘Employment policy’”, *ELJ*, 2001, p. 315. See also C. Barnard and S. Deakin, “A year living dangerously? EC Social Rights, Employment Policy and EMU”, *IRJ*, 1999, p. 356; P. Teague, “Reshaping employment regimes in Europe: Policy Shifts Alongside Boundary Change”, *Journal of Public Policy*, 1999, p. 37.

<sup>17</sup> J. Goetschy, “The European employment strategy : genesis and developments”, *EJIR*, vol. 5, 1999, p.120.

<sup>18</sup> A. Barrau, *Rapport d’information déposé par la délégation de l’Assemblée Nationale pour l’Union européenne sur la stratégie européenne en faveur de l’emploi*, Assemblée Nationale, n. 904, 14.05.1998, p. 27.

<sup>19</sup> J.-C. Barbier, “La stratégie européenne pour l’emploi : limites et potentialités”, *Problèmes économiques*, 1999, p. 20.

<sup>20</sup> J.-C. Barbier and J. Gautié (eds), *Les politiques de l’emploi en Europe et aux États-Unis*, Cahiers du Centre d’études de l’emploi, n.37, 1998, PUF, Paris.

<sup>21</sup> R. Toulemon, “L’Europe et l’emploi” , *RMCUE*, 1996, p. 485-488.

<sup>22</sup> “White paper on Growth, Competitiveness and Employment: a fervent appeal for European cohesion”, *op.cit.*, p. 121.

<sup>23</sup> *Ibid.*, p. 120.

<sup>24</sup> A. Barrau, *op.cit.*, p. 34.

<sup>25</sup> S. Sciarra, “The employment title in the Amsterdam Treaty: a multi-language legal discourse”, in D. O’Keefe and P. Twoney (eds.), *The Treaty of Amsterdam*, Oxford, Hart, 1999, p. 158 ff.

proposals advocated by the White paper. The lack of consensus on the interventions at the core of the White paper is arguably one of the defining elements of the future European procedural approach to employment matters<sup>26</sup>.

The approach suggested by the Delors White paper to stimulate job creation took clearer shape at the Essen European Council. The “Essen priorities”, as they have been labelled, follow the main axes drawn by the Commission in 1993, but translate them into five priorities. Their underlining idea is that the high level of unemployment faced by all European countries is closely linked to the “gap between the skills requirements and skill formation”<sup>27</sup>. Member States are driven to organise their employment policies in order to tackle unemployment around a set of priorities, as follows: *Priority 1*: Improving employment opportunities for the working populations by promoting investment in vocational training; *Priority 2*: Increasing the employment intensiveness of growth; *Priority 3*: Reducing non-wage labour costs, particularly for non-qualified workers; *Priority 4*: Improving the efficiency of employment policies by avoiding measures that negatively affect the availability for work and by replacing passive policies for active ones; *Priority 5*: Improving measures relating to groups most affected by unemployment (women, youth, older employees, long-term unemployed). These common objectives have then to be translated by each Member State into a multi-annual employment programme to be reported to the Commission. The Employment and Social Affairs Council, the ECOFIN Council<sup>28</sup> and the Commission are then in charge of conducting a follow-up procedure by examining the national employment policies and drafting a Joint Report to the European Council. In so doing, the Essen summit sets the framework of a European strategy on employment. The two major innovations introduced in 1994, i.e. a European definition of employment objectives and multilateral employment monitoring of the implementing process, will remain as milestones for the European strategy in this field<sup>29</sup>.

In spite of its importance in the context of the mid-1990s, the ‘Essen strategy’ proved, nonetheless, to be insufficient. The intention to favor convergence of national employment policies along the lines of the Essen recommendations failed<sup>30</sup>, probably due to the lack of quantified and measurable objectives, combined with an insufficient political consensus<sup>31</sup>. If *soft-law* appeared as the emerging discourse in order to tackle unemployment, the search for the ‘right model’ combining non-binding tools with an effective Community employment policy was still left open. In this period, *soft-law* was less a legal tool promoting convergence of different policies than an instrument to manage social policy pluralism<sup>32</sup>. The Essen strategy did, nonetheless, pave the way for the subsequent initiatives and can, therefore, be considered “the blueprint for the formalised procedures set out in the Amsterdam Employment Title”<sup>33</sup>. At this point, the Commission managed at least to

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<sup>26</sup> D. Ashiagbor, *op.cit.*, p. 319.

<sup>27</sup> European Commission, *The European employment strategy: recent progress and prospects for the future*, COM(95) 465 final, Brussels, 11.10.1995, p. 19.

<sup>28</sup> The Ecofin Council is attended by the Economic and Financial Affairs Ministers of the 15 EU Member States and generally meets once a month in Brussels or Luxembourg. This Council formation adopts measures needed to implement the Treaties’ provisions in this area.

<sup>29</sup> J.-L. Sauron, “Le Conseil européen extraordinaire de Luxembourg des 20 et 21 novembre 1997”, *RMCUE*, 1997, p. 649; J.-C. Barbier, “La stratégie européenne pour l’emploi : limites et potentialités”, *op.cit.*, p. 21.

<sup>30</sup> J. Goetschy, “The European employment strategy: genesis and development”, *op.cit.*, p.122.

<sup>31</sup> A. Barrau, *op.cit.*, p. 45 ff..

<sup>32</sup> E. Szyszczak, “The evolving European employment strategy”, in J. Shaw (eds.), *Social Law and Policy in an Evolving European Union*, Hart Publishing, Oxford-Portland, 2000, p. 213.

<sup>33</sup> J. Kenner, “The EC Employment Title and the ‘Third way’: making soft law work?”, *IJCLLIR*, 1999, p. 48.

put the employment question at the centre of the political stage. To this end, the new head of the European Commission, Jacques Santer, tried to give new impetus to labour markets reforms as envisaged in the White paper, by proposing a *Confidence Pact*<sup>34</sup>. The idea was to provide a complement to the *Stability and Growth Pact*<sup>35</sup> by re-launching all the measures that could not be adopted in the past. One of the means suggested was to reach a full mobilisation of all stakeholders in the employment strategy, in particular the social partners<sup>36</sup>. Nevertheless, in spite of the expressed willingness of the European Community to deal with unemployment, concrete instruments converting words into action were still missing<sup>37</sup>.

Subsequent European Council Summits (Cannes<sup>38</sup>, Madrid<sup>39</sup>, Florence<sup>40</sup> and Dublin<sup>41</sup>) further sharpened the Essen employment strategy. At the Cannes Summit, the Council reaffirmed the fight against unemployment as a high priority task of the Community and called on Member States to build on efforts initiated in compliance with the Essen strategy priorities. The framework for developing national measures for job-creation was deemed appropriate, but had to be refined. The Madrid European Council gave new impetus to the employment strategy identifying, among the Essen priorities, specific spheres of action that Member States were urged to regard as priorities, i.e. the long-term unemployed, the young and women. The Council also emphasized the necessity to establish common indicators in order to improve the monitoring procedure endorsed by the Commission. The Dublin European Council carried the process further by inviting the Commission and Member States, especially in the framework of the new Employment and Labour Market Committee and the Economic Policy Committee, to develop instruments for effective monitoring and evaluation of employment and labour market policies and identification of good practices. In other words, it proposed complementing the Essen priorities with common employment indicators and benchmark possibilities in order to strengthen a procedure still too *soft* to bring to any convergence<sup>42</sup>.

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<sup>34</sup> European Commission, *Action for Employment: a confidence pact*, B.E.U., Suppl. 4/96, Brussels, 1996. D. Ashiagbor describes the Confidence pact as “an instance of the use of ‘soft-law’ measures, which nevertheless placed informal pressure on the Member States to coordinate their employment policies.” In this respect it can be considered as anticipating the Amsterdam Employment guidelines. D. Ashiagbor, *op.cit.*, p. 318.

<sup>35</sup> Resolution of the European Council on the Stability and Growth Pact, Amsterdam 17.06.1997, O.J.C.E. of 28.08.97, C 236, p. 1. The preparation of the *Stability and Growth Pact* was requested at the Dublin summit in 1996. The pact is mainly concerned with maintaining the stability of prices and ensuring the continuity of the budgetary disciplines according to the convergence criteria of the Maastricht Treaty. See A. Euzéby, “La communauté européenne face au défi de l’emploi”, *RMCUE*, 2001, p. 189.

<sup>36</sup> See the position of ETUC in J.E. Dolvick, *The ETUC and the development of social dialogue and European negotiations after Maastricht*, WP n.2/97, Arena, Oslo.

<sup>37</sup> M. Colucci, “Alla ricerca di una strategia Europea per l’occupazione”, *D.L.*, 2000, p. 244.

<sup>38</sup> European Council, Cannes Conclusions, *B.E.U.*, 6-1995.

<sup>39</sup> European Council, Madrid Conclusions, *B.E.U.*, 12-1995.

<sup>40</sup> European Council, Florence Conclusions, *B.E.U.*, 6-1996.

<sup>41</sup> European Council, Dublin Conclusions, *B.E.U.*, 12-1996.

<sup>42</sup> P. Pochet underlines that the Dublin summit lead the Essen process further highlighting the need to act, in the employment field, on the inadequacy between the training of the job seekers, and employees in general, and the needs of the future information society. Nonetheless, this strong message goes together with the statement that employment has to stay a matter of national competence. See P. Pochet, “L’emploi après le sommet de Dublin”, *RMCUE*, 1997, p. 86 ff.

## 2. *The Amsterdam Treaty: the institutional framework of the European employment strategy*

The institutionalization of the European Employment Strategy marked a significant turning point in the history of European integration. To a certain extent, nevertheless, the inclusion of an Employment chapter in the Amsterdam Treaty, even if highly significant, is less an innovation than the natural extension of this emerging *soft-law* discourse. Several major elements contributed to the “constitutionalization”<sup>43</sup> of this emerging *soft-law* discourse.

Undoubtedly, one of the key ingredients was the existence of a political climate favorable to the institutional consolidation of Community action in the employment field. The victory of the labour party in the United Kingdom and especially the arrival of a new left Government in France determined to provide a counterbalance to the European Monetary Union, were certainly significant<sup>44</sup>. Whereas the Amsterdam summit was initially intended to finalize only measures regarding the *Stability and Growth pact*, incoming Prime Minister Jospin emphasized the need to prioritize the employment issue on the European Agenda. Even if unequal attention was given to the single currency as opposed to social policy concerns, Member States did, nonetheless, commit themselves to fight actively for job creation. Unemployment was openly reaffirmed as a common concern of both Member States and the European Community and its fight a matter that could actively be dealt with only by integrated action of different actors at different levels<sup>45</sup>. The political consensus reached at this particular moment of time is thus one of the key factors to be mentioned when examining this path towards a more stringent framework for *soft regulation*.

A second element in the construction of a supranational employment strategy is the body of practice already in use before Amsterdam, which was subsequently reflected in the Employment Title. One such practice is the convergence process set up by the Maastricht Treaty for a European Monetary Union (EMU). The high rate of unemployment across Europe became a key question, in particular, after the completion of the second phase of EMU. The implementation of the convergence criteria led to relatively healthy public budget balances, creating fertile ground for promoting employment as a priority in the principles and objectives of the Union. Moreover, the high level of economic integration reached with EMU inevitably highlighted the unsatisfied quest for balance between economic and social objectives<sup>46</sup>. Community intervention in the field of employment was, thus, expected. The links between monetary union and unemployment, European deregulation of public services and unemployment, decentralization of undertakings in the

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<sup>43</sup> C. Barnard, “EC ‘Social Policy’”, in P. Craig and G. De Búrca, *The evolution of EU law*, Oxford, OUP, 1999, p. 486.

<sup>44</sup> C. Aubin, “Comment Bruxelles traite du social: l'exemple de la stratégie européenne pour l'emploi”, *Revue française des affaires sociales*, n. 4-4, 1999, p. 114

<sup>45</sup> The desire to give major weight to the social objectives of the European Union was declared in the Amsterdam European Council's resolution on growth and employment which was aimed to be the political counterbalance to the stability and growth pact. Resolution of the European Council on *Growth and Employment*, Amsterdam, 16.06.1997, O.J.C.E. of 2.08.1997, C 236, p. 3-4.

<sup>46</sup> The inclusion of the Employment Chapter has to be seen against the background of the defeat of proposals for a centralized macroeconomic policy based on reflationary interventions. See C. Barnard and S. Deakin, “A year of living dangerously? EC Social Rights, Employment Policy and EMU”, *op.cit.*, p. 359.

framework of the common market and unemployment became important political issues<sup>47</sup>. As some commentators have observed, there was, at this time, considerable domestic political pressure towards the development of a EU employment strategy, whereas Governments were looking for popular support for monetary integration. In such a context “whether these processes – unemployment and convergence – were causally related became less important than whether they were linked in public perception”<sup>48</sup>. The inclusion of employment in the Treaty of Amsterdam was, thus, meant to lead to a new equilibrium between monetary policy and social policy<sup>49</sup>.

But the further relevance of the EMU to the European Employment Strategy, as the latter was shaped after 1997, lay in its provision for a methodology, for identifying a possible answer to the search for the ‘right model’ of intervention in the employment field. The mechanisms set up for employment policies borrow broadly from the economic policy model set up by article 103 of the Treaty of Maastricht<sup>50</sup>. The approach adopted relies on the definition of common objectives, leaving the appreciation of the means used to reach the preset goals to a further evaluation<sup>51</sup>. It introduces in the employment field a leading principle, with potential to *bind* national actors within a common scheme of action, that is, by co-ordination<sup>52</sup>. The success of the convergence method adopted in the monetary sphere had, thus, the dual impact of inspiring mimicry and spilling over onto the employment field<sup>53</sup>. Nevertheless, as distinct from the EMU mechanism, any recommendations issued on employment matters will not be binding, a factor that, as some commentators noted, called into question the ability to reduce the imbalance between monetary and political integration<sup>54</sup>.

The European Employment Strategy does not provide for sanctions, which, in principle, represents a weakness compared to the mandatory regulation of the monetary system. Nevertheless, this coercive perspective could be misleading if one wants to grasp deeply the evolutionary approach, depicted by some commentators as a “revisionist approach”<sup>55</sup>, to law represented by the Amsterdam Employment Title. In the latter context, the focus switched from a *normative* approach centered on legislative harmonization and binding measures, to social consensus where “a mix of ‘hard’ and ‘soft’ law is intended to establish minimum standards at Community level while leaving a wide range of discretion to the Member States”<sup>56</sup>. It introduces a new logic, “from management

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<sup>47</sup> J. Goetschy, “Les nouveaux éléments sur l’emploi et le social : rattrapage, consolidation ou percée ?”, in M. Telò and P. Magnette (sous la dir. de), *De Maastricht à Amsterdam, L’Europe et son nouveau traité*, Ed. Complexe, Bruxelles, 1998, p. 151.

<sup>48</sup> C. Pierson, A. Foster and E. Jones, “The politics of Europe: (Un)employment ambivalence”, in B. Towers and M. Terry (eds) *Industrial Relations Journal: European Annual Review 1997*, Blackwell, 1998, p. 7.

<sup>49</sup> J. Goetschy and P. Pochet, “The Treaty of Amsterdam: a new approach to employment and social affairs”, *Transfer*, 3/97, p. 608.

<sup>50</sup> *Ibid.*, p. 609.

<sup>51</sup> C. Aubin, *op.cit.*, p. 114.

<sup>52</sup> S. Sciarra, “Integration through coordination: the Employment Title in the Amsterdam Treaty”, *The Columbia Journal of European Law*, 2000, p. 221.

<sup>53</sup> C. Degryse and P. Pochet, “La politique européenne de l’emploi en 1999”, in *Bilan social de l’Union européenne*, O.S.E., p. 13.

<sup>54</sup> J. Goetschy and P. Pochet, “The Treaty of Amsterdam: a new approach to employment and social affairs”, *op.cit.*, p. 609.

<sup>55</sup> J. Kenner, *op.cit.*, p. 34 ff.

<sup>56</sup> *Ibid.*, p. 40.

by regulation to management by objectives”<sup>57</sup>, which could be looked at as a possible alternative to traditional ways of legislating, even in fields other than employment<sup>58</sup>.

The Employment Chapter has also to be read in relation to the practices already in operation since Essen. It reflects extensively the two main approaches for promoting employment set in motion by the Essen strategy: the definition of common objectives and the evaluation of their implementation by a multilateral monitoring process. Thus, we can see that employment was on the European agenda even before the Intergovernmental Conference of 1996 prior to the Amsterdam Treaty<sup>59</sup>. It is an “incremental approach where progress is measured in the reality of practice before being inscribed in institutional texts”<sup>60</sup>. Thereby, the new powers given to the Community at Amsterdam have, thus, to be looked at in the context of a dynamic initiated some years before, reflecting the common concern of Member States of the need to tackle unemployment, but also the common consensus that the Essen process proved to be insufficient<sup>61</sup>. This dynamic represents a vertical consolidation of the emerging *soft-law* discourse<sup>62</sup>, wherein, henceforth, co-ordination will be the key component of a renovated European Employment Strategy.

A further element to add in this interpretative picture is certainly the ambiguous structure of Title VIII. This ambiguity is due to the fact that the Employment Title does not correspond to a ‘communautarization’<sup>63</sup> of employment policies. It is an open structure based on an innovative dynamic that relies on the dialogue between different actors at different levels,<sup>64</sup> and on an evolutionary approach trying to reconcile potentially conflicting policy themes<sup>65</sup>. The leading principle is not harmonization, as it is openly mentioned in the Treaty<sup>66</sup>, nor is it convergence. The philosophy originally proposed by the Commission is *simply* co-ordination<sup>67</sup>. But, while employment policies remain a matter of national responsibility, the Amsterdam Treaty legitimizes community action in employment matters. With the introduction of the principle of co-ordination, the European Commission prevents Member States from acting independently in their employment spheres<sup>68</sup>. The whole dynamic leaves an open space to a central actor, the Commission, upon which much of the future progress, development and orientation of the process will depend.

In this context, *soft-regulation* appears as the most appropriate tool to frame a community action in the employment field. The purpose of Community intervention is not to constrict actors

<sup>57</sup> M. Biagi, “The impact of European Employment Strategy on Role of Labour Law and Industrial Relations”, *I.J.C.L.L.I.R.*, 2000, p. 161.

<sup>58</sup> M. Biagi underlines that the “European employment logic would be preferable when the object of the Community action is not fundamental rights”. M. Biagi, *loc.cit.*, p. 161.

<sup>59</sup> J. Goetschy, “Les nouveaux éléments sur l’emploi et le social: rattrapage, consolidation ou percée ?”, *op.cit.*, p. 152 ff.

<sup>60</sup> J. Goetschy, “Quelle place pour l’emploi dans la politique sociale communautaire”, in *L’année sociale 1996*, Institut de Sociologie, Université libre de Bruxelles, 1996.

<sup>61</sup> J. Goetschy, “The European employment strategy: genesis and development”, *op.cit.*, p. 122.

<sup>62</sup> E. Szyszczak, *op.cit.*, p. 198.

<sup>63</sup> C. Degryse and P. Pochet, *op.cit.*, p. 15.

<sup>64</sup> S. Sciarra, “The Employment title in the Amsterdam Treaty: a multi-language legal discourse”, *op.cit.*, p. 157 ff.

<sup>65</sup> E. Szyszczak, *op.cit.*, p. 204.

<sup>66</sup> Art. 129.2 T.C.E.

<sup>67</sup> S. Sciarra introduces a further distinction between cooperation (art.127) and co-ordination (art.125) which have to be conceived as two different legal instruments even if they are running parallel and leading in the same direction.

<sup>68</sup> M. Biagi, “The Implementation of the Amsterdam Treaty with regard to employment: Co-ordination or Convergence?”, *IJCLLR*, vol. 14, n.4, 1998, p. 325.

within a prescriptive framework, but to add value by organizing them in order to achieve shared policy ends. The flexibility of *soft-regulation* gives the opportunity to Community institutions to stimulate these different actors by building on or around common objectives without directly setting legal obligations<sup>69</sup>. Rather than relying on employment law, the focus is placed instead on a multi-tiered policy-making. Moreover, the flexibility of *soft law* facilitates linkages between conflicting themes. It addresses the highly controversial question of the role that social policy should play in European economic integration, especially in relation to EMU.

The use of *soft-regulation* as a tool to intervene in sensitive policy areas and bring together the contributions of the different actors - institutional and quasi-institutional - relevant to macro-economic and social policies, comes out quite clearly from the text of the Treaty. The idea is to make them interact and contribute to the achievement of the common goal of reducing unemployment.

The task to achieve and maintain a “high level of employment and social protection”, introduced by article 2 of the Maastricht Treaty, is brought into effect by Title VIII of the Amsterdam Treaty. The core structure of the process launched at Amsterdam is reflected in Article 128 (1) to (5), where the different key-components of this renewed dynamic are exposed. First, article 128 (1) EC charges the European Council to adopt conclusions on the employment situation within Member States on the basis of a joint annual report from the Commission and the Council. The second stage<sup>70</sup> consists of the drafting of the annual employment guidelines, representing “the driving force of the coordination process”<sup>71</sup>. While under the traditional scheme, the primary responsibility for the formulation of proposals is vested in the Commission and the responsibility for their adoption vested in the Council, the scheme governing the elaboration of the guidelines is quite atypical. Several actors, including the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee, are currently involved in consultations on the formulation of the guidelines with which Member States will have to comply in their employment policies. As the text of the Treaty makes clear, these shared competences between Member States and the EU will have to be discharged in a manner consistent with the broad economic guidelines, taking into account of the need for compatibility<sup>72</sup>. But these objectives have to be achieved through a discursive path, compelling different actors into the dialogue.

An interesting actor in this regard, embodying the entire logic of the process and supporting

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<sup>69</sup> J. Kenner, *op.cit.*, p. 58.

<sup>70</sup> Art.128 (2) TCE.

<sup>71</sup> J. Goetschy and P. Pochet, *op.cit.*, p.609.

<sup>72</sup> This need for compatibility is clearly mentioned also in articles 125 which states: “ Member States and the Community shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in article 2 of the Treaty on the European Union and in article 2 of this Treaty” and article 126 which provides: “Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to article 99 (2)”.

the Community in its co-ordinations tasks, is the Employment Committee<sup>73</sup>. This advisory body replaces the Employment and the Labour Market Committee (ELMC)<sup>74</sup> set up in 1997, the main objective of which was to assist the Council in the employment field<sup>75</sup>. The mission of the Employment Committee is to monitor the employment situation and employment policies, formulate opinions and contribute to the preparation of the process referred to in article 128<sup>76</sup>. In fulfilling its tasks, the Committee should in particular contribute to ensuring that the Employment Strategy, macroeconomic policy coordination and the process of economic reform are formulated and implemented in a consistent and mutually supportive way<sup>77</sup>. It must strive to promote synergy between social and economic policies, while also discharging its function under article 130 § 4 of consulting management and labour. The Employment Committee will have to achieve improved coordination through a consolidation of its relations with committees<sup>78</sup> involved in the coordination of economic policies, i.e. the Economic and Financial Committee and the Economic Policy Committee, and the social partners represented in the Standing Committee<sup>79</sup>. The Employment Committee can, thus, be seen as an institutionalized bridge between different forums composed of experts, national and community institutional personalities and social partners<sup>80</sup>, participating in discussions on the compatibility and interdependence of the broad economic policy guidelines and the employment policy guidelines. According to some commentators, the Amsterdam Treaty, in this respect, contributes to a further institutionalization of social dialogue by giving an important role to the social partners in the elaboration of the Employment Strategy<sup>81</sup>. This committee certainly

<sup>73</sup> The Member States and the Commission each appoint two members of the Committee and they may also appoint two alternates. The members of the Committee and the alternates are selected from among senior experts possessing outstanding competence in the field of employment and labour market policy in the Member States. The Committee may call on external experts where appropriate to its agenda. See Council Decision 2000/98/EC of 24 January 2000 establishing the Employment Committee, O.J. L. 29, 04.02.2000, p. 21- 22.

<sup>74</sup> The Employment Committee is provided by article 130 of the Amsterdam Treaty and has been established by a Council Decision in the year 2000. See Council Decision 2000/98/EC of 24 January 2000 establishing the Employment Committee, *op.cit.*

<sup>75</sup> For a short explanation of the mission of these committees see: <http://europa.eu.int/scadplus/leg/en/cha/c10239.htm>.

<sup>76</sup> Art. 130 TCE.

<sup>77</sup> Preamble (3) of the Decision 2000/98/2000.

<sup>78</sup> Preambles (4) and (5) and art. 5 of the Decision 2000/98/2000.

<sup>79</sup> The Standing Committee is a tripartite forum composed by the social partners, the Commission and the representatives of both ECOFIN and the Social Affairs Council. It has been reformed in 1999 by a Council Decision in order to play a more pivotal role in the definition of the European Employment Strategy. According to article 2 of this Decision “the task of the Committee shall be to ensure, in compliance with the Treaty, and with due regard for the powers of the institutions and bodies of the Communities, that there is continuous dialogue, concertation and consultation between the Council, the Commission and the social partners in order to enable the social partners to contribute to the coordinated employment strategy and to facilitate the economic and social objectives of the Community as reflected in both the Employment Guidelines and the Broad Economic Guidelines”. See Council Decision 1999/207/EC of 9.03.1999 on the reform of the Standing Committee on Employment and repealing Decision 70/532/EEC, p. 33-35. For a brief historic of the Standing committee since its creation in 1970 see: <http://europa.eu.int/scadplus/leg/en/cha/c10233.htm>.

<sup>80</sup> On the involvement of the social partners in the Employment strategy see: D. Foden, “The role of the social partners in the European employment strategy”, *Transfer*, 4/99, p. 526.

<sup>81</sup> T. Treu, “Il ruolo della politica europea”, *Dir.rel.ind.*, 1997, p. 11. M. Colucci has a different point of view. He considers that the Employment Committee lacks the orientation power and the political weight possessed by the newly established Economic and Finance Committee. Therefore it is hardly capable of helping to institutionalise social dialogue. M. Colucci, *op.cit.*, p. 250.

represents a way of ‘keeping close track’ of employment trends and briefing the Council on them<sup>82</sup>.

The next stage of the process takes place at the national level where Member States prepare an annual report for submission to the Council and the Commission, on the principal measures taken to implement their employment policies<sup>83</sup>. At this point, the dynamic shifts again to the Community level, where follow-up activities are carried out. First article 128 (4) establishes benchmarking competences for the coordinator whose function is, on the basis of the annual report, to assess Member State’s employment policies for compliance with the employment guidelines. In this evaluation phase, based upon the principle of benchmarking, there is again an interface with the Employment Committee whose views have to be delivered to the Council. Then, still in this follow-up stage, the Council may address, on the proposal of the Commission, a recommendation to any Member State failing to follow the guidelines.

The benchmarking exercise, together with the possibility to issue recommendations, represents important steps forward in the conceptualization of a potentially effective European Employment Strategy based on a *soft-regulation*. As we shall see, benchmarking has turned out to be one of the key factors giving binding effect to this *soft* structure. However, for the time being, we shall focus on the ‘recommendation’ as a possible tool establishing a legal obligation, albeit without legal sanctions. Even if ‘recommendations’ are, by definition<sup>84</sup>, devoid of formal binding effect, their potential impact on Governments should not be underestimated. Since the ‘raison d’être’ of the whole process is founded upon political consensus for the need to reduce unemployment, create new jobs and link the social and economic policy sphere, the political nature of this kind of sanction can have a significant effect on the domestic political situation. The issuing of a ‘recommendation’ is much more than symbolic<sup>85</sup> or friendly<sup>86</sup> advice to the Member State. It is a very important political sanction because it could place a national government in great difficulty as regards national public opinion<sup>87</sup>. The follow-up process is completed by a joint annual report, drawn up by the Commission and the Council and addressed to the European Council, on the implementation of the guidelines for employment and the employment situation in the Community<sup>88</sup>.

One other facet of this process, reflecting a ‘more dynamic mood focused on concrete action’<sup>89</sup>, is constituted by the possibility for the Council to adopt ‘incentive measures’<sup>90</sup>. These measures are “designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative

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<sup>82</sup> S. Sciarra, “The Employment Title...”, *op.cit.*, p. 163.

<sup>83</sup> Art. 128 (3) TCE.

<sup>84</sup> Art. 189 TUE.

<sup>85</sup> J. Goetschy, *op.cit.*, p. 126.

<sup>86</sup> C. Barnard and S. Deakin, *op.cit.*, p. 357.

<sup>87</sup> M. Biagi, “The implementation of the Amsterdam treaty with regard to employment: co-ordination or convergence?”, *op.cit.*, p. 327; M. Weiss, “Il Trattato di Amsterdam e la politica sociale”, *op.cit.*, 1998, p. 4.

<sup>88</sup> Art.128 (5) TCE.

<sup>89</sup> J. Goetschy and P. Pochet, *op.cit.*, p.613.

<sup>90</sup> The introduction of this provision has been hotly debated, with Member States worrying about the financial impact of a European employment policy. The consensus over the introduction of an Employment Chapter into the Treaty was largely based upon the agreement that employment policies will primary stay a national priority and that large expenditure measures would be avoided at the European level. Under the German pressure two political declarations have been promulgated expressly to limit the use of those measures. See European Council, Declaration for the final act on incentive measures of art. 129 TCE.

approaches and evaluating experiences, in particular by recourse to pilot projects”<sup>91</sup>. Here again the Employment Committee, together with the Committee of the Regions, has an advisory role. When looking at the incentive measures aimed to give effect to employment policies, it is useful to mention the European Social Fund (ESF)<sup>92</sup>. The ESF is the main financial tool through which the European Union translates the objectives of the European Employment Strategy – to protect and promote employment, and combat unemployment, discrimination and social exclusion – into action. Within the new European Structural Fund regulation provided for by Agenda 2000<sup>93</sup>, the potential of the ESF has been fully integrated into what is done at Member State level, thereby putting European Strategy’s priorities into practice. The ESF provides funding to Member States to complement their activities in the five main policy fields it oversees<sup>94</sup> and offers supporting finance for the implementation of National Action Plans for Employment. This support is channeled through the operational programmes under objectives 1, 2 and, in particular, through objective 3<sup>95</sup>, financed by the ESF alone. This funding is provided to help adapt and modernize policies and systems of education, training and employment.

It is interesting to note that the ESF is related to the European Employment Strategy not only as a means of financial support<sup>96</sup> but also in its own organization, based on a ‘logic of dialogue’. As stated in the description of the ESF in the Europa site: “the ESF acts as a catalyst for new approaches to projects, harnessing and bringing to bear the combined resources of all involved. It fosters partnerships at many different levels and encourages the Europe-wide transfer of knowledge, sharing of ideas and best practice, ensuring that the most effective new solutions are incorporated into mainstream policies”<sup>97</sup>. Even in the ‘implementing’ aspects of the process, the key point of reference remains the importance of hearing the voices of different actors at different levels, and through a driven supranational force, helping them to converge.

### **3. Luxembourg, Cardiff, Cologne: refining the institutional framework**

The Employment Title was first implemented by the Luxembourg Summit. An extraordinary European “Jobs Summit” took place in November 1997, a month before the Amsterdam Council. By anticipating the implementation phase, the Commission together with the

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<sup>91</sup> Art. 129 TCE.

<sup>92</sup> The ESF is one of the four European Structural Funds. Created in 1957, the ESF is the European Union’s main tool for the development of human resources and the improvement of the workings of the labour market. See [http://europa.eu.int/comm/regional\\_policy/index\\_en.htm](http://europa.eu.int/comm/regional_policy/index_en.htm).

<sup>93</sup> See: [http://europa.eu.int/comm/agenda2000/index\\_en.htm](http://europa.eu.int/comm/agenda2000/index_en.htm).

<sup>94</sup> ESF’s aim is to: develop and promote an active labour market; promote equal opportunities for all in accessing the labour market; promote and improve training, education and counseling as part of a life long learning policy, promote a skilled, trained and adaptable workforce and improve women’s access to and participation in the labour market.

<sup>95</sup> Agenda 2000 reduces the ESF objectives from 7 to 3. Objective 1 promotes the development of regions whose development is lagging behind, Objective 2 supports the economic and social conversion of areas with specific difficulties, Objective 3 provides funding for all areas of the EU, except objective 1 regions, to help adapt and modernise policies and systems of education, training and employment. Objective 3 represents 12,3 per cent of Total Structural Funds spending, a total of euros 24.05 bn from 2000 to 2006.

<sup>96</sup> On the importance of ESF for Union employment policy in the next seven years: L. Pavan Woolfe, “The European Strategy For Employment – What lies ahead?”, *IJCLLIR*, 2000, p. 303.

<sup>97</sup> See: [http://europa.eu.int/comm/employment\\_social/esf2000/introduction-en.htm](http://europa.eu.int/comm/employment_social/esf2000/introduction-en.htm).

Member States stressed the crucial character and the urgency of the employment question. At this meeting, the Commission presented its proposals for the draft 1998 Employment Guidelines<sup>98</sup>. The general orientation adopted since Essen remained the same in substance, but the method did change.

This meeting, known as the ‘Luxembourg Process’, identified four pillars around which the European Employment Strategy had to be centered<sup>99</sup>. Designed to promote an integrated medium-term approach, those four pillars are: employability, entrepreneurship, adaptability and equal opportunity. It is around this structure that the employment guidelines will be defined<sup>100</sup>. Employability is the central pillar of the employment strategy<sup>101</sup>. Nine-tenths of the measures in the employment policies of Member States stand under this pillar. The concept of employability means, in very general terms, the objective to improve each person’s access to employment, giving priority to the most disadvantaged. Beyond this broad meaning, this term is far from self-explanatory, having regard to the different economic and social models and the ambiguous links between employability and employment<sup>102</sup>. The interpretation given to the ‘entrepreneurship’ pillar is also quite variable. What is meant by the establishment of an ‘enterprise culture’ goes from a broad interpretation where “entrepreneurship” is understood as the promotion of ‘flexibility with security’ in the labour market to a more reduced semantic scope where this term means no more than self-employment<sup>103</sup>. Decisions related to the adaptability pillar fall, in most of the European Union countries, into those involved in collective bargaining. Partnership is meant to be one of the essential factors contributing to the modernization of work and improvement in the firm’s adaptability. Nonetheless, some authors consider that the third pillar is interpreted in too restrictive a manner in the national action plans, lacking real strategic potential to modernize the organization of work and working time<sup>104</sup>. The last pillar, equal opportunity, has a particular statute. It has developed as one of the four objectives around which the Employment Strategy is centered through measures aimed to combat sexual discrimination in employment. But it now has the declared objective to introduce an integrated approach through mainstreaming, making equality cut across all the employment pillars<sup>105</sup>.

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<sup>98</sup> Commission Communication - Proposal for Guidelines for Member States Employment Policies 1998, COM (97) 497.

<sup>99</sup> Extraordinary European Council on Employment, Luxembourg Conclusions, *B.E.U.*, 11-97.

<sup>100</sup> For some commentators these pillars reflect adherence to deeper underlying principles characterizing the state of the European countries today. On one hand, they reflect an ongoing quest for economic growth as an unquestioned premise, which implies that high priority is given to the strengthening of the economic infrastructure and, on the other hand, they indicate that the main aim of the strategies is to bring about ‘full’ employment in paid labour, reflecting a valuation of paid labour above other possible forms of participation. See H. Coenen, R. Hortulanus, “The concept of labour in a European perspective”, *Transfer 1/01*, pp. 74 – 89.

<sup>101</sup> F. Lefresne, “Employability at the heart of the European employment strategy”, *Transfer 4/99*, pp. 460 – 480.

<sup>102</sup> This controversy over the term “employability” is reflected in the French translation which is not “employabilité” but “capacité d’insertion professionnelle”. A. Bosco, “L’émersion du concept d’employabilité”, *D. Soc.* 1998, p. 903.

<sup>103</sup> On the various implementation of the second pillar in the different Member States see D. Foden and L. Magnusson (eds.), *Entrepreneurship in the European Employment Strategy*, ETUI, Brussels, 1999.

<sup>104</sup> D. Meuders and R. Plasman, “The third pillar: adaptability”, *Transfer 4/99*, p. 481–501.

<sup>105</sup> S. Lemièrre and R. Silvera, “Equal opportunities policies for women and men: a critical analysis of the 1998-1999 Employment Action plans”, *Transfer 4/99*, p. 502-521.

The Luxembourg Process was, thus, initially meant to be a ‘peer pressure’<sup>106</sup> process, which would leave the employment policy to remain a matter for national governments<sup>107</sup>. Nonetheless, while convergence was not the declared initial purpose, different components of the Luxembourg dynamic – i.e. the fruitful exchange of best practices, the influence exercised by benchmarking and peer pressure – led to a logic of convergence. The Commission’s ‘softly, softly approach’<sup>108</sup> certainly helped to reinforce this trend. By establishing EU committees in the social field, launching research projects and small-scale programmes, issuing communications and drawing actors into the EU policy process, the Commission engaged in a “softening-up process”<sup>109</sup>. In so doing, the Commission paved the way for its preferred course of action should a ‘policy window’ open up. Its catalytic activities play a central role in this “softening-up process”, where the weight is more placed on identifying which is the most suitable action, and persuading Member States that the optimal instrument is a Community one, than in attempting to reach conclusive determinations of correct policy. This led some authors to define the Commission as “a purposeful opportunist” in its use of *soft-law* measures<sup>110</sup>.

The subsequent processes took the Luxembourg Process further and contributed to the development of a *softly binding* European employment policy. Just one year later, the Council, in its Vienna conclusions<sup>111</sup>, called for a “European Employment Pact”. What was meant by ‘Pact’ was initially quite unclear. It emerged progressively that, rather than an ‘agreement’, the term referred to the setting up of ‘procedures’ for dialogue and policy formation<sup>112</sup>. This represents the first declared manifestation of the procedural approach adopted at the European level in the employment field, and a sign of what had been depicted earlier as a ‘revisionist’ approach to law. It is at the Cologne summit<sup>113</sup> that content was given to European Employment Pact. After having formally confirmed that “higher employment continues to be Europe’s top objective”, the Council invited a “comprehensive overall approach bringing together all the Union’s employment policy measures”<sup>114</sup>. The pact was to be an exercise in coordination among three separate pillars. These pillars are: the Luxembourg Process, mainly focused on labour market policy; the Cardiff Process, concerned with the structural reforms in product and capital markets and modernization of the labour market; and the Cologne Summit which deals with the interaction between macro-economic and monetary policy and aims at instituting a macro-economic dialogue between various actors including the social partners<sup>115</sup> first and foremost and the European Central bank<sup>116</sup>. The Employment Pact, thus, brought essentially two new elements into this global framework: on the one hand, the willingness to bring together all the actors concerned with employment promotion;

<sup>106</sup> On the importance of this “peer pressure” which makes the Luxembourg process substantially different from the Essen process see T. Treu, “1997: un anno di politiche del lavoro”, *L.D.*, 1998, p. 325.

<sup>107</sup> D. Henderson, “The UK Presidency: an insider’s view”, 1998, *JCMS*, p. 563.

<sup>108</sup> J. Kenner, “EU Labour Law: The softly, softly approach”, *I.J.C.L.L.I.R.*, 1995, p. 307 ff.

<sup>109</sup> See for this expression G. Majone, “Ideas, interests and policy change”, *EUI*, WP 92/21, p. 6.

<sup>110</sup> On the Commission’s persuasive role by way of soft legislation in the social policy field see. L. Cram, *Policy making in the EU: conceptual lenses and the integration process*, London and New York, Routledge, 1997, p. 34 ff.

<sup>111</sup> European Council, Vienna Conclusions, *B.E.U.*, 12-98.

<sup>112</sup> D. Foden, *op.cit.*, p. 524.

<sup>113</sup> European Council, Cologne Conclusions, *B.E.U.*, 6-99.

<sup>114</sup> Cologne Conclusions, point 7.

<sup>115</sup> D. Foden, *op.cit.*, p.525- 529.

<sup>116</sup> As regards the position of the European Central bank relating to employment questions, in particular wages. See P. Pochet, “The New employment Chapter of the Amsterdam Treaty”, *JESP*, 1999, p. 272 ff.

and on the other hand, the need for an integrated approach to macro-economic and social questions<sup>117</sup>.

#### **4. The Lisbon Summit: from the European employment strategy to the Open Method of Co-ordination**

In March 2000, when the *soft regulatory* method applied to the Employment field is institutionally recognized as a new form of intervention, all the ‘ingredients’ were already present. The main area of intervention – employment – had been highlighted as a matter of European common concern since the White Paper. With Lisbon<sup>118</sup>, employment became the core question of a special summit held every year in the spring. Employment was, thus, consecrated as a challenge to be brought to the forefront of EU and national debates. But it is also focused on an empirical area where a new form of European governance, likely to be applied to other sensitive issues if it proves its value, has to be experienced. Rather than harmonization or mutual recognition, Member States agreed to promote an alternative form of intervention dubbed the ‘Open Method of Co-ordination’.

This current shift from employment to a broader area is mainly reflected in the overarching goal introduced in Lisbon of the EU to become “*the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with better and more jobs and greater social cohesion*”<sup>119</sup>. The Lisbon Summit, thus, went beyond the fight against unemployment and called for an integrated approach towards achieving an economic and social renewal. The virtuous triangle of modernizing the European social model, investing in human resources and fighting against social exclusion<sup>120</sup> had become the privileged arena of intervention.

With the term ‘Open Method of Co-ordination’ the European Council did not launch new process, for the Luxembourg, Cardiff and Cologne Processes already offered the necessary instruments<sup>121</sup>. The Lisbon Summit took the four key principles further, which already distinguished the European Employment Strategy of the Luxembourg Process from any previous attempt to develop a credible European approach to employment policy<sup>122</sup>. Lisbon strengthened the logic of ‘mutual learning, benchmarking, best practice and peer pressure to achieve objectives’. Thus, a method of governance not based on a top-down, uniform rule backed with sanctions but on a more flexible and participatory approach<sup>123</sup>, was institutionalised. This method relies mainly on

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<sup>117</sup> C. Aubin, *op.cit.*, p. 114-115.

<sup>118</sup> Extraordinary European Council, Lisbon Conclusions, *B.E.U.*, 3-2000.

<sup>119</sup> *Ibid.*, point 5.

<sup>120</sup> *Ibid.*.

<sup>121</sup> Lisbon conclusions, point 35.

<sup>122</sup> J. Lönnroth sum up these principles as: convergence, management by objectives, country surveillance, an integrated approach. For further details on these different principles see: J. Lönnroth, “The European employment strategy, a model of open co-ordination and the role of the social partners”, presentation at a conference on the Legal Dimension of the European employment strategy, Brussels 9-10 October 2000, Saltsa/Swedish National Institute for Working Life, p. 2 ff.

<sup>123</sup> D. M. Trubek and J. Mosher, “New Governance, EU Employment Policy, and the European Social Model”, Jean Monnet Working Paper n.6/01, Symposium: Mountain or Molehill? A Critical Appraisal of the Commission White Paper Governance, 2001, <http://www.jeanmonnetprogram.org/papers/01/011501.html>.

the rationalization and refinement of the different processes set in motion earlier. With Lisbon, the former European 'strategy' was transformed into a proper 'method' of intervention.

This method has several steps. First, is the definition of common objectives to guide national policy. In conformity with the framework set up in Essen, the conceptualization of the lines along which national policies are formulated takes place at a supranational level. But in order to reach this first goal, the Lisbon European Council proposed combining those guidelines with "specific timetables for achieving the goals which they set in the short, medium and long-term" and to establish "quantitative and qualitative indicators and benchmarks against the best practices in the world and tailored to the needs of different Member States and sectors as means of comparing best practices"<sup>124</sup>. One of the leading principles of the European Employment Strategy – coordination – is thereby strengthened. Coordination is provided with the needed details for the EU level to exercise a pressure on the employment policies of Member States' and set up a common scheme of action<sup>125</sup>. Member States are, thus, guided at the EU level to reach full employment by raising the overall European employment rate to 70 per cent and the employment rate of women to more than 60 per cent by 2010<sup>126</sup>.

The second step consists in translating EU guidelines into national action plans. Here again, we face a mechanism already in place since the Luxembourg Summit. The multi-level dialogue that characterized the Employment Strategy is naturally at the heart of OMC. But the dialogue is refined and pushed further. The main goal of this second stage is to make the EU objective efficient, by leaving to each Member State the definition of the most appropriate implementing measures. The Lisbon Council stress the importance of including into this multi-level dialogue a regional dimension. All the actors, even at a local level, are called to participate in this policy decision-making. The Council made this call clear in the Lisbon conclusions, stating that "a fully decentralised approach will be applied in line with the principle of subsidiarity in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership"<sup>127</sup>. By broadening the goal from employment to economic and social renewal, the EU set an ambitious and complex objective to achieve. In order to reach this aim, a third building block, which will include the regional and local levels, has to be added to the European and national levels. The mobilization of all the actors involved, at all levels, thus appeared as the only way to comply with these ambitious commitments<sup>128</sup>.

Decentralisation essentially meets the need to enhance the efficiency of the Employment Strategy. As the Commission highlighted, the conditions of competition between territorial spaces have changed in the new global context. Competition is based on the capacity to value local specificities within this context. The local area is where unsatisfied needs can be best identified and

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<sup>124</sup> Lisbon conclusions, point 37

<sup>125</sup> S. Sciarra, "The Employment Title...", *op.cit.*, p. 148.

<sup>126</sup> Lisbon conclusions, point 30. This objective goes beyond reducing the level of unemployment by half. It means to bring back into the labour markets whole groups of those 'inactive' and consequently addressing the founding causes of labour market inactivity P. Pochet, "Avons-nous besoin d'indicateurs sur la qualité du travail et de l'emploi", intervention in the Conference *Pour une meilleure qualité de l'emploi*, Brussel, 20-21 September 2001. All the speeches of the Conference are available on the web site: [http://europa.eu.int/comm/employment\\_social/market2\\_en.htm](http://europa.eu.int/comm/employment_social/market2_en.htm)

<sup>127</sup> Lisbon conclusions, point 38.

<sup>128</sup> "Acting Locally for Employment" or how to develop a local dimension for the European Employment Strategy. The Campaign still goes on, [http://europa.eu.int/comm/employment\\_social/empl&esf/news/actlocal\\_en.htm](http://europa.eu.int/comm/employment_social/empl&esf/news/actlocal_en.htm).

social and economical diversity dealt with in an appropriate way<sup>129</sup>. Local actors can, thus, act as an “integrator” of segmented policies. But their potential relies also on their capacity as promoters of third system activities and their contribution to achieving the overarching EU goal, in particular as regards social exclusion and equal opportunity. The so-called ‘third system’, ‘social economy’ or ‘third sector’<sup>130</sup> represents a sizeable economic and social reality in many countries and should be an area of concern in the framework of the European Employment Strategy<sup>131</sup>. Local actors, in particular, NGO’s, are the most directly related to this third sector.

More generally, decentralization is part of a wider European approach focusing on *partnership*. The White paper on European Governance<sup>132</sup>, which proposes reform of the “means, rules, processes and behaviour that affect the way in which powers are exercised at European level”<sup>133</sup>, has opening policy-making to make it more inclusive and accountable at its heart. To achieve participation - one of the five key components of good governance<sup>134</sup> - the Commission suggests *reaching out to citizens through regional and local democracy*. This implies a multi-level partnership in which national governments fully involve their regions and cities in European policy-making. The idea is to promote a policy-making culture based on consultation with the various involved actors. The decisional and implementing phases have to be based on the existing needs and competences<sup>135</sup>.

The Commission stresses this key idea also when dealing with employment. In order to succeed in local employment development, European Employment Strategy should fully reflect the ongoing cultural change in its approach to development issues. Employment policy can no longer be considered as the exclusive concern of political decision-makers and economic operators. It is the concern of the society as a whole. Therefore, the EU should bring together all forces through the creation of local partnerships and co-ordinate the different players between the various levels<sup>136</sup>.

The European Employment Strategy therefore, offers the appropriate framework at the European level to co-ordinate the local, the regional and the national actors and to include them in the policy-decision making. Its whole structure, in particular when defining the guidelines and implementing them, could represent a useful grid against which to develop a local employment strategy. It would be a way of increasing the coherence, effectiveness and the participatory aspects

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<sup>129</sup> European Commission, Communication from the Commission to the Council, the European Parliament, the Economic and social Committee and the Committee of the Regions, Acting Locally for Employment, A Local Dimension for the European Employment Strategy, COM (2000) 196 final, p. 20, Brussels, 7.04.2000.

<sup>130</sup> The third sector/third system/social economy are defined as “some forms of socio-economic organisation (co-operatives, associations, mutual organisations, and foundations) commonly referred to under the general term of the “social economy”, “third sector” or “third system” share principles such as the lack of profit-making goals, independence from the public and private sectors, seeking a more participatory form of organisation, and a community service ethos”, COM (2000) 196 final, p. 10.

<sup>131</sup> This sector is thought to account for 8.590.000 jobs or 6.45 per cent of total employment and 7.78 per cent of salaried employment. If volunteer work were converted into full-time equivalents, it is estimated that 10 per cent of the workforce would be in the third system. *The enterprises and organisations of Third system: a strategic challenge for employment*, CIRIEC study, December 1999.

<sup>132</sup> European Commission, *European Governance, White paper*, COM (2001) 428 final, Brussels, 25.07.2001.

<sup>133</sup> COM (2001) 428 final, p. 8.

<sup>134</sup> The five principles that underpin good governance and the changes proposed in this White Paper are: *openness, participation, accountability, effectiveness and coherence*, COM (2001) 428 final, p. 10.

<sup>135</sup> COM (2001) 428 final, p. 12.

<sup>136</sup> COM (2000) 196 final, p. 20.

of the Employment Strategy. The involvement of different actors in the elaboration and implementation of policies could contribute to establishing a coherent link between local players and, therefore, maximize the impact of the national plans<sup>137</sup>.

The fulfillment of those three central components of good governance will mainly depend on the capacity of European actors to co-ordinate. With its Communication in 2000, *Acting locally for employment*, the Commission aimed at fully endorsing this coordination role by encouraging:

- awareness, experimentation and dissemination of best practices in the development of local employment among and within Member States;
- development wherever possible of local employment strategies coherent with the NAPs;
- evaluation of these local plans before further policy development.

In this document, the Commission provided the political framework for consultation and a campaign to raise the awareness of local actors. This paper focuses on ways in which labour-market interventions can be made more effective and on the contributions which players at the local level can make to developing and sustaining employment. It aims at sparking a debate amongst the various local, national and European players, enabling conclusions to be drawn. The synthesis document of the consultation<sup>138</sup> confirmed that the Communication is a useful framework for debate, mainly for two sets of reasons. On the one hand, it has helped “map” the actors involved and identify the relevant issues. On the other hand, this document has been a supportive tool for local actors, giving them visibility and recognition of the central role they play in developing employment. This broad consultation, then, resulted in a new Communication from the Commission<sup>139</sup> which suggested ways of developing and implementing local employment strategies, capitalizing on lessons drawn from previous experiences in this area and making better use of existing Community financial provisions.

Regarding the last aspect, financial instruments, it is worth noticing that the *partnership* approach, which is at the heart of the local Employment Strategy, is an important concept in the reorganization of the European Social Fund. The creation of a broad partnership, encompassing a wider range of institutional, private and associative actors at regional and local level is a key feature of the new Regulations governing the Structural Funds for the 2000-2006 period. The new ESF Regulation contains a specific provision aimed at boosting the participation of local partners and NGOs in ESF-supported programmes in the form of small grant schemes<sup>140</sup>. The area of social exclusion is quite representative of this new *partnership* approach. Within the new round of programmes under objectives 1, 2 and 3, the European Social Fund embraces an integrated strategy to fight against exclusion in the labour market. The promotion of social inclusion in the labour market is attempted by the greater participation of all relevant actors in the design, implementation and monitoring of ESF aids. The new challenge for the ESF is to build on the existing capacities at

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<sup>137</sup> COM (2000) 196 final, p. 17.

<sup>138</sup> Synthesis of the consultation concerning the Communication *Acting Locally for Employment – A local dimension for the European Employment Strategy*, Colloquium Territorial Strategies for Employment Strasbourg, 30 November-1 December 2000.

<sup>139</sup> European Commission, Communication from the Commission to the Council, the European Parliament, the Economic and social Committee and the Committee of the Regions, Strengthening the local dimension of the European Employment Strategy, COM (2001) 629 final, Brussels, 06.11.2001.

<sup>140</sup> Article 4.2 of Regulation (EC) 1784/1999 on the ESF provides that Member States will allocate a reasonable amount of Objectives 1 and 3 appropriations for global grants, managed by intermediary bodies that will in turn offer support in the form of small grants to NGOs and local partnerships. Most Member States' programmes have allocated 0.5 per cent to 1 per cent of the appropriations to this form of support.

the local level, by promoting wider access of local actors such as social partners, NGOs and other small local organisations, as full beneficiaries of the ESF<sup>141</sup>.

The final step of the OMC relates to evaluation and benchmarking of national employment performances.

The evaluation phase has played a key role in the development of the European Employment Strategy launched in 1997. Nevertheless, common targets according to which progress could be assessed were missing. The Portuguese Presidency called for the development of quantitative indicators, in order to assess progress towards the implementation of the Lisbon Strategy, and “to ensure the necessary coherence and standard presentation”<sup>142</sup>. It identified four domains of actions where progress was to be measured: employment, innovation, economic reform and social cohesion<sup>143</sup>. In the years following, much progress was achieved with the development of indicators that helped to consolidate the comparisons between national employment policies, to assess the impact of the implementation and the impact of the guidelines and facilitate the identification and exchange of best practices<sup>144</sup>. Thus acknowledged is the European task of assessing the employment guidelines’ implementation, monitoring of progress and following-up of the Lisbon Process through appropriate instruments. By stating the establishment of policy indicators, in order to effectively evaluate Member States employment policies, the Portuguese Presidency brought the whole process a step further. Common elements of statistical evaluation, which are crucial in any effort to coordinate, became a constitutive element of this new form of governance<sup>145</sup>. But it is worth noting that the inclusion of indicators embodies also indirectly a *sanctioning* function. The setting of parameters, referring to which Member States succeed or fail in their commitments, corresponds to a *sanction*, even if they are *soft* in that they do not provide any coercive effect.

The benchmarking exercise, which consists of identifying the best labour market performances and drawing attention to best practices in each dimension of the EES, acquired particular relevance thanks to the support of the peer review programme. The European Commission (DG Employment and Social Affairs), in close consultation with the Employment and Social Affairs Committee, launched this programme in 1999. The objectives of the peer review programme are:

- to identify, evaluate and disseminate good Active Labour Market Policies;
- to assess whether and how good practices can be effectively transferred to other Member States;
- to follow-up and implement the ideas and objectives of the European Employment Strategy;

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<sup>141</sup> COM (2001) 629 final, p. 11-12. The regional and local dimension of the implementation of the Fund is highlighted also in European Commission, *The European Employment Strategy and the ESF*, Employment and Social Affairs, Brussels, 1999; Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, *European Social fund support for the European Employment Strategy*, COM (2001) 16 final, Brussels, 23.01.2001.

<sup>142</sup> Feira conclusions, p. 8. The Council requested to the Commission to present a report on structural indicators by the end of September 2000. Those indicators are contained in the Communication from the Commission, *Structural indicators*, COM (2000) 594 final, 27.09.2000, Brussels. A further report has then been published in 2001. See COM (2001) 619 final, 30.10.2001, Brussels.

<sup>143</sup> Lisbon conclusions, point 36.

<sup>144</sup> European Council, Decision on Guidelines for Member States’ employment policies for the year 2001, 2001/63/EC, J.O. L.22 of 24.01.2001, p. 19.

<sup>145</sup> S. Sciarra, “Integration through coordination...”, *op.cit.*, p. 222.

- to develop and propose a list of methodology criteria for the selection and review of good practices<sup>146</sup>.

This peer review exercise is the main vehicle through which benchmarking can be effectively organised.

Evaluation, peer review and benchmarking can be considered as the fundamentals allowing the OMC to be a learning process. The potential to promote policy learning is at the heart of this new approach<sup>147</sup>. The focal point is not to mandate uniform employment standards but, instead, to manage by objectives and promote an interactive process based mainly on a multi-level dialogue<sup>148</sup>. The process, as this *soft* approach implies, is open as regards state actions, the policy outcomes or the degree of states' involvement that could be considered as an involvement 'à la carte'. Nevertheless, if one goes from the traditional perspective of regulation and takes a wider perspective, where the role of the supranational actor is to show better paths rather than to deliver policy outcomes, then the evaluation of this new method has to be phrased according to new parameters. The Open Method of Co-ordination is designed to help Member States progressively develop their own policies<sup>149</sup>. It is linked to a variety of policies where states are able to proceed individually, but are not sure of the best path<sup>150</sup>. In this perspective, the flexibility offered by *soft regulation* acquires a determinant role. If this *soft* mechanism were able to promote policy learning, this would, of itself, represent an important governance innovation over traditional regulatory methods<sup>151</sup>.

### **5. The Open Method of Co-ordination: a new governance tool in the social protection field**

The subsequent EU Council meetings represent mostly a completion of the new direction of intervention roughed out in the spring Portuguese meeting. The European Social Agenda of the Nice European Council<sup>152</sup> completes and reinforces the social aspect of the Lisbon Strategy, social policy being, as the Council clearly phrases it, a productive factor. This document<sup>153</sup>, which

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<sup>146</sup> <http://peerreview.almp.org/en/principles.html>

<sup>147</sup> C. de la Porte, "Is the open method of coordination appropriate for organising activities at European Level in Sensitive Policy Areas?", *ELJ*, vol. 8, 2002, p. 41 ff.

<sup>148</sup> P. Pochet, "Subsidiarité, gouvernance et politique sociale", in F. Delprée (sous la dir. de), *Le principe de subsidiarité*, 2001, Bruylant, Bruxelles.

<sup>149</sup> Lisbon conclusions, point 37.

<sup>150</sup> J. Mosher, "Open method of co-ordination: functional and political origins", *ECSA Review*, 13:3, 2000, p. 7.

<sup>151</sup> M.C. Durf and C.F. Sabel, "A constitution of democratic experimentalism", *Columbia law review*, 1998 (2), p. 267-473.

<sup>152</sup> European Council, European Social Agenda approved by the Nice European Council meeting on 7, 8 and 9 December 2000, O.J. C 157, 30.05.01.

<sup>153</sup> The Commission's communication of June 2000 was central to the debates on the European Social Agenda then published by the Council. European Commission, *Communication from the Commission to the Council, the European parliament, the economic and social committee and the committee of the regions, Social Policy Agenda*, Brussels, 28.06.2000, COM (2000) 379 final.

constitutes the ‘travel warrant’ of European social policy for the five coming years<sup>154</sup>, provides the strategic response to modernize the European Social model and translate the political commitments made in Lisbon into concrete action<sup>155</sup>. The Council matched the main issues, in the social area as a whole, that need to be confronted in the light of the ambitious goal assessed in Lisbon<sup>156</sup>. From this perspective, employment is no longer the exclusive arena of intervention. Common objectives in the social protection area are defined and, thus, represent the second sphere of European intervention by mean of *soft regulation*.

The orientation towards a social policy managed through *soft regulation* and expanded to other areas is clear from the second spring meeting. In Stockholm<sup>157</sup>, the Council reiterated its agreement that economic reform, employment and social policies are mutually reinforcing<sup>158</sup>. As regards to employment, the Council endorses the commitment to the goal of full employment and sets intermediate targets for employment rates across the Union for January 2005 of 67 per cent overall and 57 per cent for women<sup>159</sup>. The strategic Lisbon objective of raising the overall European employment rate to 70 per cent and the employment rate of women to more than 60 per cent by 2010 was, thus, completed with an interim stage that Member States will have to refer to when drafting their National action plans. Further details are also provided regarding ageing populations: the Council has agreed to set an EU target for increasing the average EU employment rate among older women and men (55-64) to 50 per cent by 2010<sup>160</sup>.

Yet, it is mainly for the inclusion of a new facet – social protection – that the Stockholm summit will be remembered.<sup>161</sup> The Open Method of Co-ordination was declared to be the tool for addressing problems related to both social exclusion and pensions. As regards the former, social exclusion, the first stages of OMC – setting guidelines and drafting national action plans – were already depicted in Nice. The Stockholm Council complemented the process by calling for the development of indicators and gave a special mandate to the Belgium Presidency to elaborate those indicators<sup>162</sup>. But the major innovations derive from the pensions. The reform of the pension system represents, certainly, the most sensitive question in the already sensitive realm of social policy. This reform will inevitably be at the heart of the political domestic agenda in the next decade.

<sup>154</sup> It is worth mentioning the original elaboration process which gives rise to the Social Agenda. This programmatic document, is the outcome of a negotiate process between the relevant responsables for the social policies. It is under the heading of the Council, the more ‘natural’ actor to lead this political exercise that took place negotiation between the Commission, the European Parliament, the Social Partners and the NGO’s.

<sup>155</sup> A. de Soucy, “L’agenda social européen: feuille de route pour l’Europe Sociale”, *RMCUE*, 2001, p. 158.

<sup>156</sup> It refers to the need to achieve full employment and mobilize the full potential of job available, with a particular stress on the quality of jobs created; to benefit from technical progress; to develop mobility; to take advantage of economic and monetary integration; to deal with population ageing; to strengthen social cohesion; to make success of enlargement in the social field; to affirm the social dimension of globalization.

<sup>157</sup> Each spring a ‘sheet balance’ of the progress made in the social field have to be drawn up. The social partners are also invited to play their full part in implementing and monitoring the whole process, in particular through a meeting before the Spring European Council Summit. Nice conclusions, point 14. The Stockholm meeting took place in March 2001. Stockholm conclusions, *B.E.U.*, 3-2001.

<sup>158</sup> Stockholm conclusions, point 2.

<sup>159</sup> *Ibid.*, point 9.

<sup>160</sup> Stockholm conclusions, point 9.

<sup>161</sup> For a short comment on this summit see Editio du Notabene 121, “Stockholm et après...”, *O.S.E.*, April 2001, <http://www.ose.be/be/fr/forum/default.htm>; A. de Soucy, “Le volet social du Conseil Européen de Stockholm”, *op.cit.*, p. 311-313.

<sup>162</sup> Stockholm conclusions, point 28-29.

Ageing populations is a common trend in all Member States and will present new challenges for European societies<sup>163</sup>. However, any attempt to restructure the pension system has to find a balance between the inter-generational solidarity and the sustainability of public finances. Each Member State has ensured this equilibrium according to its own social model. Consequently, European intervention could only take place through an integrated approach to this question that would leave a sufficient margin of discretion to the Member States. In this extremely politically sensitive area, the extension of OMC to pensions was, for the first time, contemplated. In this perspective, the Council called for the Commission and for the Social Protection Committee to prepare preparatory documents on the viability of the pension systems in the perspective of the Gothenburg and Barcelona meetings<sup>164</sup>.

Together with the extension to new social policy areas, the structure of OMC has a 'red thread' that guides the whole Social Agenda: quality of work. Improving the quality of work, it is said, will strengthen competitiveness and social cohesion<sup>165</sup>, the key features of the European social model. The "quality" aspect of the social policy, which will be further defined by the Commission<sup>166</sup> and the following Council's meetings, becomes the prism through which policies have to be evaluated. The aim to provide "more jobs" is complemented by the need to provide "better jobs". This common concern for a 'qualitative' as well as 'quantified' approach in the fight against unemployment has been addressed in particular by the Laeken Summit where indicators on quality in work have been presented<sup>167</sup>. More generally, the importance of developing indicators was highly stressed. In the Stockholm conclusions, the Council called for the elaboration of indicators regarding the provision of care facilities for children and other dependants and on family benefit systems<sup>168</sup>, but also for education, training and skills<sup>169</sup>, and to ensure that there are no discriminatory pay differentials between men and women<sup>170</sup>.

### **Conclusion:**

A new form of intervention has been taking shape in the European Union in recent years. Too little time has passed since its introduction for a clear picture of the whole process and its actual effectiveness. Nevertheless, some features of OMC are of great interest for introducing an innovative logic. First, this method implies a different role for the traditional actors in the decision-making process, wherein the State is an actor among others. The local level, thereby, acquires a relevant role for its capacity to value local specificities, to identify unsatisfied needs and deal in an appropriate way with social and economical diversity. The supranational level becomes the level where co-ordination of the different players takes place, where the actors involved in the process

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<sup>163</sup> COM(2001) 79 final, p. 26.

<sup>164</sup> Stockholm conclusions, point 33

<sup>165</sup> Social Agenda, p. 7.

<sup>166</sup> European Commission, *Communication from the Commission to the Council, the European Parliament, The Economic and Social Committee and the Committee of the Regions, Employment and social policies: a framework for investing in quality*, COM(2001) 313 final, Brussels, 20.06.2001.

<sup>167</sup> Laeken conclusions, *B.E.U.*, 12-2001, point 22. See the report by the Employment Committee presented at the Laeken summit. Employment Committee, *Indicators of quality in work*, 14263/01, Brussels, 23.11.2001.

<sup>168</sup> Laeken conclusions, point 9.

<sup>169</sup> *Ibid.*, point 10.

<sup>170</sup> *Ibid.*, point 27.

can be mapped and be given visibility and recognition. Its role is to show the better path, to help Member States to develop their own policies. The underlining idea is that States are able to proceed individually but are not sure of the best path. To promote the learning process, the supranational level acquires a central role: identifying relevant issues and formulating objectives, raising awareness, offering the coherent framework, mapping relevant actors, identifying and promoting best practices.

Second, OMC gives the opportunity to rethink the added values that a soft regulatory tool can offer. OMC is not provided with sanctions. Nevertheless, it is not deprived of binding effect. When considering this aspect, different elements have to be kept in mind. On the one hand, OMC objectives are addressed to States, not to individuals. It is up to the States to implement, by *hard* law the States' *soft* commitments. On the other hand, even if OMC cannot be defined as other than *soft regulation*, it differs from *soft-law* measures such as codes of conduct, recommendations or resolutions. OMC is not just a *provision*, but is, in addition, a *process*. It provides a *soft* frame to *hard* law interventions and has its own way of sanctioning. Finally, OMC is a form of supranational governance of some interest in terms of intervention in a global framework. OMC is flexible enough to be adapted to a complex reality, but, at the same time, it provides a follow-up system that prevents it from being a fully open means of intervention.

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## ANNEXES

### ***June 1993: Delors' White Paper on Growth, Competitiveness and Employment***

- Consensus on employment as a common objective of the EU Member States: a common policy to tackle unemployment is put forward.
- A procedural approach to deal with unemployment is adopted.

### ***December 1994: Essen Summit***

- A framework is given to the European Employment strategy (EES):
  - EU definition of common objectives on employment.
  - Multilateral monitoring of the implementing process.

### ***June 1995: Cannes Summit***

- Call to refine the EES to make it more effective.

### ***December 1995: Madrid Summit***

- Specific areas of intervention in the employment field are identified.

### ***December 1996: Dublin Summit***

- Proposal to complement the EU common objectives on employment with common indicators and benchmarks.

### ***December 1997: Amsterdam Treaty (Title VIII) on employment***

- An institutional framework is given to the EES.
- Co-ordination by the EU institutions (Commission, Council) is the key-component of the EES.

### ***December 1997: Luxembourg Summit***

- Launch of the Luxembourg process which consists in a further development and better implementation of the coordinated employment strategy to improve the efficiency of the labour markets by improving four pillars which are:
  - Employability
  - Entrepreneurship
  - Adaptability of business
  - Equal opportunities for men and women

***June 1998: Cardiff Summit***

- Launch of the Cardiff Process: Comprehensive structural reform and modernisation to improve the innovative capacity and efficiency of the labour market and the markets in goods, services and capital.

***December 1998: Vienna Summit***

- Call for a European Employment Pact

***June 1999: Cologne Summit***

- Launch of the Cologne Process: Coordination of economic policy and improvement of mutually supportive interaction between wage developments and monetary, budget and fiscal policy through macro-economic dialogue aimed at preserving a non-inflationary growth dynamic.
- The European Employment pact is defined as a comprehensive overall approach bringing together the Luxembourg process, the Cardiff process and the Cologne process.

***March 2000: Lisbon Summit***

- First extraordinary summit on employment
- Shift from Employment to a broader area reflected in the overarching goal of the EU to become “*the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with better and more jobs and greater social cohesion*”.
- Quantified targets complement this overall aim: the employment rate has to be risen to 70 per cent and to more than 60 per cent for women by 2010.
- The Open Method of Co-ordination is designed as the new form of intervention in the social field.

***December 2000: Nice Summit***

- European Social Agenda: programmatic document which matches the main issues to be confronted in the social field in the forthcoming five years.
- Quality of work is designed as a key feature of the European Social Agenda.
- The European Council invites the social partners to play their full part in implementing and monitoring the European Social Agenda, particularly at an annual meeting to be held before the spring European Council meeting.

***March 2001: Stockholm Summit***

- Intermediary targets to reach the EU overarching goal are presented: the employment rate has to be risen to 67 per cent and to 57 per cent for women by 2005.
- Introduction of a EU target for increasing the EU average employment rate among older men and men to 50 per cent by 2010.
- The Open Method of Co-ordination is expanded to the social protection field (pensions, social exclusion).

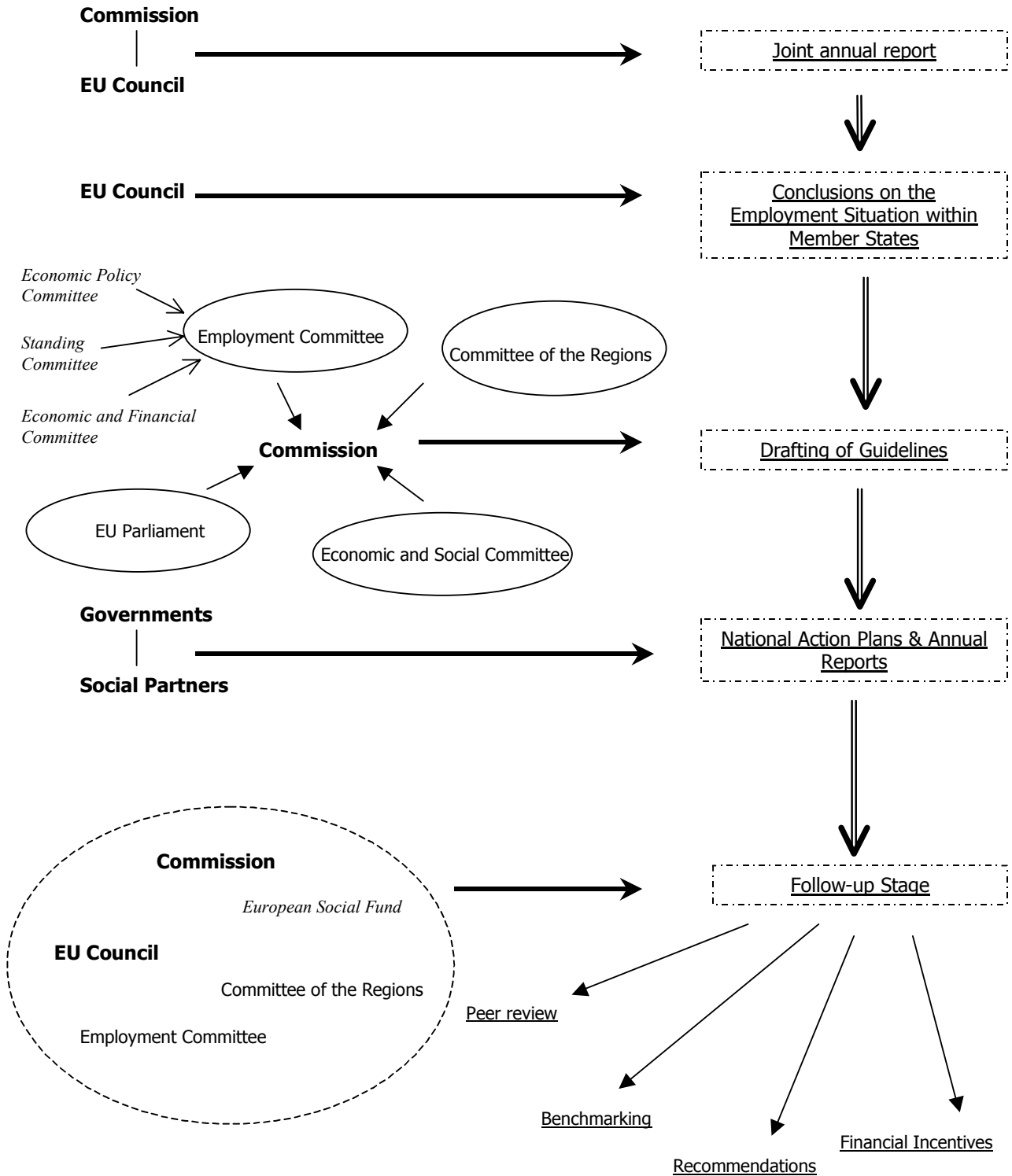
***June 2001: Gothenburg Summit***

- The European Union's political commitments to economic and social renewal adopted in Lisbon is complemented by a further dimension: sustainable development. The need is to establish synergies and interdependency between economic policies, employment and social policies and environmental policies.

***December 2001: Laeken Summit***

- Development of structural indicators on quality of work, social exclusion.

## The Luxembourg Process



**THE ADDED VALUE OF OMC**  
**TO THE LUXEMBOURG PROCESS**

Definition of common objectives provided by quantified targets.



National Action Plans.  
A Local and Regional dimension has to be taken into account



The evaluation phase is done on the basis of indicators  
in order to allow the exchange of best practices and experiences.