### Title

**Sammanfattning**

In the light of the debate on the future of the European Union, a debate on new and better governance has started. One of the subjects of this debate is the Open Method of Coordination (OMC). It was initiated at the Lisbon European Council in 2000 as one of the ways to reach the strategic goals set for the EU at the same summit. Policy coordination was however applied in European policy-making before the Lisbon European Council. In the area of employment these activities had been operating for some years, and the OMC was created with the European Employment Strategy (EES) as a model. Now the OMC is also operating in the area of social inclusion policy, and a number of other policy areas. As its use is being extended, scholars as well as practitioners are studying it to determine its role and functions in EU governance.

This thesis aims at examining the open method of coordination, in an effort to position it in the European governance structure and discuss if it can be a sign of an emerging new mode of European governance.

Using a comparative approach, this thesis combines three methodologies; documentation analysis, interviews and case-studies. The analytical framework consists of existing modes of governance, as defined by Helen Wallace (2000). These are complemented with one more mode of governance. A discussion on governance in general and European governance in particular is also part of the analytical framework.

The OMC is studied by its definition and is further discussed from the view of the different European institutions. Finally a case study of its application in employment policy and social inclusion policy is presented. These findings are then set in relation to the governance modes in the analytical framework, in order to define and explain the OMC. A discussion of the notions of...
democracy and legitimacy is also held. The conclusions hold that the OMC is an interesting mix of multi-level governance, intensive transgovernmentalism and policy coordination and benchmarking. It also has interesting features of the innovative mode of network governance. This concludes that the OMC does not only build on innovative governance, but is an interesting balance between multi-level and intergovernmental governance. It is also based on notions of legitimacy rather than democracy.

Based on the findings in this thesis, the OMC should be seen as a sign of a new way of thinking about European governance. Its role should however not be exaggerated as most actors are very clear on it not being an alternative to ordinary Community action, and it should be seen as a complement rather than a substitute. The fact that the Convention on the future of Europe did not include the OMC into the draft constitutional treaty shows a somewhat ambivalent position towards it. It is concluded that the specific mix of governance features in the OMC is best served outside the treaty at this point.

Nyckelord
Keyword
The Open Method of Coordination, governance, Europeanisation, intergovernmental, multi-level
The Open Method of Coordination
- An innovative tool of European governance?

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Abstract

In the light of the debate on the future of the European Union, a debate on new and better governance has started. One of the subjects of this debate is the Open Method of Coordination (OMC). It was initiated at the Lisbon European Council in 2000 as one of the ways to reach the strategic goals set for the EU at the same summit. Policy coordination was however applied in European policy-making before the Lisbon European Council. In the area of employment these activities had been operating for some years, and the OMC was created with the European Employment Strategy (EES) as a model. Now the OMC is also operating in the area of social inclusion policy, and a number of other policy areas. As its use is being extended, scholars as well as practitioners are studying it to determine its role and functions in EU governance.

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Introduction

1.1 Introductory background

Governing an international organisation is one thing. Governing a federal union is another thing. Governing a political and economic union that is ambivalent to federalism is an act of balance between the two. The European Union stands in the difficult position of such a balance. European governance has been a matter of debate, both among academics and practitioners, for as long as the Union has existed, increasing at times of enlargement or extension of competencies. The present European Union is in the middle of both these changes. Ten new member states are joining the Union in 2004 and the extended cooperation in the economic and social fields are still under development. Moreover, the European leaders set a new strategic goal for the Union at the European Council in Lisbon in 2000; “To become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion”¹

This thesis discusses modes of European governance, with specific focus on a new governance method, deriving from this strategic goal. One of the means set up in Lisbon, to better achieve this goal, was the new Open Method of Coordination (OMC). The basic aim of this method is policy coordination and cooperation in specific policy areas with intergovernmental overtones. The main features includes deciding European guidelines with schedules for achieving the goals, establishing, if considered appropriate, indicators and benchmarks as a way of comparing best practice followed by a periodic monitoring process containing peer reviews and evaluations of national achievements. The process is built on an iterative logic, to foster learning and coordination. The method does not include any real sanctions if a member state breaks the agreed guidelines, but the surveillance process is multilateral, with important features of cooperation and reciprocity.

Policy coordination of this sort has been applied for some years before Lisbon in the employment policy area, but the definition of the OMC as a general policy-making method and its extension to other policy areas has put it in focus of the debate about new and better governance. The opinions about the use and potentials of it are however not homogenous. Differing views on how and when the OMC should be applied have made it even more interesting for scholars to consider in the light of the governance debate. In this thesis theories of European governance will serve as an analytical tool when discussing the emergence and use of the Open Method of Coordination, especially in the areas of employment policy and social inclusion policy. It is intended neither to prescribe the method, nor to exaggerate its importance, which is easily done in a study like this. The study is simply intended to examine this new and very “hot” method, to increase the understanding of its functions.

1.2 Aim

The aim with this thesis is to examine the open method of coordination, in an effort to position it in the European governance structure and discuss if it can be a sign of an emerging new mode of European governance.

1.3 Research questions

1. What are the specific features of the OMC and how can it be positioned in relation to the European modes of governance?
2. How is the OMC applied?
3. What is the role of the actors in the OMC?

1.4 Methodology and material

The methodology in this thesis is built on two main components; one consists of a documentation study complemented with interviews and the other consists of a case study. The choice of a mixed method was based on the material available as well as the aim to make the study wide, in order to present a thorough examination of the OMC. The study considers two different angles, but eventually, these are inseparable. This is also why it was considered important to include both angles in the study. This choice could be seen as creating a too wide study for the extension of this thesis. There are two arguments for the choice to go with this alternative anyway. The first is the novelty of the OMC; it is difficult to make a deep evaluation of its efficiency at this early stage. The second is that this thesis should give a general perspective rather than a specified one.

The qualitative character of the methodology was an obvious choice. The aim is not to measure results but to define and explain. A qualitative method is designed to increase the understanding of a certain phenomena, which is what this thesis aims at doing. The choice of a qualitative method is also based on the material available, as stated above. As the procedure in its present form is so new, there has not yet been made any formal evaluations, and at this point the task of evaluating the results of the OMC process in numbers would be an exercise far too vast for the scope of this thesis. Thus a qualitative study seemed more appropriate.

This results in methodological triangulation where the three different research methods complement each other. The documentation study will serve to give the formal, official outline of the method as well as the official standpoint of the EU institutions concerning the use of it. The interviews are used for complementary information on the functions, benefits and problems of the OMC as a new governance tool, as this kind of information cannot be obtained from the official documents. The cases serve to give a picture of the practical functions of the OMC, in order to shed light on its role and functions. The comparative approach is present throughout the thesis, as the main analytical tool. By comparing the

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different findings conclusions can be drawn on the position of the OMC in EU governance. Below follows a closer description of the approach and the different research methods.

1.4.1 The comparative approach
The main analytical approach in this thesis is comparative. The comparative approach will be applied on two different levels. First it will compare the views and understanding of the OMC between the different European institutions. Second it will compare the application of the OMC between employment policy and social inclusion policy. This results in a study with two parts, complementing each other to shed light on the potential of the OMC in the European governance structure.

The Open Method of Coordination as a phenomenon must however be thoroughly described for the comparative analysis to be of full value. The basis for this is a text analysis-based descriptive method complemented with interviews and leaning on a comparative approach. The comparative method is mostly used when studying political systems, ideologies etc. between different states. The comparative method has also been called one of the most important methodological strands in political science. The specific comparative method applied in this thesis can be called a system approach. The system approach focuses on politics when comparing different phenomena. In this particular approach politics means regulation of different policy areas. The main focus is however not on the formal regulation in laws but how regulation is performed in practice. This model is considered relevant because of the loose regulatory framework surrounding the OMC. This model will be used in the parts of the thesis examining how the functions of the OMC are perceived by people in different positions working with the method. Within the comparative system analysis political systems, processes or structures are the main objects of study, and as this thesis looks at innovative governance it can apply system analysis.

According to Denk (2002), there are five types of design criteria for comparative studies; concept validity, comparative validity, internal validity, external validity and reliability. These are important for a comparative study to be well performed. Depending on the aim of the study, different criteria can be leading. Most important for this study are internal validity and comparative validity. Denk (2002) states the following on these two kinds:

Comparative validity: In a comparative analysis it is important that the indicators are coherent and comparable between the different entities of the study. To reach comparative validity it is important to have indicators or equivalent that is able to describe the same characteristic in different entities.

Internal validity: Internal validity is created when the study is able to show how different factors are related to each other. It is important to include or control different factors that can be important for the depending factor.

The concept of interdependence is also important to take into account, in the case of this thesis. The policy areas that are used as comparative entities are interdependent between each other as well as with other policy areas. The interdependence problem is called Galton’s problem, and points to an assumption that countries or entities analysed are independent from each other. This is however not applicable to studies made on the EU. It is impossible to study any phenomena in the European Union without assuming that the states are influenced

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5 Denk (2002), p. 26
Introduction

by each other. This thesis is not studying states but a political (governance) process where two policy areas, as well as the institutions involved, are dependant on each other. This is one of the interesting factors in this thesis, why it is included as a factor of analysis.

1.4.2 Documentation analysis

The documentation used in the thesis consists of printed official and institutional records from the European institutions. It also consists of secondary sources consisting of academic literature on the subject. Documentation analysis as a method has sometimes been considered of less value and something that is used in lack of a better methodology. This is not the case in research on policy processes and evaluation research, as the official documents are important sources to knowledge here. 8 The information required for this study was best obtained with this method. Hence, the choice of documentation analysis as a method was easy in this thesis. The documents have been obtained mainly through the official website of the European Union. As the standpoint of the different European institutions is what is searched, this has been considered an appropriate source of information. In the case studies, a lot of the analysis is also based on official documentation from the European institutions.

1.4.3 Interviews

The documentation analysis is complemented with interviews, in order to reach a deeper understanding of the OMC and its position in the European governance structure. They serve to give an informal view on the practical function of the OMC, and therefore help in the analysis of its potential.

Eight formal and one informal interview were made. The interviews were semi-structured in character and performed over telephone. Using semi-structured interviews had several reasons. The first and most important reason is that this model of interviewing seemed most appropriate for the mission. Having ready topics and questions made the result more reliable, as the topic to speak about was rather limited and instrumental. The characteristics of semi-structured interviews is precisely the broad questions prepared in advance, but still having a flexibility to change order and angles as the interview comes along. It was also important to let the respondents develop their answers in order to catch their opinions and meanings.9

The choice to conduct the interviews via telephone was mainly due to lack of resources. Interviewing over the telephone however means missing out on the “nonverbal behaviour” of the respondent. This means the additional impressions the researcher can get from the respondents behaviour or body language during the interview.10 This problem was held in mind when analysing the interviews. The telephone interviews could be taped, which facilitated the analytical work. The consent of the respondents for this procedure was important and sought before starting the interview. As the interviews were made over the telephone the respondents could not see the tape recorder and were possibly less bothered by it. The majority of the interviews were carried out with key officials and politicians at the European level. Though the position of the officials played quite an important role, it was not vital. This made it easier to find respondents. Some of the respondents have a dual position,

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9 Deniscombe (1998), p. 135
both in a European institution or committee and in the Swedish national authorities or organisations. One respondent is an official in at the regional authority level. Even though the thesis does not in particular treat the role of the local and regional levels in the OMC, it is an important aspect touched upon, why this interview was interesting. The respondents were selected based on availability and using a snowballing technique. All respondents were chosen on an informed basis and considered to contribute to the study.

1.4.4 Case studies
The role of the case study in this thesis is to give a practical aspect to the OMC. In order to understand what the OMC is, the instrumental description in chapter 3 needed to be complemented with its functions in practice. This was considered beneficial to give a wider picture of the OMC. The case study is generally defined as an empirical study, investigating a present phenomenon where the borders between phenomena and context are not clearly obvious and multiple sources are used.11 A case is described as a clearly limited entity, within which processes, events and results can be studied.12 The case study has many advantages; such as the possibility to use multiple methodologies and sources of information. In this thesis the aim is to study an empirical phenomenon in order to define and explain it, and for this a combination of methods was seen as beneficial.13 According to Norén (1990), there are three types of demands on the data collected when using comparative case studies; background data to set the issue into context is necessary, the data on the present case must be well structured without interference of the values of the researcher and finally, surrounding data should be taken into account, i.e. data that is not directly relevant to the case but yet of importance for the analysis. These three demands have been held in mind when performing the case study. There is no obvious surrounding data, but chapter three can be seen as surrounding data to chapter four, and vice versa.

The case-study at hand can be characterised as a theoretically pre-determined study, which means that it is motivated by a genuine interest in explaining the subject at hand rather than to develop generalising conclusions. It is however steered by general theoretical knowledge and awareness. As this thesis builds on a general theoretical discussion on European governance modes, rather than a deeper analysis of a single theory, this model was considered relevant for this explanatory and comparing case-study.14

The selection of cases is based on empirical grounds. As the OMC is a new governance tool, it is only developed in a small number of policy areas. It was introduced in the area of employment policy, why this is considered a sort of model for the OMC. The other policy area were the process is fairly developed is social inclusion policy, why this was considered a relevant area of comparison. Using another policy area, where the OMC is less established would have made it difficult to come to any relevant conclusions. Moreover, the aim of the thesis is to position the role of the OMC in the European governance structure, and for that purpose it is more useful to study the method in its more formalised versions.

11 Yin R (1984), from Norén L (1990), Fallstudiens trovärdighet, FE-rapport, företagsekonomiska institutionen, Göteborgs universitet, p. 3
12 Miles M. and Huberman A.M (1984), from Norén (1990), p. 3
13 Norén (1990), p. 4
14 Andersen S.S (1997), Case-studier og generalisering – Forskningsstrategi og design, Fagbokforlaget Vigmostad & Bjørke AS, Bergen-Sandviken, p. 95
1.4.5 Material

The material used in this thesis is of three types; primary sources, secondary sources and interview transcripts. The primary sources consist mainly of official European records. There are both policy documents and legal documents, which serve different purposes. The legal documents are used to describe the OMC, its present status, and possible future status. The policy documents serve to describe the views of the institutions and committees, which also help to analyse the status of the OMC in the European governance structure. The documents are collected using the official Europa website (europa.eu.int) and the European Documentation Center (EDC). Some documents have also been collected at European conferences on the subject.

The secondary material consists of theoretical academic literature. The present academic position in relation to the OMC is very interesting, as scholars have different opinions on what it is and how it should be understood. The novelty of the OMC makes the theoretical discussions still somewhat tentative. One of the most important researchers dealing with the OMC is Jonathan Zeitlin. He is Professor of History, Sociology and Industrial Relations at the University of Wisconsin-Madison. He is also Co-Director of the European Union Center at the same university. This center produces a lot of qualitative research on the EU and the OMC. The other Co-Director of the European Union Center is David M Trubek. He is Vos-Bascom Professor in Law and has also made important work on the OMC and European governance. James S. Mosher, Assistant Professor of Political Science at Ohio University is also important to mention here, as his Prof. Trubek’s work has played an important role in this thesis. Research on the OMC in relation to European governance is done by many researchers in a plurality of ways, which is why I chose to lean on the definition of European governance modes by Professor Helen Wallace, University of Sussex. This allowed for a general and wide discussion.

1.4.6 Methodological critique

The choice of countries, processes or institutions is not subject to any established selection process when using a comparative approach. This has not been developed in the comparative paradigm. Here it is instead up to the researcher to choose entities to study based on the subjective judgement and intentions. This can create certain problems. The choice of entities to study can be made on biased premises. There is for example an obvious risk that the entities are chosen because they correspond with the theory or model to be tested. Another problem can appear when the entities are chosen for having a specific value for the depending factor in the research. This would mean that the depending factor would not have any variation and the results risk being distorted. In order to reach valuable conclusions the entities have to have differences in the dependant factor(s), otherwise weak connections might be overvalued and important connections might be undervalued.\textsuperscript{15} In this thesis the entities (case studies) are selected on their exclusiveness, which risk creating the same kind of problem. There are however differences in the interesting comparative factors, which makes the entities valid for comparative analysis. The interdependencies and the problem they can bring are held in mind when analysing the cases.

Another problem when using comparative analysis is the existence of exogenous factors. These are factors that are not included in the study, but might still be relevant for the outcome of the studied result. It is therefore important to be aware of the existence of them and perhaps make a reservation for this in the conclusion. The correlation found in the study might not

\textsuperscript{15} Denk (2002), p. 47
only depend on the studied indicators or factors, but on other factors as well.\textsuperscript{16} This is an obvious problem for the subject of this thesis. Again, interdependencies are important. The open coordination process is influenced by other policies, the political situations in the different member states etc. This makes the results a bit weaker and more isolated, but yet of importance for the specific discussion held in this thesis.

\textbf{1.5 Limitations}

The thesis focuses on the European aspect of the Open Method of Coordination, and will only look at the workings on the European level. As the basic aim is to position the OMC in the governance structure, the functioning of the method internally in the countries will hence not be treated. The thesis aims at looking more to the potentials of the OMC than to its concrete implementation.

\textbf{1.6 Thesis outline}

Chapter 2 gives the theoretical framework. A general discussion on governance as a theoretical concept introduces the chapter, to put the ‘toolkit’ of modes of governance into perspective. Five modes of European governance are then presented and explained. The governance concepts put special weight on multi-level governance and network governance, as theories describing recent developments in the European governance structure. Moreover, the notion of legitimacy will be discussed as a complementary concept. This serves the purpose of increasing the understanding of the role of the OMC in the European governance structure.

Chapter 3 describes the OMC in general terms and places it in a European context. Chapter 4 traces the use of the method in employment policy and social inclusion policy. The interview material will be used in this part.

Chapters 5 and 6 consist of the analysis and conclusions. The two former parts are brought together and the OMC is analysed departing from the modes of governance, in order to determine and explain its position in present European governance.

\textbf{1.7 Concepts}

**Europeanisation** - The term Europeanisation is used in this thesis to describe the moving of interest and competence from the national levels to the European level. The term has been described by Laffan, O’Donnell and Smith (2000) as “an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of organisational logic of national politics and policy-making.”\textsuperscript{17}

\begin{footnotesize}
\textsuperscript{16} Denk (2002), p. 75
\end{footnotesize}
Competence – The concept of competence has a central place in the thesis. In this thesis it relates to a treaty-based or procedure-based right to create policy, or in other ways perform activities in a governance mode.

Social inclusion/social exclusion – Inherent in the concepts are (fighting) social exclusion and (promoting) social inclusion, which is basically two sides of the same thing. These both terms will appear alternately in the paper. The reason is first and foremost linguistic variation, but both terms are also used in the EU terminology. The latter concept is however newer in the European rhetoric. This is well illustrated by a passage in the Social Policy Agenda from 2000: “A key challenge is now to move from an agenda of tackling social exclusion to one which fosters social inclusion and mainstreams it into the heart of all policy making.”\textsuperscript{18}

2: European governance – a theoretical framework

2.1 Governance – framing the concept

The concept of governance needs to be addressed before the discussion moves on to European governance. In a very general way governance can be explained as: “…thinking about how to steer the economy and the society, and how to reach collective goals”.¹⁹

Latter studies of governance can be said to converge around three ideas. The first idea relates to the increased interest among scientists as well as the societal elite on societal output control or outcome of governance, as opposed to the earlier greater interest in input and institutions. The second idea relates to a revised perspective on the relationship between the state and the society. The view on the government as the only source of political power has turned out of date, due to lack of resources and changed international as well as national interdependencies. This has forced governments to share the political power not only with sub-national political authorities but also with other societal actors. By this not meant that the central government has lost its mandate to exercise their former powers. The third idea is the somewhat revised view on the public sectors as inefficient and inert bodies. The welfare state and its particular governing have increasingly been of interest, especially after the 1970’s.²⁰ This thesis focuses mainly on the second idea, as the open method of coordination implies horizontal and vertical consultation. As the European Union consists not of one but of many different domestic systems of public administration, the focus on the role of the different state and societal actors is an important angle of study.

Governance can be a theory, a concept and an empirical phenomenon, which can be slightly problematic. Governance theory is still under development and at present it consists mainly of concepts and identification of actors rather than a whole set theory.²¹ One of the problems using governance as theory is that it can also be a mere phenomenon. This dual meaning can lead to a different interpretation of concepts.²²

It is not always clear what is included in the term governance considering the European Union, nor any other entity for that matter. Hence, the concept governance needs to be explained, for the sake of the specific research project, but also for the wider purpose of research on the understanding of European governance. Jan Kooiman (1993) defines governance as:

“…The patterns that emerges from governing activities by social, political and administrative actors. These patterns form the ‘emerging’ outcome as well as a more abstract (higher level) framework for day-to-day efforts at governing.”²³

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This definition shows that governance is not only a way of describing a new, emerging form of government, but a way of putting an explanatory frame to activities that has an influence on everyday politics.

In a territorial state, the producer and executive of public policy is situated in the same territory as the policies shall work. Through elections these politicians and governmental institutions are held responsible for the type and delivery of policies. In the case of EU this function is not so clear. Public political debate is held at the national levels, while important public policy is created on the European level. It is sometimes difficult to decide what stems from the national level, and what stems from the European level. This fact presents us with a problem of accountability. National policy makers will increasingly have to look to arenas outside the territorial state to find grounds for their policies. The European institutions are less clearly defined and less authoritative than national institutions, why the interpretation varies, but accountability is harder to define. There is also a difference in accessibility between the EU states to the institutions and policies on the EU level. The possibility of participation and access becomes less clear, which risk creating the same problems in domestic politics. This can also be said to be part of the democratic deficit that the Union struggles to escape. The democratic deficit is not only a problem in itself; it also creates obstacles to a clear and defined mode of European governance. Whether there should be one or several modes of governance for the EU, a clear definition is necessary.

The study of European governance can take a variety of approaches. One of the difficulties when studying European governance is its continuous change. Until present the procedures have been revised and renewed as the number of member states have increased or new policy areas have been introduced. The tension between viewing the EU as a problem-solving arena and a polity is interesting from a governance perspective. By polity is meant a political structure similar to a state constitution. Problem-solving governance involves openness to deliberation, experimentation, learning and evaluation. In this thesis the intention is not to make a judgment of this, but the notions will be kept in mind in the analysing chapter.

The basic components of European governance can be seen as authority, resources and legitimacy, according to Laffan, O’Donnell and Smith (2000). But it must be seen in an alternative way in relation to traditional forms of national government. It is also quite different from governance in international organisations. This makes European governance specific and sometimes difficult to analyse. It is through innovative modes of governance that the EU manages to combine these different features to different degrees. This is where the Open Method of Coordination comes into the picture. The prime feature of European policy-making is the mix of European and national, which can be seen as a sort of multi-level collective governance. The multi-level features have created different arenas of policy-making, and introduced the subnational-levels into the European structure. The national feature is dominant in the OMC, but are there also supranational features?

The theoretical framework of this thesis tries to keep within the theoretical frames of governance and will consist of theoretical governance concepts, aiming at identifying

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26 Laffan, O’Donnell, Smith (2000), p. 73, 200
processes and actors, their roles on a European level and what this implicates for the open method of coordination as a new governance concept.

When considering the Open Method of Coordination in the light of the governance debate, this thesis aims to position it in relation to existing forms of governance. When doing that, the model by Helen Wallace\textsuperscript{28} will be used, where she assumes five different modes of policy-making. As the way policy is created can be considered an important factor of governance, in particular when studying international organisations, this model may serve the purpose of placing the OMC in the European structure. By this statement I do not wish to state that the European Union is only an international organisation, but neither is it a state. The way policy is created in the Union tells us something about how much power the member states are willing to hand over to the supranational institutions, and can therefore be considered important in the discussion of governance. Is the Union to remain largely intergovernmental or is it moving in a supranational direction? This is the reason for choosing to describe modes of policy-making as an analytic tool for positioning the Open Method of Coordination in the European governance debate.

The purpose of describing all five modes in Wallace’s model is to be able to position the OMC in relation to all these modes, in order to define it. A sixth mode of governance, Network governance, is also presented shortly, as it is one of the outcomes of new governance discussions in the EU. Maybe a place for the method can be found among the existing modes, or maybe another mode needs to be defined in order to properly describe the position of the OMC in European governance.

### 2.2 Modes of European governance

These modes of governance serve to set the OMC in perspective from a European governance point of view. The OMC is not considered a mode of governance in itself but a tool. These modes of existing European governance will serve as analytical tool, in order to determine what the OMC is and which its potentials are. Hence, in the discussion of whether the OMC is a sign of an emerging new mode of European governance, a broader theoretical discussion will be held, leaning on the modes described below.

#### 2.2.1 The original Community method

For a long time EU policy-making was considered to consist of one single community-method. It was built upon the dominating common agricultural policy. This method did not include the national parliaments to any large extent, as it was mostly considered an international agreement. The European Parliament also had a very limited role in the process. The European Court of Justice could make interventions to define the judicial meaning of the settlement, though rarely did. The policy area was to be financed by all members as a sign of collective solidarity.

This is a form of supranational policy-making, transferring powers from the national to the EU level. This mode of governance has functionalist features but was also built on a rather elitist ground. It has been debated to what extent the image of this mode was true. The reason for describing it is that it was an important frame of reference for scholars. It does however

\textsuperscript{28} Wallace (2000) p. 28f.
not hold so much value for the aim of this thesis, why it is not described to any larger extent. It assumes the following features:

- The European Commission as a powerful political body in relation to inventing, creating and delivering policy.
- The Council of Ministers as a strategic actor in relation to deliberation and an advocate of comprehensive solutions.
- With a strong focus on agricultural policies, a settlement more beneficial than domestic policies was set by the European Community.
- National agencies as implementing and operating bodies.29

2.2.2 The EU regulatory model

With the development of the European single market, a new mode of governance developed. The changes in the international market, as well as the opening up of the different European markets to each other, increased the demand of some kind of regulations, in order for the markets to adjust. This is the background to the creation of an EU regulatory model. Only it took a somewhat different shape in individual countries. The European system with its specific legal process, the mechanisms for enhancing technical cooperation and the lack of influence by national parliaments were factors that contributed to the development of an EU regulatory model. The system also freed the national governments of some of the inertia that faced national arenas. The regulatory model was well fitted to combine transnational cooperation with national specificities. It is used in several policy areas, but most notably in and around the single market. It is also used to the extent there is a European policy, mainly through legal regulation and market making. The regulatory model has become an important mode of European governance and much of the theoretical discussion around west European integration has focused on it. From the 1990’s, this model has been the dominating mode of governance in the EU. It was seen as less rigid than the Community method, and created more flexible means for relations with alternative actors. The regulatory model increased the interest in the rule of law as a means for policy-making. 30 As the regulatory model is the mostly applied method of policy making at present, and the mostly used reference frame when discussing new European governance, it is seen as an important mode of governance to relate to in the positioning of the Open Method of Coordination.

Helen Wallace (2000) describes the regulatory model as “providing a framework for numerous micro-level decisions and rules, as well as for the shape of relationships with member governments and economic actors”.31

The specific features of the EU regulatory model are the following:

- The Commission draws up and defends the regulatory objectives and rules. Economic issues are ever more important.
- Common standards and the degree of integration are set in the Council. The individual systems in the member states are mutually recognised and the operationalisation is handled individually at the domestic level.
- The European Court of Justice (ECJ) guards the compliance of rules and objectives. National courts should assist in guarding domestic compliance but should also be an instance for other actors in the case of non-compliance by the member state.

31 Wallace (2000), p. 30
• The European Parliament (EP) has an important place in enhancing environmental, regional, social etc. Its position in economic issues has increased over the years.
• An increased possibility for external actors (economic, social) to have formal ascendancy over the content of European market rules.

2.2.3 Multi-level governance

The other mode to come up following the Community method was multi-level governance. This mode of governance and the theory behind it considers the EU as one single policy arena instead of two cooperative but yet separate levels. It is founded on distributional policy-making instead of regulatory policy-making and assumes shared policy competence across different levels of authority. Further it assumes that these levels interact and that states as political actors are one among these different actors and they are not the sole link to international cooperation. The different levels are assumed to act through broad, overlapping policy networks. This has meant an ever more important position for different interest groups, sectors, regions and countries. It has not always been intentional, but the development towards a multi-level policy-making arena is clear. Financial solidarity dates back to the CAP, but the extended multi-level governance to be explained below, is a product of the further evolution of the single market.

The term “cohesion” introduced distribution of financial means to the regions and countries with peripheral status, and hence increased the contact between the EU and the lower levels of government. The politics that developed around this increased contact was what introduced the term multi-level governance as a new policy mode. A consequence of this was that the domestic policies where reshaping following EU policy-making. Financial incentives were the base of these domestic changes, and new political relationships emerged. This mode has served to shift the interest away from the Brussels-centred business politics to increased concern about how the policies actually work on the grass-root level.

The appearance of a plurality of policy arenas has altered the way to consider a European polity. It does not mean that states are obsolete in the European political process. But the fact that states have had to share their policy-making competencies has increased the European features in policy making, primarily focusing on cohesion policy, but the features are not negligible in other policy areas. An important feature in multi-level governance theory is that the independent role of the supranational institutions (the European Commission, the European Parliament and the European Court of Justice) is important when thinking about policy outcomes. This implies a complementary role for the European institutions as individual actors and not agents of the member states. This development is clearer in relation to some member states than to others, but also on the European level it is clear that alternative policy arenas are created. Policy learning is an important way of contributing to the adaptation of institutions and national practices to institutionalise innovative procedures in this mode of governance. It is also a fact that even though cooperation is established there might still be conditional or disputed outcomes of objectives or goals, making them unclear or

33 Hooghe and Marks (2001), p. 3
incremental.\(^\text{35}\) It is debated how much impact multi-level governance actually has when the real decisions are taken. It has served to put an increased focus on territorial politics, but whether the sub national levels actually have any real influence is more in the eye of the beholder.

The multi-level policy-mode is based on the following characteristics:

- The Commission develops partnerships with local and regional authorities through financial redistributional programmes.
- The members of European Parliament often constitute an additional pressure source for more attention to territorial politics.
- Increasing benefits for the local and regional levels, as a result of their engagement on the European arena. They have also developed additional channels to put pressure on the outcome of European politics.
- A larger portion of the budget is spent on cohesion.\(^\text{36}\)

2.2.4 Policy coordination and benchmarking

This policy mode has been called the ‘OECD technique’, after the workings of the organisation of western countries, which since the 1960’s have been able to compare and comment on the development of public policy. The mode has been used for quite some time by the Commission in order to establish light cooperation, mainly in the field of environmental issues. It has been used as a way of light introduction of cooperation, which later has led to closer cooperation and integration of these new policy areas into treaties, as the case with environment and the Single European Act (SEA). Policy coordination has served as a mechanism of transition from nationally rooted policy-making to a collective regime. This mode relies to a large extent on expert opinions and their arguments for developing a common approach.

In latter years, this mode can not only be seen as a transition mechanism, but as a governance mode in itself. The increasing use of benchmarking has created an extended use of comparing national, local and sectored practices, not in order to create a harmonized policy area, but to encourage the spread of best practice. This policy-mode is an interesting alternative to formally hand over powers to the supranational European level.

The typical features of this mode are:

- The Commission coordinates networks of experts
- External experts are invited to lift specific ideas and models
- The Council functions as an instance for developing broad ideas
- Ad hoc dialogue EP committees on particular approaches.\(^\text{37}\)

2.2.5 Intensive transgovernmentalism

This policy mode describes the loosest form of European cooperation. The term intergovernmentalism has the connotation of an international organisation, why it is not appropriate in the case of the EU. Helen Wallace (2000) therefore prefers to talk about transgovernmentalism to describe the intergovernmental, yet close, relation between the partners. Intensive transgovernmentalism involves an important cooperation between states in

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\(^{35}\text{Laffan, O’Donnell, Smith (2000), p. 87f.}\)

\(^{36}\text{Wallace (2000), p. 31f.}\)

\(^{37}\text{Wallace (2000) . p. 32f.}\)
the EU but that for some reason has judged the EU framework to be either inappropriate or insufficient.

There are two reasons why we cannot consider intensive transgovernmentalism as only a weak form of governance. NATO and other forums quite an amount of relevant policies have been created, using this mode. Despite its very strong intergovernmental characteristics, it has served to create policy in well-founded organisations. The second reason is that this policy mode has been a way of creating grounds for more extensive cooperation in most European policy areas. Thus, it can be seen as a distinct mode of governance that allows the EU states to introduce cooperation in new policy areas, with the intergovernmental feature as a safeguard for the cooperation to stay on the level of a lowest common denominator. Examples such as the defence cooperation shows that this policy mode is indeed a way of cooperating inside the EU and creating soft institutions, which might lead to clearer European cooperation in new and sensitive policy areas.

This mode is characterised by:

- The European Council sets the general direction of policy.
- The Council of Ministers manages cooperation
- The Commission has a highly limited position
- The European Parliament and the European Court of Justice are excluded
- A distinct circle of national policy-makers is involved
- Special mechanisms for managing cooperation
- The process is not very open to national parliaments and the public

2.2.6 Network governance

In the reader “The transformation of governance in the European Union” edited by Beate Kohler-Koch and Rainer Eising (1999) the theory of Network governance is introduced as a mode being applied to a greater extent in European policy-making. It is also said to be an important way of governance for the EU in the future. It is taken into the theoretical discussion of this thesis as a possible alternative way of describing the OMC. The theory takes account of recent developments in the EU policy process, and is therefore relevant to the questions being asked in this thesis.

The basic idea in the theory of network governance is that:

“Political actors consider problem-solving the essence of politics and that the setting of policy-making is defined by the existence of highly organised social sub-systems. In such a setting, efficient and effective governing has to pay tribute to the specific rationalities of these sub-systems. The ‘state’ is vertically and horizontally segmented and its role has changed from authoritative allocation ‘from above’ to the role of an activator.”

This involves rejoining the state level with societal actors to form issue-specific groups, which leads to multilateral allocation of issue-specific rules and norms. Within the networks, all political levels will be involved in this allocation. When studying the European Union from a network perspective, it becomes obvious that the important part of politics is managing

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40 Kohler-Koch and Eising (1999), p. 5
differences. There is no common ideology to unite the legitimacy for decisions and rules on a European level. By this not said that it is not possible to obtain legitimate rules, only that this process is much more complicated on the European level. The political action focuses on high-level coordination of common interests and the inclusion of multiple levels of actors. Joint problem solving takes a more specific nature in network governance theory. It often focuses on distribution of resources and involves a variety of actors on different government levels. The relationship between these different societal levels becomes more flexible and subsidiarity is the most important norm.41

The changing of European political space regarding governance has taken two directions. The territorial notion of governance is becoming more and more diverse. Issue-specific networks stretch down to subnational and social actors, making the nation state an important but not sole policy arena. Transnationally organised interests also seem to have succeeded in gaining room as transmission belt for opinion.42

A factor making network governance at the European level more difficult to determine is the lack of continuity of actors. The group of actors change in relation to policy areas, and the degree to which the individual states adopt a decentralised mode of governance within the specific policy area. Network governance is as much an emerging way of new governance in the European Union as a struggle between the member states to influence the policy process in the direction of their domestic system. This mode can however be seen as having potential for overcoming the democratic problem of the Union, in using functional representation. But the success of implementing a European network type of governance can also depend on the different national political systems. Countries that have a statism (a strong central government directing most political issues) type of governance, for example will probably find network type governance at the European level harder to adapt to.43

The specific features of Network governance are:

- The Commission plays the role of activator and mediator
- The state also has the role of an activator
- The group of actors change in relation to the policy area concerned
- The procedure involves multiple stakeholders, European, public and private, creating functional networks.

Before finishing the description of modes of governance in the EU, it is important to characterise the institutions along the lines of supranationalism or intergovernmentalism. The Commission, the European Parliament and the European Court of Justice belong to the first group while the European Council and the Council of Ministers belong to the second group. However, the structure of the Council meetings can lead us to assume a certain supranationalist feature in this institution as well. Hayes- Renshaw and Wallace (1997) points out that it is not a question of changing loyalties but of realising their part in a collective system. Further, the Commission has shown a capacity to move into new policy areas and find a place for itself.44

42 Kohler-Koch nad Eising (1999), p. 253
2.3 Democracy and legitimacy

When discussing different forms of governance, another debate is also important to take into account. It is related to the democratic deficit, or rather, the relevance of this concept. What kind of Europe do we want? This slightly worn-out question is highly relevant when considering contemporary European governance. According to Professor Sverker Gustavsson, the union has moved from being an administrative union handling “apolitical” issues, to one stepping over the threshold of perception. This concept, invented by the German political scientist Fritz Scharpf, means that the policy areas to which the union has extended its competencies, are affecting peoples everyday life. This has made the questioning of the union even more obvious, and also important. How shall European governance be structured in order to make its citizens happy? This is of course a very broad question, impossible to answer within the scope of this thesis, but still relevant as it points to the importance of methods of policy-making that could serve the purpose of a ‘happy medium’. Gustavsson means that there are two, not necessarily different but separable, ways of dealing with the lack of credibility of European governance; towards a European democracy or towards legitimacy. He points to the fact that the Union at present relies on a double asymmetry, meaning that competencies are moved to the European level, but accountability not accordingly so. At the moment we the European citizens can not claim accountability for decisions taken at the EU-level. When moving to treat policy areas touching the core of national sovereignty, this will be an increasing problem. There are a number of different roads to take in this respect, according to Gustavsson. If the desire is to increase the democratic features of the Union, there are two different roads to take; either parliamentarise the Union, so that a result of an election can change the pursued politics, including law making and taxes. This would imply creating a Union more like a federal state. This is highly controversial in a number of member states. The other road is to renationalise the sensitive policy areas, so that accountability can be claimed on the national level. Neither of these roads seems very likely in the present situation.45

There is also ways to increase public legitimacy for European governance. This could be coinciding with the roads to increased democracy, but not necessarily, which is why they for analytical purposes will be kept separate. The roads to increase legitimacy are three. The first is to strengthen the decision-making capacity of the supranational level, the second is to strengthen the intergovernmental capacity to coordinate policy and the third is to strengthen the Commission’s own capacity to anchorage its policy initiatives. It is obvious that these roads differ from the one’s to increase the democratic feature. Increasing the decision-making capacity of the supranational level implies extending the qualified majority-voting procedure. Certain flexibility has been attached to this idea, in which states can decide if they want to attach to the supranationally taken decisions, flexible integration. It seems, however, that this is too sensitive in contemporary EU, why the two following roads are considered more relevant. The strategy of strengthening the intergovernmental capacity to coordinate policy is an idea favoured by the member states, as a way of increasing legitimacy without moving in the direction of a federal state. The third road, to let the Commission anchorage itself in the public as a legitimate political institution, implies that it should to a larger extent prepare its policy initiatives in cooperation with regions, municipalities and representatives for business interests. In this way the Commission could create more extended contacts with sub-national

levels, where a part of the suspicion lies. It includes an extended social dialogue, described in the white paper on governance, put forward by the Commission in 2001. 46

Three features that constitute a democracy concept can be distinguished when applied to the EU;

- Rule of law,
- Deliberation and governance,
- Participation and consent.

A democratic system in the EU would function in a context that differs from that of nation states. Considering the first feature it is difficult to say that the Union suffers from a democratic deficit. Elected national leaders together with elected European parliamentarians decide on European laws. The challenge, according to Laffan, O’Donnell and Smith (2000), is to improve the other two features. The Union builds more on a legal citizenship than on political community. A ‘we-feeling’ in relation to political norms would probably enhance the European feeling in policy issues. The problem here is that the Union lacks a demo. This problem divides researchers. 47

2.4 Analytical framework

The analytical framework of this thesis consists of the different features in the modes of governance laid out above. The OMC will be compared to each mode of governance, focusing on the role of the actors. This exercise will help positioning the OMC in relation to the present European governance structure. The discussion on democracy and legitimacy will be integrated in the comparative exercise, as well as the general governance discussion. These will serve to give a broader view on the OMC than only the specific features of the governance modes. A structured comparative approach will be applied in chapter 5, where the OMC will be set in relation to each of the modes of governance separately. The case studies will consist more of the general governance discussion but the procedure in the cases will also be set in relation to the features of the different modes of governance.

3: The Open Method of Coordination

3.1 What is the Open Method of Coordination? – Defining the concept

Before a background to policy coordination in EU employment and social inclusion policy is given, it is important to define the OMC and its relevance for the EU governance discussion. In the first chapter of the Lisbon presidency conclusions the European Council sets out the goal for the Union in the 21st century. It is stated that:

“The rapid and accelerating pace of change means it is urgent for the Union to act now to harness the full benefits of the opportunities presented. Hence the need for the Union to set a clear strategic goal and agree a challenging programme for building knowledge infrastructures, enhancing innovation economic reform, and modernising social welfare and education systems.”

This point in the first chapter of the presidency conclusions from Lisbon 2000 shows the background to the definition of the OMC. It identifies the new challenges for the Union, where it is also clear that the economic development is weighed up with investments in welfare areas. Economic policy has gained a more important role in the last years. It is also stated that one of the ways to reach this strategic goal is to modernise the European social model, invest in people and combat social exclusion. In paragraph 7 of the presidency conclusions the role of the OMC is defined:

”Implementing this strategy will be achieved by improving the existing process, introducing a **new open method of coordination** at all levels, coupled with a stronger guiding and coordinating role for the European Council to ensure more coherent strategic direction and effective monitoring of progress. A meeting of the European Council to be held every spring will define the relevant mandates and ensure that they are followed up.”

The characteristics of the OMC and the grounds for legitimacy are stated as:

“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. A method of benchmarking best practices on managing change will be devised by the European Commission networking with different providers and users, namely the social partners, companies and NGO’s”

The characteristic governance features of the OMC, according to the Lisbon European Council definition are:

- “Fixing guidelines for the Union combined with specific time-tables for achieving the goals (...) in the short, medium and long terms;

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48 Lisbon European Council (2000), paragraph 1:2
49 Lisbon European Council (2000), paragraph 7
50 Lisbon European Council (2000), paragraph 38
- Establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practice;
- Translating these European guidelines into national and regional policies by setting specific targets;
- Periodic monitoring, evaluation and peer review organised as a mutual learning process.  

As can be noted in this definition, there are no mechanisms of compliance. One of the specific features of the method is its lack of sanctions. This type of political instrument without legal basis is called soft law.

3.1.1 Measures of compliance- soft law

The open method of coordination is based on soft law, which means that there is no legal base for guaranteeing compliance to the objectives. It can be said that soft law is based on norms decided by the participating states. These norms have a kind of legal status but are in themselves not legally binding. However, the norms can create real obligations on states. Soft law contains means for control but not for sanctions. The control system in the OMC consists of the member states’ guarantees to follow the guidelines, the multilateral surveillance made by the Commission and the Council, the peer review that rank the systems and efforts of the individual member states as well as the possibility of shaping the debate. The guidelines can provide a meeting point for the member states’ debate and a possible convergence around the same policy norms. It has been claimed that the soft law mechanism can actually provide a safer ground for compliance than a substantive law would have in this case. This is to a large extent based on the fact that these are sensitive policy area, and the respect for national differences might make the member states more likely to cooperate. It is also considered a good way to promote policy learning across the Union. The system of policy coordination based on soft law can provide a good basis for trans-national policy networks according to Trubek and Mosher (2003). Soft law is also a means for encouraging action on the European level, without the tool of hard legislation. Soft law does not only apply to the open method of coordination but is a method used as a means of normative guidance and influencing national policy directions. The soft law provisions can serve as “impulses for integration”. It can be many things, for example:

“…in part a predictable feature of administrative development, in part a comprehensible response to institutional inertia, and in part a questionable attempt to circumvent or avoid the implications of failures to reach political agreement.”

A background will now try to put policy coordination into a context, in order to better understand the development in the policy areas in focus in this thesis.

51 Lisbon European Council (2000), paragraph 37
54 Kenner (2003), p. 128
3.1.2 Background

The development of a method for policy coordination started almost a decade before the OMC was formulated in the Lisbon conclusions. In the White Paper on Growth, Competitiveness and Employment issued in 1993, the idea of cooperation on employment issues was initiated the first time. It initiated cooperation on employment issues, but the structure of the cooperation was more like any international organisation. The involvement of the Commission was purely inspiring and policy-making competence was firmly national. The Commission did however still play a role in taking initiatives to cooperation and reporting on European employment through research.55 The following year, at the European Council in Essen, the objectives from the White Paper were reinforced and a process for policy cooperation was initiated. The Essen process also took steps towards using indicators as a tool. It established an ‘Employment and Labour Market Committee’. But even though the cooperation was more developed, it did not have any treaty based provisions, and was hence steered on a fully intergovernmental level.56

The 1990’s was characterised by high unemployment in most European countries. The situation became worse in the end of the decade and voices started claiming that there were links between this negative development and European economic integration. The Commission was at the same time pushing for measures against the rising unemployment on a European level. This was also the time when the Stability and Growth Pact for the economic cooperation was signed. David Trubek and James Mosher (2003) put these three factors forward as the three most important factors for the development of the European Employment Strategy (EES), which is the first model for the Open Method of Coordination. There was a broad political will to take joint action against unemployment in the mid-1990’s with the entry of three new member states (Sweden, Finland and Austria) that pushed further for this. In the wake of the European Monetary Union demands were claimed for efforts into employment issues to compensate the consequences of the economic cooperation.57

Documents produced by the Commission in the early 1990’s promoted the vision of a Social Europe and contained an outline to modest legislation. The documents that followed later in the 1990’s were more modest and the will to proceed the integrative steps seemed to slow down. The Social Action Plan launched in 1995 was based more on non-legislative measures than on the creation of further directives.58 Despite the broadened outline of the social chapter in the Maastricht treaty, the member states did not take advantage of the new possibilities. This difficulty could stem from the Maastricht treaty, which widened EU competence in the social policy area at the same time as emphasising the principle of subsidiarity.59 However national opinion drove the member states to work in the direction of common solutions for urgent common problems, such as employment, social exclusion etc. Two types of EU action

56DG employment and social affairs homepage: http://europa.eu.int/comm/employment_social/employment_strategy/origins_en.htm 2003-10-02
57 Trubek and Mosher (2003), p. 37
was put forward; firstly what Streeck (1996) called neo-voluntarism, which includes exchange of good practices among other things, and secondly coordination of national policies according to guidelines set at the European level. These factors paved the way for strategies like the EES and later the OMC.

Hence the determination to increase EU cooperation in the employment field was not extended to real policy-making or legislative power. A political compromise led to the decision to introduce the coordination process for economic policy into employment issues. This adapted method became the basis for the European Employment Strategy and the model for the OMC. In later social policy position documents the method of policy coordination is held as the main working method within social policy. It is however withheld that it should complement legislative measures in the parts of social policy where it is sanctioned. It is firmly stated that:

“This new Social Policy Agenda does not seek to harmonise social policies. It seeks to work towards common European objectives and increase co-ordination of social policies in the context of the internal market and the single currency.”

This is an important statement in the light of the governance debate. It is also stated that the OMC shall include all actors and that the Social Policy Agenda shall provide necessary components for cross-level institutional cooperation.

The introduction of policy coordination in the fields of employment and social policy has several explanations. Both on the vertical and horizontal levels these policy areas cut across political levels, concerning delivery as well as execution of policies. The need for integrated efforts has increased as the integration of the European markets has grown. This was observed both by the Commission and the European Parliament. The last years’ development in European policy-making however consists of a paradox. At the same time as competencies are moved upwards to the European level, the member states are struggling to keep the ultimate power in the policies of the welfare state within its own decision-making. Together with foreign and security policy, welfare state policies constitute the core of national sovereignty. The question of how to organise the governance of these policy areas at a European level has become a central question for politicians and both at the national and European level.

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64 Commission of the European Communities (2000), p. 14
3.2 The European institutions and the OMC

3.2.1 The European Parliament

A report written by the European Parliament’s committee on Employment and Social Affairs clearly shows a will to further institutionalise the OMC on a European level. It is emphasized that the EP is the only institution on the European level that can secure the democratic features of the method. At the moment the Parliament has a marginalised position, especially in the field of social inclusion. The report calls for an article in the new treaty to specify when and how the OMC should be used. The report also calls for a formal consultation of the EP as well as the institutional committees on the proposed structures. Three unresolved issues relating to the process are presented:

- The role of the OMC
- The role of the actors involved
- The effectiveness of the application of the method.

It is emphasized that it is not entirely clear when the OMC should be used. It has been used both in areas where the EU does not have policy-making competence and in areas where it to some extent does. This creates confusion, according to the report. Further it points to the difficulty of identifying the actors in the various processes. It criticizes the procedure for only reaching a small number of actors at a central level, and therefore representing an opaque system. This comes very inconvenient for the Union at a time with decreasing legitimacy for the European institutions, the report continues. The lack of involvement of national parliaments, regional and local authorities as well as the civil society is considered a democratic problem. From this perspective the method is seen as somewhat elitist, with the sphere of influence staying with a small number of officials and politicians on the central level. The proposed way to increase the democratic features of the OMC is to enhance the role of the European Parliament in the process. It is stated that the EP is needed to establish relations between the national officials involved in the process and the parties. This is presented as the best way to secure the goals in a procedure not based on legal regulation at the European level. The report proposes that a bottom-up procedure should complement the present top-down manner in which the OMC is performed.67

The report has been approved by the Committee on employment and social affairs as well as by the whole European Parliament. A more diversified view appears when interviewing individual members of the European Parliament. As obvious above, the majority of the members of the EP sees the OMC insufficient as a governance tool. This is however not true for all members. An MEP from the Group of the European People's Party (PPE) expresses his scepticism about any sort of harmonisation in these policy areas. He claims it would be an unwanted development. He sees the main benefits of the method as being exchange of information, knowledge, best practice etc. It is a strictly intergovernmental cooperation and any form of standardization of politics would go against the basic aim of the OMC. This view is shared by an MEP from the Confederal Group of the European United Left and Nordic Green left (GUE/NGL). He also sees the OMC as a modern way of performing political steering, and as very different from traditional public administration. He emphasises learning and cooperation on an equal basis as the main features of the OMC. The national political freedom and flexibility is emphasised by both the MEP’s as an important advantage of the OMC. Both are sceptic about regulating it too much in a treaty. The open feature would be

lost in a heavily regulated procedure. However, the MEP from GUE/NGL affirms that the OMC should be mentioned in a new constitutional treaty, to gain legitimacy both at the national and the European level. He points to a difference dividing the members of European Parliament, which is the stressing of a legalistic approach to EU policy making. He claims it depending on political culture, and he continues that the OMC is better suited to the Scandinavian and the Anglo-Saxon political systems, whereas the southern European political cultures work in a different way. Here is one of the main shortages, according to the socialist MEP. The problem is that representatives from southern member states consider the OMC as a tool of governance to be too weak and lacking appropriate rule of law.

The PPE-member does not see any large shortages in the formal workings of the OMC, but he does express a certain fear that in a case of the open coordination procedure leading to closer coordination. He means that this would show a shortage in the method itself. The OMC is created to avoid policy harmonisation and focus on policy cooperation. Both emphasise policy learning as an important feature of the OMC. They both consider the OMC being exclusively intergovernmental, and that this feature is one of the main benefits. Concerning the role of the EP, none of them see a necessity in increasing the role of the EP to any larger extent. However, an increased space to give opinions and suggestions is put forward by the PPE-member as a good way to involve the EP in the process, whereas the member of GUE/NGL points to an increased advisory role in formulating the goals and the evaluations to be beneficial. The PPE-member is quite vague in answering if the method works well, whereas the member of GUE/NGL sees problems in the way the procedure is performed, for example the lack of knowledge of the OMC among national government officials and politicians.  

3.2.2 The European Commission

Considering the Commission’s approach to the OMC, the official documents and the interviews show a more coherent view. But also in this case, there are interesting differences.

In the White paper on European Governance presented by the Commission in 2001, the OMC is laid out in positive wordings, but preferably in cases where the Community regulatory method is not appropriate. It should not alter the institutional balance to any larger extent and it should not be used when Community legislation is possible. The involvement of the European Parliament is pointed out as important. The OMC is stated to be a means for complementing or reinforcing Community action. It is also stated that it is used on a case by case basis. It is described as a method for “encouraging cooperation, the exchange of best practice and agreeing common targets and guidelines for member states…” Features such as policy comparison and learning are pointed out. It is also stated that the method can be used either alongside programme or legislative-based policies or in areas where there is little possibility of Community legislation. The White paper presents five norms that should permeate the governance of the EU: openness, participation, accountability, effectiveness and coherence. The OMC is put forward as an interesting and innovative form of governance, but the approach to it is rather careful and somewhat sceptical.

In a follow-up document to the Lisbon European Council issued in 2002, the Commission evaluates the strategy decided in Lisbon two years earlier. The Open Method of Coordination as a specific concept does not occur in this document, but the evaluation does touch upon the procedure inherent in the method. This means that there is no evaluation or discussion of the

69 Commission of the European Communities (2001)
70 Commission of the European Communities (2001)
OMC per se, but the procedure in the specific policy areas is discussed. Regarding employment not much is said. It is however stated that the European Employment Strategy has been a good help in creating new jobs. Regarding social policy the introduction and functioning of the procedure is recognised, but it is stated that it is too early to make a valid evaluation of the process.\(^{71}\)

In interviews with three Commission officials at DG Employment and Social Affairs, the nature of the method is described in rather the same terms as in the documents. The principle of subsidiarity is pointed out as a main guiding norm and learning and openness to be important features in the procedure. But at the same time as the method is said to meet the principle of subsidiarity in a good way, it can sometimes create problems for subsidiarity. Objectives, guidelines and goals are set on a European level, leaving adaptation and implementation to the national levels. Some of these policy areas, or parts of the policy areas, are under regional or local competence, which means that there has to be budget reallocation so that these levels will have enough resources to implement the goals set accordingly. This is pointed out as a quite considerable problem in the federal states, by one of the officials. If information and allocation is not handled in a structured way the objectives and guidelines risk being seen as another “demand from Brussels”. But the benefit and necessity of coordination of employment and social policy is pointed out especially in reference to economic policy. The coordination of economic policy also touches upon employment and social aspects and the open coordination mechanism has created a forum for bringing these issues to attention on a European level. This is pointed out as an important ‘reason d’être’ for policy coordination in these areas. The efficiency of the method is expressed in rather modest terms by all three Commission officials. The biggest difficulty seems to be the difference in domestic political systems, both in the vertical connections but also the influence and importance of the civil society. The issue of different systems of public administration creating problems for the legitimacy of the OMC in certain countries, referred to by an MEP, is also touched upon by a Commission official. The role of the Commission is expressed as coordinator and facilitator, without which the procedure would be difficult to maintain.\(^{72}\)

3.2.3 The European Economic and Social Committee

The European Economic and Social Committee (EESC) is the body representing the civil society in the Union, and therefore important as a European actor in social issues. The body has issued two position papers concerning the governance in the future Union. In the opinion on the White paper on governance the EESC welcomes the efforts of the Commission and calls for an improved involvement of the civil society. The five norms of European governance are considered well suited, but the Committee adds subsidiarity as the primary guiding norm in European governance. In the opinion on the white paper they develop the concept of subsidiarity into territorial (vertical) subsidiarity and functional (horizontal) subsidiarity. The former represents the distribution of power to the appropriate territorial level, whereas the latter refers to the distribution of power to the appropriate expertise (public authorities, economic community, social partners or other civil society organisations). These two forms of subsidiarity should complement each other. The role of the civil society in the future governance structures is enhanced. The use of the OMC is seen with positive eyes by the EESC, but it is not entirely positive. It warns for a too extensive use of the OMC at the cost of the Community method. In cases where appropriate, according to the subsidiarity


\(^{72}\) Interviews with Commission officials from DG Employment and Social Affairs, 2003-07-10-2003-07-11
principle, the Committee highlights the importance of a more involved position for itself in
the coordination procedure. The Committee also calls for public evaluations of the procedure
carried out in the member states, in order to increase the legitimacy and efficiency of the
OMC.  

Interviews with Swedish members of the Economic and Social committee show a picture
where the Committee should get a better status as a consultative body. Within the
employment area the OMC is considered working quite well, as compared with earlier
periods, whereas in the social inclusion area it is not seen as very efficient. In the social
inclusion area the consultation procedure is not seen as sufficiently developed. The process is
seen as something primarily made by and for the central governments, and in the social
inclusion area the interest in consultation from the central level is considered low. In the
employment area, however, the consultation works in a more coherent and structured way,
according to a member of the EESC. The consultation is more formalised. A general problem
seems to be that too few people, even on the central level, know about the process and
therefore the elitist impression might linger. Learning is put forward as an important feature
of the method. In sum it is considered as a more coherent and functional method in the area of
employment whereas for social inclusion it is seen as a good initiative, but not yet properly
functioning.

3.2.4 The Convention on the future of Europe

The Convention on the future of the European Union has worked for a year, ending in July
2003, discussing institutional, procedural and formal reform of the governance of the
European Union in the light of the forthcoming enlargement. The Open Method of
Coordination has been part of this discussion, why it is important to look at the conclusions of
the Convention so far. These are not ratified and will most likely be subject to change as they
are treated in an intergovernmental conference this autumn (2003), but they constitute the
basic proposal for future European governance. The Convention has treated different subjects
in different working groups, where the findings of working group VI on economic governance
and working group XI on “Social Europe” are most interesting.

According to the working group on economic governance the open method of coordination
“… has proved to be a useful instrument in policy areas where no stronger coordination
instruments exist.”

The working group suggests that the basic objectives be included in the draft constitutional
treaty, to increase the clarity of the method. The role of the Commission and the European
Parliament should also be defined in the constitutional treaty, without putting aside the
flexibility, which is considered one of its main advantages. It is further stated that the open
method of coordination should not be seen as a substitute to the Community regulatory
method. The consultation with the social partners is pointed out to have an important place
and should also be mentioned. All members of the group did however not agree on the
inclusion of some parts of the OMC into the treaty. They saw the flexibility and informality of
the method best served without treaty provisions.

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74 Interviews with Swedish members of the European Economic and Social Committee, 2003-07-08
75 The European Convention working group nr. VI on economic governance (2003), final report CONV 357/02,
76 The European Convention working group nr. VI on economic governance (2003)
The working group on Social Europe welcomes the use of the OMC and highlights its potentials for coordinated results. In this group there was also some diffusion of meaning regarding the necessity of institutionalising the OMC, but the majority of the members called for an inclusion of the method into the treaty. The group continues by pointing out that the OMC should not compete with other coordination processes or Community legislation. This means in particular economic policy and employment policy, where the coordination procedures are treaty based in a more extensive way than in other policy areas where the OMC can be applied. But this firm statement is softened somewhat by stating that the OMC can be used in areas where other coordination processes are already operating, as long as “detailed arrangements are not laid down”.

Including the OMC into the treaty would mean enhancing transparency and democracy, according to the report, as well as “clarifying its procedure by designating the actors and their respective roles.” The working group does however not wish to include a list of subjects that the method should be applied to. The working group considered social inclusion one of the areas especially suited for applying the OMC and opened for a treaty provision with a more specific outline of the open coordination procedure in this case.

The final reports constituted ground for the negotiations about the draft constitutional treaty. In the final draft to be considered by the member states the open method of coordination is not mentioned by its definition. In art. 14 it is however stated for employment policy that:

“… the Union shall adopt measures to ensure coordination of the employment policies of the Member States, in particular by adopting guidelines for these policies.”

For social policy the following is stated:

“The Union may adopt initiatives to ensure coordination of Member States’ social policies”.

These provisions show a different approach to the coordination of employment policy and social policy, but that both policy areas are considered important on a European level. There are separate chapters in part III treating both employment and social policy. The procedure of employment policy is laid out in Title III art. 97-102. The employment procedure is not subject to substantial change from that already in operation. The provisions regarding social policy are laid out in Title III:103-112, and are of a much looser format than the provisions on employment policy. Whereas the provisions on employment policy focus on coordination the same for social policy are more focused on cooperation. The respect for national systems is pointed out in both sections but emphasised more in the section on social policy. Objectives for social policy are laid out but the forms for achieving them are much looser than for employment, though corresponding with the workings of the OMC. In the first paragraph of the section the working mode is put as follows:

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78 The European Convention working group nr. XI on “Social Europe” (2003), point 43
79 The European Convention working group nr. XI on “Social Europe” (2003), points 46-47
81 The European Convention Draft Constitutional Treaty, part I article 14 point 4
“To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.”

Important to notice in these chapters, in particular on social policy, is the focus on social dialogue. The provisions open for a quite extensive dialogue between the Commission and the social partners, which seems to follow the line of discussion in the White paper on Governance. Even if these provisions are in line with the open method of coordination the Convention has gone against the suggestion of the working groups to include a definition of the method in the treaty.

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82 The European Convention Draft Constitutional Treaty, part III article III 103
83 The European Convention Draft Constitutional Treaty, part III article III 105-106
4: The Open Method of Coordination in welfare policies

4.1 European Employment Policy

4.1.1 The employment chapter in the treaty of Amsterdam

The changes that were made at the intergovernmental conference in Amsterdam in 1996 made the embryonic process from the 1993 White Paper and the Essen process more coherent, increasing the role of the European level, and institutionalising the procedure. The treaty of Amsterdam states the place of employment as a formal EU policy area, but under shared competence. In the first article of title VIII it is stated that the Union together with the member states should work towards developing a coordinated strategy for employment. How to achieve this is formulated in art. 126:

“Member states, through their employment policies, shall contribute to the achievement of the objectives referred to in art. 125 in a way consistent with the broad guidelines of the economic policies of the Member States and the Community adopted pursuant to art 99(2).”

Further in the second point of art. 126 it is stated that the provisions in point one should be carried with “regard to national practices related to the responsibilities of management and labour....”

The role of the Union is stated in art. 127:

“The Community shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the Member States shall be respected”

The practical role of the different institutions is stated in art 128, which is the article that functions as the definition of the working of policy coordination in the field of employment. Summarising this article, it defines the roles of the institutions as follows:

**The European Council:** Each year the European Council shall review the employment situation in the Member States and the Community as a unity. Conclusions are drawn from this evaluation together with a joint annual report issued by the Council and the Commission. **The Council of Ministers:** The Council shall draw up the annual guidelines on the basis of the conclusions of the European Council, a proposal from the Commission and consultation of the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee, as stated in art. 130. The decision is taken with qualified majority voting. The guidelines shall be taken into account by the member states when they form their national policies. The Council also carries out an examination of the measures taken by the Member States, based on the national reports and a report by the Commission. The Council can make recommendations to the member states as to how they can revise their policies.

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84 DG employment and social affairs homepage
85 Treaty of Amsterdam, Title VIII, art. 125.
86 Treaty of Amsterdam, Title VIII, art. 126:1
87 Treaty of Amsterdam, Title VIII, art. 127
policies, based on the report issued by the Commission or by own recommendations. The decisions to do so are taken with qualified majority. The Council and makes an annual report on the status of the employment situation in the Union and the implementation of the guidelines together with the Commission. This annual report is presented to the European Council.

**The Commission:** The Commission drafts the employment guidelines and consults the European Parliament, the Committee of the Regions and the Economic and Social Committee, as stated in art 130, before passing them to the Council for adoption. The member states shall annually present a report to the Council and the Commission. The Commission has a reviewing role, and also an advisory role, as they can issue recommendations to the member states of how they can make their employment policy more efficient. This is however not made directly to the member states but in a report to the Council. The Commission together with the Council also makes an annual report to the European Council.

**The European Parliament:** The European Parliament should be formally consulted on the employment guidelines. 88

**The Employment Committee:** The Employment Committee has an important function as advisory body for the employment strategy. It works under the Council of Ministers for employment and social affairs, preparing its decisions. The committee consists of two members from each country and two members from the Commission. 89

The procedure for cooperation and coordination laid out in the Amsterdam employment chapter is the basis for further coordination in this area, and can also be seen as ground for policy cooperation in general. Employment cooperation continued to develop at the Luxembourg European Council.

### 4.1.2 The Luxembourg jobs summit - The European Employment Strategy

The extraordinary European Council that was held in Luxembourg the 20-21 November 1997 was called the ‘jobs summit’ and aimed at concretising the employment chapter established in the Amsterdam treaty. The outcome of the summit was the creation of the European Employment Strategy (EES), which builds on the procedure laid out in the Amsterdam employment chapter, described above. 90

The overall goal of the European employment strategy (EES) is to maintain the European welfare states by reforming them. This is stated in the document issued by the Commission before the Luxembourg employment summit in 1997 that:

“…meeting the challenge of insufficient growth and intolerable unemployment requires a profound modernization of Europe’s economy and its social system for the twenty-first century without giving away the basic principles of solidarity which should remain the trademark of Europe” 97

The EES works on the European level, but its goal is to improve the situation on the national levels by influencing national policies. The strategy works through four main goals:

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88 Treaty of Amsterdam, Title VIII, art. 128
89 Treaty of Amsterdam, Title VIII art. 130
90 Luxembourg European Council 20-21 Nov. 1997
91 Trubek and Mosher (2003), p. 41
• Improving employability
• Developing entrepreneurship and job creation
• Encouraging adaptability of businesses and their employees
• Strengthening equal opportunities policies for women and men.  

These four goals are the basis for the creation of guidelines and the areas where the employment cooperation is focused. It does however not seek to influence the way member states reach these goals, but the goals per se can be useful incentives when member states want to reform their national employment policy. The strategy is structured so that there is little or nothing the European institutions can do in concrete to decrease unemployment or improve women’s participation in the labour market, but rather present incentives and guidelines for states in the reform work of their own employment policies.

The employment strategy focuses on the supply-side and is a supplement to other policies that are important for the employment situation. Trubek and Mosher (2003) have identified five main objectives, which the EES is to fulfil:
• To promote learning
• To coordinate actions of multiple levels of government
• To cut across policy domains
• To enhance participation and ensure functional representation
• To encourage partial convergence while accommodating diversity  

The concrete process starts with the European Council setting horizontal goals for improving the employment situation in the EU. Then discussions are held between the Council of Ministers, the member states, social actors and the Commission. The Commission draws up a general direction for the coming employment strategy. These are debated, revised and approved by the Council. After the first step the member states develop annual national action plans (NAP) explaining what measures they will take to meet the goals of the guidelines, they also describe what has been achieved in the previous period. The Commission gives recommendations to each member state. The Council approves the recommendations before they are presented to the member states. 

The EES does not cover all areas of employment policy. The parts touching monetary, fiscal or wage policy are incorporated in the Broad Economic Policy Guidelines (BEPG), the Cologne process or the European Central Bank (ECB) and are hence outside the scope of the open method of coordination.

The guidelines consist of horizontal objectives, pointing to the equal importance of the Community institutions and the member states. It is frequently stated in the guidelines that the member states should set national targets, and convert the guidelines into national policies, respecting the national political tradition. The guidelines gives suggestions to which areas need attention, such as increasing job skills, promote life long learning, career development and investment in human resources. The guidelines states that the regional, local and social actors must be involved in the implementation of the guidelines, but it is only recommended that they participate in the formulation. It is however important to point out that the

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92 Luxembourg European Council
93 Trubek and Mosher (2003), p. 50ff.
94 DG Employment and Social Affairs homepage 2003-08-30
96 Employment guidelines for 2002, paragraph A-C
consultation regards the central organisations of these actors. How the consultation is performed to reach below the central level is decided and managed within the individual member states. It is stated that account must be taken of a regional dimension and regional disparities. A measure for modernising work organisation through strong partnership between all levels, European, national, regional, local and enterprise (social), is proposed.97

The national action plans (NAP’s) are the core documents that provide an important written basis for evaluation, learning and controlling European employment policies. A Joint Employment Report is written as a type of summary of the NAP’s by the Commission and the Council, suggesting further measures to the individual member states. This also includes presentation of some good practices. The most extensive exchange of good practice is to appear in the review of the NAP’s by the other member states. This has up until now only been presented as an appendix on the last few pages. This procedure has in latter years been supplemented with peer review conferences on good practices organised by the Commission in the member states. The process has improved in latter years, but states still differ in their evaluation.98

The Joint Employment reports show that the basic national requirement, to present an annual national action plan, has been fulfilled. However, there are other parts of the EES that has not been as satisfactorily met. The role of the social partners varies among the member states and the involvement of the regional and local levels and the civil society is generally more developed in the implementation phase.99

Benchmarking has become the main working method of the EES, but the procedure of benchmarking has inherent problems when applied on the European Union. Kenner (2003) points to the fact that benchmarking is normally used in organisations that has more coherent systems in the cooperation area. Employment and social policies differ quite substantially in the member states, which could create problems when developing the benchmarks. It could be difficult to find benchmarks that are equally suitable to all systems, and lead to differences in the measuring.

The aim of this chapter was to give an overview of policy coordination in employment policy on the European level. Moving on to policy coordination in the field of social inclusion will show a slightly different angle.

97 Employment guidelines for 2002, paragraph D, E,
http://europa.eu.int/comm/employment_social/employment_strategy/02_national_en.htm 2003-09-06
99 Goetschy (2003), p. 65ff., Overview of Joint Employment reports
http://europa.eu.int/comm/employment_social/employment_strategy/employ_en.htm 2003-09-09
4.2 Coordinating social policy – social inclusion as a European interest

The Amsterdam treaty did not only include the Employment Chapter, but also a Social Protocol, lifting social policy in general to a European interest. Art. 136 and 137 introduces social exclusion as a new aspect on European social policy.\textsuperscript{100} When the OMC was formulated in Lisbon, social inclusion was among the policy areas mentioned as appropriate for applying the OMC. These additional areas of Union interest were formulated in the Social Policy Agenda in 2000 and added to Union areas through the revised articles 136 and 137 EC in the Nice treaty. There is however no formal treaty base for the OMC procedure in social inclusion, except for indirectly art. 144 in the Nice treaty.

Primarily, social inclusion and other areas were considered important to reach the goal of full employment, hence the argument to include the area in the open coordination. Employment is also considered the most important way to fight social exclusion, though not the sole way, which motivates an individual status for social inclusion.\textsuperscript{101} The OMC as the main tool in creating European policy to promote social inclusion is outlined in the Social Policy Agenda as follows:

“The open co-ordination method in this area provided for at the Lisbon and Feira European Councils will support integrated efforts in Member States in the context of national action plans to promote social inclusion. It will develop adequate indicators, targets and benchmarking mechanisms to monitor the evolution and the success of these policies and plans, both in terms of mainstreaming and of integration of specific groups, including those with disabilities.”\textsuperscript{102}

4.2.1 The Social Inclusion Process

As a treaty defined subject to the procedure of the OMC, the European social inclusion process follows the procedures set out at the Lisbon European Council. The first round of national action plans in the field of social inclusion was submitted in June 2001. The indicators in the social inclusion process are neither guidelines nor benchmarks. They can be considered as broad objectives to reach the goal to “make a decisive impact on the eradication of poverty by 2010”.\textsuperscript{103} The social inclusion objectives do not have the same degree of harmonisation on the European level as the employment guidelines.

Though the coordination process in social inclusion has a weaker format than the EES, there are regular activities performed by the same institutions. There is also a feature in inclusion coordination that is more similar to ordinary community action, stated in art. 137 (2) EC. This article gives room to the European parliament and the Council to take a joint decision on a programme to increase cooperation between the member states to fight social exclusion.

\textsuperscript{100} Treaty of Amsterdam
\textsuperscript{101} Commission of the European Communities (2000), p. 2, 12ff, Treaty of Nice art. 136-137
\textsuperscript{102} Commission of the European Communities (2000), p. 21
\textsuperscript{103} Lisbon European Council, paragraph 33
The first round of objectives for promoting social inclusion were set together by the Council on Employment and Social Policy on the 17th of October 2000 following the call from the European Council in Lisbon and Santa Maria de Feira. In the introductory note to the objectives the specific open method of coordination for social inclusion is set out. It is stated that it shall be built on:

“…combining national action plans and a programme presented by the Commission to encourage cooperation in this field”

It is also acknowledged in the document that social exclusion is a very complex policy area and therefore need to be mainstreamed with other relevant policy areas, such as employment, both at the European and at the national level. The importance of employment in order to prevent social exclusion is explicitly acknowledged and the importance of the EES for the reinforcement of social inclusion is emphasized. It is at the same time stated that the benefit of the open coordination is the possibility of both “coherence and diversity of action at national level”.

The implementation of the process lies in the hands of the member states and the principle of subsidiarity is stated as central. The implementing process is described to be a matter between the member states and their national, regional and local authorities. Further it is stated that the cooperation with, in particular the social partners and the NGO’s, also is important for the implementation process. It is however also stated that the way the implementation and consultation is carried out is depending on the particular national social systems.

The objectives presented by the Council of Ministers to the Nice European Council in December 2000 are the basis for policy coordination in the field of social inclusion. Guidelines are not used as a governance tool in the inclusion process, and therefore the broad objectives are the guiding reference when national action plans and indicators are developed. The four main headings in the social inclusion objectives are:

1. To facilitate participation in employment and access by all to the resources, rights, goods and services;
2. To prevent the risks of exclusion;
3. To help the most vulnerable;
4. To mobilise all relevant bodies.

The role of the actors in the process is described in the document defining the common objectives:

**The Member States:**

The member states are the main actors in the social inclusion process and they are stated as the main bodies to pursue the objectives. The member states should present their actions in national action plans every two years, starting from June 2001. In the action plans member states should also develop indicators and means for monitoring progress in relation to the European objectives.

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105 The Council of Ministers (2000) paragraph 1
106 The Council of Ministers (2000) paragraph 2
107 The Council of Ministers (2000) paragraph 3
108 The Council of Ministers (2000) annex to the annex
The Commission: The Commission should review the NAP’s and in cooperation with the Council develop a Joint Report on Social Inclusion. This report should identify innovative approaches and examples of good practice. The Commission should also cooperate with the member states through an Action Programme, aimed at promoting trans-national cooperation in exchange of good practice and the development of common approaches.

The Council: The Council adopts the objectives drafted by the Commission. The Council also writes a joint report on social inclusion together with the Commission, as stated above. The European Parliament: The EP is consulted but has a low degree of influence.

The Social Protection Committee: The Committee works in practically the same way as the employment committee and in cooperation with it. It consists of two members from each member state and two members from the Commission.

4.2.2 Following up social inclusion

The Joint Report issued by the Commission and the Council is the first official policy document on poverty and social exclusion produced by the Commission. It is described as a milestone towards the goal of greater social cohesion set in Lisbon and the European Social Agenda. The report gives social policy an important place alongside economic and employment policies to reach this goal. It is stated that for this end it is important to establish links between these policies. The report is also said to be an important step towards developing common indicators for measuring poverty and social inclusion in the member states.

The report is not focusing on the evaluation of the existing social systems in the member states but on which measures the different member states have proposed in their national action plans, and how they have responded to the different objectives. The Joint Report also states that the analysis of national actions show a concerted will across the member states to take advantage of the social inclusion process in their efforts to handle poverty and social exclusion. The report shows quite a variety of policies and actions taken in the different member states, which will provide a good basis for policy learning and cooperation, it is stated further. It has however not been possible to identify good practice examples to any useful extent, as the evaluations made by the member states have not been thorough enough. This is seen as one of the challenges for the next round of national action plans to be submitted in the near future.

The points of departure in the NAP’s to meet this challenge are very different. There are important differences in how the member states organise their welfare states. The level of the problems is different but also the capacity to meet the challenges without a substantial change in the existing systems. This activity has influenced the states to increase the multi-level approach in the domestic field. However, the joint report also identifies certain shortages in the NAP’s. The critique primarily relates to the lack of quantified objectives, only some countries have set more than general targets. Further the lack of a clear gender perspective is also pointed out as challenge to tackle in the forthcoming NAP’s. It is however stated that as these action plans are the first in their kind they still provide a good starting point for the

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109 The Council of Ministers (2000) paragraph 4
110 DG empl. And soc affairs homepage, Nice treaty art. 144
112 The Council of Ministers (2001) p. 5
coming cycles. The importance of employment for social inclusion is highlighted and the benefit of these two processes working together is put forward.\textsuperscript{113}

The member states recognise the participation of the social partners in the development of the NAP’s. Due to among other things a short time for developing the first NAP’s, the consultation process was not carried out to the same extent. This is also seen as a challenge for the forthcoming procedures. It is however also pointed out that the consultation procedure will look different in different states depending on the domestic political system. Most countries have used national definitions when analysing poverty and social issues, which have made it difficult for the Union to develop comparable indicators. The lack of coherent indicators made the benchmarking procedure more difficult to pursue. A year after the introduction of open policy coordination in the field of social inclusion the European Council asked the Council to draw up European indicators for social inclusion. \textsuperscript{114}

### 4.2.3 Benchmarking social inclusion

In March 2001 the European Council gave the Council a mandate to develop indicators for measuring progress and benchmarking. In October the same year the Social Protection Committee submitted a report on the developed indicators. It is emphasised by the Committee that the indicators do not prescribe means of how to reach goals but are “indicators that addresses social outcomes”.\textsuperscript{115}

The indicators are divided into three parts, with an inherent hierarchy. The primary indicators are restricted in number and addresses fields considered a priority in relation to decreasing social exclusion. The secondary indicators follow up on the primary indicators and through these it is also possible to identify and address social exclusion in other dimensions. These two sets would be decided and harmonised on the European level. They would serve as a tool for the member state and the Commission in their work in the next round of social inclusion open coordination. The third set of indicators is to be set by the individual member states. They are indented to mirror specific national situations and thereby assist in the interpretation of the first two sets of indicators. As they would be national tools, they are not subject to harmonisation.\textsuperscript{116}

### 4.2.4 Streamlining social inclusion

In a recent communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, a proposal for making the social dimension of the Lisbon strategy more efficient is laid out. The aim of the communication is to enhance the efficiency of policy coordination in the social protection field. The OMC is said to play a vital role in this work. Through a streamlining approach the Commission lays out a proposal for coordinating the different open coordination processes within the social protection field (including social inclusion), with the already streamlined coordination processes in economic and employment policy. This is said both to strengthen social policy coordination but also to strengthen and complement the employment and economic processes. A prolonged aim is to strengthen the overall socio-economic governance

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\textsuperscript{113} The Council of Ministers (2001) p. 8f.
\textsuperscript{114} The Council of Ministers (2001), p. 10
\textsuperscript{116} The Social Protection Committee (2001), p. 3ff.
of the Union, which also motivates the importance of taking the economic-employment strategies into account. Moreover, the promotion of social inclusion is one of the objectives of the employment strategy, why the social inclusion process as a whole in particular is considered to constitute an important complement to the already streamlined processes. The new streamlined process is proposed to start when the second round of EES-BEGP starts, in 2006.\textsuperscript{117}

The OMC in various degrees is the main working method in social inclusion and pension’s policy, but other policy areas within the field of social protection might also be subject to the OMC in the near future. These separate processes have made work incoherent, which has not served the overall socio-economic governance. To this problem a streamlined approach can be the remedy, according to the report. Also in this communication it is firmly stated that the OMC is not to be seen as a replacement but as a supplement to ordinary Community action. The new procedure should consist of both streamlined objectives and indicators, taking into account all areas in the social protection field, substituting the separate objectives and indicators. They should also consist of certain crosscutting issues. The objectives should further be consistent with the employment and economic guidelines. A joint social protection report should be an important instrument, as for employment and social inclusion processes. National action plans should also cover the whole range of social protection issues, and hence substitute the separate forms of present national reporting.\textsuperscript{118}

According to a Commission official at DG Employment and Social Affairs the streamlining initiative is considered to be the next step in the policy coordination process. He points to the process as partly aiming at:

“… strengthening the OMC visavi the other processes, the broad economic policy guidelines and the employment strategy.”\textsuperscript{119}

He says further that there is a risk of this hindering the separate processes to work as a tool for policy exchange, but continues that this balance is counted with when the proposal was put forward. He says that a great benefit of this new streamlined procedure would be the overall account it would take when assessing the status of socio-economic governance in the member states. He continues that the approach seems to suit the Nordic countries better, whereas other countries with different social systems might see the streamlining from a different angle. It must however be pointed out that it is still not a question of changing national systems, but maybe inspire to reform as well as forming a European social vision.\textsuperscript{120}

This communication is reviewed by the member states at the moment and is not yet adopted by the Council.

\textsuperscript{118} Commission of the European Communities (2003), p. 7ff.
\textsuperscript{119} Interview with Commission official, DG Employment and Social Affairs, 2003-07-11
\textsuperscript{120} Interview with Commission official, DG Employment and Social Affairs, 2003-07-11
5: The OMC - a new tool of governance?

As explained in the second chapter, laying out the theoretical framework, the term governance can be used for multiple purposes. In this thesis, governance serves the purpose of giving an explanatory frame to an empirical phenomenon. Hence, governance in this sense can be seen both as a theoretical concept, with notions about how a governance process should and could be formed, and as an empirical concept with explanatory power. This is considered the strength of using governance as an analytical framework in this thesis, which aims at examining and explaining an empirical process. Analysing the use and implication of the OMC will focus mainly on the role of the different actors, in order to shed light on what the OMC is. Focusing on the role of the actors gives a general perspective on the OMC. This choice is made for two reasons. The first reason is that the OMC is relatively new, and an evaluation of the method would be a difficult task as it is difficult to give evidence of results at this point. The choice is also made based on the extent of this thesis. The aim of the thesis is to consider the OMC as a sign of a possible new governance mode on the European level. One way of doing this is to examine the role and functions of the actors involved in the process.

The horizontal notions of the OMC are interesting from a governance perspective in general and from a European governance perspective in particular. It is interesting both from a normative perspective and from an empirical perspective. Looking at the features of European governance it has had more resemblances with an international organisation than a federal political union. The features of an international organisation imply diplomatic solutions between government representatives, which are the structures of the European Council and the Council. Introducing a governance method that prescribes a horizontal way of making policy, which includes involving national actors, such as parliaments and interest groups as well as the civil society is not really coherent with these features. The extended use of the OMC could present proof of a substantial shift in EU governance. The OMC is used when it is not appropriate to harmonise a policy area and regulations and directives infringe too much on the principle of subsidiarity. To be clear, this should not be seen as something that will eventually take over in all European policy areas, it should be seen more as a way of securing European influence in areas growing ever more important with the closer economic integration. Some say it is a tool that can be used when there is nothing better whereas others praise the method as something that preferably should be used in as many policy areas as possible, instead of hard law.

The state has a highly sovereign status within the OMC, the terms and the pace are ultimately decided by the member states, individually and collectively. But it is important to remember that it is not only states in their role as individual entities that has the determining power over the OMC procedure, but also states as members of a political union. Therefore the role of the states must be seen from a more complex perspective. Considering the role of the state in the OMC this is the most interesting feature, which can point to Europeanisation even of politics created within intergovernmental modes of governance. The norms of legitimacy and democracy are both important in EU governance, but in slightly different ways, as stated in chapter 2. These notions are not mutually excluding, but have been held separate for analytical purposes in the case of the OMC. The double asymmetry referred to in chapter 2 is highly relevant when considering the OMC. The competence is moved upwards with the European set guidelines and objectives. At the same time the competence to perform the
implementation rests with national authorities that are not always aware of the origin of the objectives. It can also create the kind of redistributing problems referred to by a Commission official. It is rather a process based on the notion of legitimacy, where the intergovernmental features are highly present. The procedure touches upon highly sensitive national issues, touching or passing the threshold of perception, at the same time as not only building on intergovernmental features. According to Scharpf, passing the threshold of perception, poses higher demands on governance in the EU. Can the OMC be the answer to this modification of governance?

The OMC can be said to build on deliberation and governance as well as participation and consent. These are features that Laffan, O’Donnell and Smith (2000) have characterised as being part of a democracy concept. This can be said to show a method that does not really know which leg to stand on. This also becomes evident when positioning the OMC in the six governance modes.

5.1 The OMC and existing modes of European governance

For the sake of clarity, the analysis will first be carried out by comparing the OMC to each of the modes of governance presented in the theoretical framework. Thereafter a conclusion will be evaluating these findings, and a discussion of the position of the OMC in the European governance structure will be held.

5.1.1 The original Community method

Looking at the oldest form of European governance, the original Community method, the state within the frames of the Council of Ministers had a dominant but also strategic role. The executive and designing tasks were left to the Commission. Under the OMC the Council is also the strategic body, where the guidelines are set and the level of cooperation is determined. The executive role of the Commission is also existent in the OMC. The difference is however that the designing role of the Commission is less strong in the OMC, even if the Commission does have quite a few words to say about the guidelines.

The limited role of the EP is also a feature that is present both in the OMC and in the original Community method. The limited role is however based on a somewhat different logic. At the time of the original Community method the EP was poorly developed and its role had not really been carved out whereas the present EP does have quite a substantial power over important policy areas. The limited role of the EP is therefore not the most important positioning feature in relation to the original Community method. But by keeping the EP out of the OMC procedure, the democratic institutions of the Community are not involved. By this meant that in the balance between legitimacy and democracy, this feature leans more to the side of legitimacy.

The Community method is considered to be a mode with strong supranational tendencies, whereas the OMC builds on its intergovernmental features. It is interesting to see certain features are comparable but with different arguments. Does this mean that the OMC has supranational tendencies that the actors are not able or willing to see? Not necessarily. This way of initiating and monitoring coherence is repeated in some way in all the modes of governance, and therefore it is not necessarily the case. But what can be said is that the OMC
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gives the supranational institutions potential for increased influence in the process. Several instances have called for an increased role for the EP, the Commission has a position with important possibilities to influence the procedure.

5.1.2 The EU regulatory model

This governance mode is the most commonly used in decisions taken in Community matters. It does not have many features that can be used for describing the OMC. What can be seen is that the role of the Commission is not too different. Designing objectives is an important task for the Commission in both cases. It can however be said that it differs between the use of OMC in employment and social policy. The designing role of the Commission has more similarities with the regulatory model in employment policy, which is treaty-based. The nature of the objectives in employment policy is similar to the regulatory objectives with the first pillar. The objectives in social inclusion policy are more loosely formulated and therefore more in line with transnational cooperation. An important feature differing is the role of the ECJ. It is very present in the EU regulatory model whereas it is nonexistent in the OMC.

5.1.3 Multi-level governance

Interesting features can be found in the multi-level governance mode. Based on the description of the OMC in the official documentation and the interviews, two things are striking. The first is that there is a discrepancy between the official formulation and the apprehension of the OMC, regarding the horizontal features. The other is that there is a difference between the policy areas where the OMC is applied. The aim of horizontal cooperation and involvement of regional and local authorities have not been sufficiently realised. It becomes evident that implementing multi-level governance features through the OMC has been a difficult task. If this is due to the formulation of the method itself or if it relates to the nature of the policy areas is difficult to judge. One can be led to assume the latter conclusion, as there is an evident difference between employment policy and social inclusion policy. The OMC was formed on the model of the EES, which was created for the sole purpose of governing employment policy. The arrangements were built on the conditions of employment policy. The role of the social partners appears stronger in employment policy than in the area of social inclusion. Looking at the important features of multi-level governance it becomes evident that these have an important place in the OMC. These are however also the parts that has not been implemented in a satisfying way so far. The problem seems to be the definition of what is satisfying. The role of the supranational institutions meets different demands from different actors and this also seem to be valid for the role of national actors. The limited role for these actors is at present hindering for implementing the multi-level features of the OMC. The local and regional authorities cannot assert influence when they are not aware of the existence of the OMC. It is important to point out that there is a difference between employment policy and social inclusion policy in this regard. The emerging consultation process in employment can possibly function as a model for other areas where the OMC is applied.

The role of the European parliament is weak in the OMC and at present it can best be explained as fitting in the mode of intensive transgovernmentalism. But there is especially one aspect that makes the EP important to discuss in this section. In the report by Ms. Smet it becomes obvious that a majority in the EP wishes a different role for the OMC. The EP characterises the OMC as a top-down mode of governance. This does not correspond with the text laying out the functions of the OMC. The Smet report therefore gives a picture both of an
institution that shows ambitions to move in a multi-level direction, but also point to the parts of the OMC that are less developed. Even though there are ambitions to include multiple levels of governance it is clear that the power mostly lies with the intergovernmental institutions and the central levels of the member states. This poses a question mark as to the potential but also the ambition of the member states to make the OMC anything else than an intergovernmental cooperation. This doubt is based mostly on the institutions that are now involved in carrying out open coordination through the OMC. It is clear that only a few central level government officials know what the OMC is. Further the interviewees also testify about differences between member states in how they deal with open policy coordination. This again seems to be evidence that the OMC is created on several different governance grounds, along with glasses seeing northern European realities. These issues need to be dealt with if the OMC is to become an efficient way of creating European policy in areas with a weak European competence. An important discussion relates to how the features of multi-level governance can be combined with intergovernmental features locking the lower parts of authorities out of the political process.

5.1.4 Policy coordination and benchmarking

This policy mode is based on an intergovernmental ground. It can be seen as elitist in the way that it relies to a large extent on the evaluation of experts when creating ways of comparing policy. The fear of the OMC only being a method for transition of sensitive policy areas might stem from this policy mode.

In the mode of policy coordination and benchmarking the weight on expert opinions is much higher than in the OMC. It is true that the employment committee and the social protection committee can be seen as exclusive groups of experts as their members consist of government officials and not national politicians. It is also true that these officials come from the national governments and not from the EU bureaucracy. This tells us two things. One is that there is a strong intergovernmental feature in this policy mode. The other is that the weight that is put on the opinions of expert groups gives this mode quite a supranational touch. It was developed in an international organisation and does therefore not aim at fulfilling the democratic features discussed in chapter 2. At the same time the evidence that this mode has been in use in policy areas that have started as a light transnational cooperation and are now integrated parts of the European cooperation is important when considering the position of the OMC. The features of the OMC are different in that there is a stronger focus on negotiation in the Council, but role of experts is not irrelevant. Quite a modest number of officials and politicians are aware of the existence and content of the OMC, which makes it easy for an elite group of experts to form guidelines. It is easy to see where the suspicion comes from. Even though the OMC cannot be positioned solely by looking at this policy mode, there are interesting similarities. The problem is how to establish these kinds of governance modes, which have served as transitional, to become governance modes in themselves.

Benchmarking systems can be seen from a dual perspective. On the one hand it can be said to promote Europeanisation, leading to convergence of national policies. On the other hand it can be seen as ‘nationalisation’ of policy areas, where the procedures are governed by best national practices as opposed to centrally set European regulations and directives. This dual way of looking upon the benchmarking procedure creates an interesting departure when analysing the OMC. It is a matter of how the European governance structure is apprehended. On the one hand it is easy to assume that states will try to comply with benchmarks, in order not to be pointed out as a bad example. On the other hand broadly defined benchmarks can open for multiple interpretations, and in that way legitimise inherent differences. At the
bottom this discussion treats the view on European governance in general, which is a far too vast discussion to pursue here.

5.1.5 Intensive transgovernmentalism

In the mode intensive transgovernmentalism there are a number of features matching the OMC. The role of the European Council and the Council as the most important actors in the procedure is striking in one way. The national sovereignty in the concerned policy areas is high and the importance of the decisions in these institutions is high. Further a distinct circle of national policy-makers treats the OMC. The exclusive role of quite a small group of national and European officials is also an important feature of intensive transgovernmentalism. In the wording of critical politicians and national officials, this feature of the OMC has been characterised as elitist. We can choose to see it as a characteristic of a governance mode with strong intergovernmental features or we can choose to see it as an unfortunate consequence of the aim to mix intergovernmental and multi-level governance features in one method. I argue that the problem relates to the latter statement. The main reason for this statement is the expression of the OMC in official documents. It also relates to the differing features referred to in the interviews. In different institutions and for different people the OMC takes a slightly different shape. But the multi-level feature in terms of involving multiple national actors is always present. This shows awareness of the aim but also of the problems to meet this aim. Again we see a difference between employment policy and social inclusion policy. The transgovernmental features are stronger in the area of social inclusion, where the involvement of the civil society is more limited.

The fact that the working procedure within the OMC is of a special character, it could also be related to intensive transgovernmentalism. The interesting aspect here is whether it should be seen as an isolated method of cooperation within the general EU structure or whether it should be seen as a mode of governance in itself, related to the other modes of governance. The choice not to include it into the draft constitutional treaty can be a sign of the former whereas the extension of new policy areas to be subject to the OMC procedure can be a sign of the latter. For example the defence cooperation has functioned in this manner for some time, and the non-inclusion of the OMC in the treaty does not mean that it is becoming irrelevant. It will however keep its features of intensive transgovernmentalism, and it will become ever more important to manage the balance between the different governance modes inherent in the procedure.

Another important feature that is inherent in both the OMC and intensive transgovernmentalism is the limited role of the national parliaments. It is striking how this goes straight against the multi-level governance formulations of the inclusion of sub-national authorities. It is not explicitly stated that the national parliaments should be consulted. If the consultation is not sufficient, difficulties in vertical consultation might also linger. Here we see a difference between the procedure in employment and social inclusion. There is a focus on creating soft institutions in intensive transgovernmentalism, which also must be said about the OMC. The whole procedure is based on soft law and therefore not as concrete. This might very well be part of the problem for some states to view the OMC as a proper governance method.
5.1.6 Network governance

Network governance is a relatively new mode of governance and its importance for European governance is quite recently being explored. As the aim of this thesis is to discuss governance on a European level and not to explore the OMC procedure at the national level, network governance is only discussed shortly and in general terms. Network governance theory describes how the central level works together with societal actors in issue-specific networks. A parallel can be drawn to the consultation of the civil society that is described for the OMC. It must however be said that this parallel is primarily theoretical at this point. Even though this issue has not been the main focus of this thesis, it has become visible that the consultation of civil society groups does not work sufficiently in the field of social inclusion, but better in employment. It does however seem like this type of issue-specific networks can be an extended aim of the OMC, which could also be an important instrument, if functioning.

This is an innovative mode of governance as the OMC is an innovative method of making policy, it is therefore difficult to judge whether they are good ways of managing differences. Network governance clearly focuses on problem solving, which is also the essence of the OMC. At least it was at the development of the EES. Problem solving is still important but is not as clearly focused on. In the interviews with Commission officials the OMC as a problem-solving method is not emphasised particularly. This shows that the OMC could have moved from being a problem-solving method to being a policy-making method. This implies certain things from a governance perspective. It could point to the OMC being transferred into the European governance structure to become an integrative part of general governance and not a method designed for specific policy areas with clear problem-solving character.

5.2 The European institutions and the OMC

Looking at the response of Commission officials and European parliamentarians as well as the wording in official documents of the EU regarding the OMC a discrepancy of views as to what it is, becomes visible. The discrepancy will be analysed from the perspective of European governance modes, but also from the discussion on democracy/legitimacy.

The position of the EP, the way it is put forward in the report by Ms. Smet, clearly wants to move the OMC towards a procedure where the EP has a clearer role. The report also gives the picture of seeking to alter the presumed vertical working of the OMC to a more horizontal procedure, where the different levels in the member states have a greater influence. From a governance perspective this tells us that the EP, by making its own power stronger, seeks to make the OMC a method integrated in the Community regulatory procedure, which is where the EP exercises power at present. Following the discussion by Prof. Gustavsson, the way the EP emphasizes the democratic features of the OMC shows a supranational implication. But it is clear that within the EP the meanings do not converge. Evaluating the results from the interviews with members of the EP gives a different view. They seek to enhance the legitimacy of the OMC and almost reject the possibility of increasing the European democratic features. They clearly hold the intergovernmental position, which also becomes clear in the way they both see it unnecessary to increase the power of the EP but rather its consultative status. This can be interpreted as a way of improving the horizontal provisions of the OMC. The intergovernmental notion is emphasised much clearer in the interviews than in the report. This can lead to the conclusion that the report focuses more on the norms of subsidiarity and democracy, whereas the interviewed MEP’s focus more in the norms of flexibility and legitimacy. This reveals that the norms the OMC is built around can be used for...
wide interpretations of the procedure. It also reveals a discrepancy in the way it is understood by the people who are to relate to it and practice it.

The Commission shows a quite cautious position towards the OMC. It does not want to alter the institutional balance, but at the same time give more room for the EP. The Commission officials clearly state that the OMC should not be used when Community legislation is possible, and hence limits the OMC in use. It is seen as a way to bring subjects onto the European agenda that are necessary in relation to already existing European policies. Commission officials are clear on that the OMC is not just a transitional mode of governance, aimed at integrating the policy areas under it. The official documentation and the views of the Commission officials coincide to a large extent. The governance notions that can be traced in the reasoning behind the statements can be connected to policy coordination and benchmarking, with the picture of the Commission as the spider in the web, coordinating the networking activities. Subsidiarity is pointed out as the main norm guiding governance in the OMC, but the focus on European multi-level governance is less evident that in the documents establishing the OMC as well as in the reasoning of the EP official standpoint. Learning is pointed out as an important feature of the OMC by the Commission officials, which points more towards intensive transgovernmental thinking than multi-level thinking, though the Commission see an important role for itself in the procedure as the promoter and activator in the process. This can also relate to network governance, where the Commission also plays the role of an activator and a mediator. It is difficult to judge whether the inclusion of societal actors is as clear in the Commission’s views on the OMC as it could be if relating to network governance. It could however be said that the ambitions of the Commission for the OMC seem to point more in the direction of network governance than for any other institution. This is based on the networking role of the Commission. The official opinion is that the policy areas covered by the OMC are not official Community competence, yet importantly related to European policy, which is why the OMC is an important way of lifting policy questions to a common level. The problems of the actual implementation of the OMC guidelines and objectives in the member states are however seen as somewhat problematic. This might point to different apprehensions about what the OMC really is as well as which role it should play in the European governance structure.

The Economic and Social Committee expresses a somewhat divided opinion on the OMC. On the one hand it is seen as something that has potential of increasing the role of the civil society in European governance, on the other hand it does want to alter the institutional balance to a too large extent, and therefore chooses to limit the role of the OMC. The EESC enhances two different forms of subsidiarity, territorial and functional. Judging from the characterisation of the OMC made by the EESC it seems that the functional subsidiarity is the most important problem. The involvement of the civil society is judged as quite weak, especially for social inclusion. Even though the involvement is better managed in the area of employment, it is still limited to a small group of societal actors on the central level. It seems that the focusing on a dual level of subsidiarity, the EESC leans on a multi-level perspective when thinking about the OMC. It is however also important to note that the form of subsidiarity specifically related to multi-level governance can be said to be functional subsidiarity. This is also the form of subsidiarity that is judged to be least met in the OMC. The EESC also seeks to increase its own role as consultative body in the OMC, which point to that they seek of strengthen the multi-level feature.

The Convention on the future of Europe can to some extent be said to relate to the collected views of the member states, as the representatives were mainly national government
politicians and members of parliament. It is striking to see that the ambitions of the working
groups where quite different from the final outcome in the draft constitutional treaty. The
relevant working groups calls for inclusion of the basic provisions into the new constitutional
treaty. They emphasise two things; the consultation of the social partners and the inclusion of
the basic provisions into the draft treaty. Emphasising the consultation procedure implies a
will to enhance the multi-level features of the OMC. The aim to include the basic provisions
into the treaty can imply several things. It can be an aim to take in this procedure and treat it
as a fully worth governance procedure in the European governance structure. This would have
implied a formal and recognised place for the OMC as an individual method of governance. It
would also have meant an institutionalisation of an innovative method, and it would have
been harder to use it as a transitional mode of governance. But including the OMC into the
treaty could also risk taking away some of its features of soft law, which could be damaging
to its flexibility and acceptance. The Convention as a whole neglecting to include the OMC in
direct wording into the draft constitutional treaty shows a collected will that is divided as to
what role the OMC should play and what position it should have in the European governance
structure. By not including the basic provisions the Convention as a whole seem to lean more
towards keeping the OMC within the boundaries of transgovernmental cooperation and soft
law. This was the final contribution from the Convention, and will therefore be considered the
collected conclusion of this assembly, even though different opinions have been shown. It is
however important also to keep in mind that the standpoints for employment policy and social
inclusion policy varies, as stated on p. 34. This shows that there are different ambitions for
these two policies, and could also mean that there are different potential of succeeding with
the OMC in the two policy areas. This discussion will be followed up in the next section.

5.3 The OMC from a comparative perspective

It is easy to draw one quick conclusion from the case studies; in the area of social inclusion
the coordination process is less coherent than in the field of employment.
What has to be bared in mind, which might also make this argument somewhat weaker, is that
the EES is not entirely the same thing as the OMC. It has a more firm treaty base and its
procedure is more coherent and established. What makes this comparison interesting is that
the OMC is built on the EES and the idea of a procedure that would work in practically the
same way, but without a treaty base. They both have specific features that guard national
diversity and also put in place a multi-actor structure, where the member states are
couraged to set their own national targets, following European guidelines. In this procedure
there are obvious differences between the policy areas. The soft law feature is the reigning
way to ensure compliance, but the soft law provisions in the form of objectives and guidelines
are of a looser format in social inclusion policy. This might be one of the reasons for the
weaker compliance in social inclusion. The weak treaty base might also be a factor that makes
the OMC less clear. It can be more difficult to see the connection to the ‘normal’ governance
procedures and therefore the OMC can loose some of its legitimacy. This is valid to a larger
extent in social inclusion, but also to some extent in employment. The choice not to include
the OMC into the draft constitutional treaty, but to specify the procedures for the different
policy areas, might also alienate it from being a part of the European governance structure. It
is also clear that by not defining the OMC the Convention shows that institutionalisation of a
new decision-making process is still controversial. The biggest difference between the
employment strategy and the open coordination of social inclusion is the existence of
quantitative measures in the former and only qualitative measures in the latter. This shows
both a firmer ambition and a greater legitimacy for open coordination in employment policy.
The complexity of the method itself can be seen as a legitimacy problem. The open coordination processes are different in every policy area it is applied in. It is difficult to identify the actors and perform results within a multi-level structure. The different domestic state systems create different challenges within different states. To a large extent the OMC has remained multi-level on the central level. This means that regional and local authorities and the civil society have been involved in the process through their central organisations. This is a step forward, but further steps to institutionalise the consultation are needed. Also, this is mainly true in employment policy whereas in the open coordination of social inclusion the creation of national action plans is mainly a task for state authorities.

It is important to include the civil society and the regional and local authorities in the process of developing objectives and guidelines. This is important to maintain the legitimacy but also to keep a broad view on the problems of employment and social issues in the member states.. It is interesting to note that in the EES, the multi-level feature was weaker at its introduction than in the introduction of the OMC. It is however in the field of employment that the partnerships are mostly developed. This could point two ways. Either it could be evidence of a need to firmly establish the procedures on the central level before it feels ‘safe’ to extend the procedure downwards. It can also be evidence of the area of social policy being a sensitive policy area that is traditionally formed on the central level. There could be a fear of letting in too many actors in the process. But equally to social policy, employment has also traditionally been a policy area formed at the national level but implemented partly on regional and local levels. This should be an incentive to increase the consultation procedure on social issues. The observation of the benchmarks and the guidelines can be done in different ways, it can lead to moving along a scale, but the real efficiency of the measures will vary according to the economic and social reality in the individual countries. The efficiency will hence depend on the observation of the guidelines and recommendations in the individual states.

5.4 The OMC in European governance

The OMC is an interesting governance tool that has several combined features that makes it innovative. It does however have some problems as well. One is the lack of sanctions when guidelines and objectives are not being taken into account. This problem is related to its soft law character. Considering the method from an intergovernmental perspective, and placing it as transgovernmental cooperation, it is the normal procedure. A process with these specific characteristics has a logic built on cooperation and mutual learning without any strong obligations to fulfil a rule equally important to other countries. The goals set within the OMC are primarily national goals, each individual state have committed itself to try to achieve this goal within their own boundaries. The OMC is built on a kind of reciprocity without hard obligations. This can create efficiency problems of the kind identified in the interviews. Different states put a different amount of effort into the procedure and interpret the guidelines to its own benefit. This might lead to difficulties in predicting when goals can be reached.

This analysis has shown that different notions of governance are inherent in the OMC procedure. This creates an uncertainty of where to place it in EU governance, but maybe that is the strength of it as well. Including the OMC into a treaty at this point risk making it something it was not created to be. At this point the flexibility and legitimacy of the OMC is probably best served outside treaty regulation to allow us to think in innovative terms about EU governance.
6: Conclusions

The biggest advantage of the OMC is its flexibility, it is dynamic and the tightness of it can be varied depending on the policy area concerned. There are a number of features that give the OMC the status of an innovative mode of governance. Primarily, the commonly set framework in the concerned policy fields give the Union a role in coordinating different national opinions at the same time as presenting its own view on the same issues. The soft law feature gives the Union a possibility to set the direction of a policy area without imposing firm regulation. The setting of the agenda is an important position of influence for the Council and the Commission. Secondly, the extension of European interest to new and traditionally national core areas makes the introduction of a new method for policy-making necessary. There is little national interest in moving competence in these areas upwards, which opens for new ways of creating policy. The legitimacy problem facing the Union also gives way for a mode of governance including more participation within the member states. The problem of elitism is still not overcome however, as the parameters of the policies are still to a large extent set at the central national level. The changing of this in the field of employment could be paving the way for increased national consultation in the other policy areas where the OMC is applied. The question of what the OMC is; a method that will gain a permanent place in European governance on a more long-term basis or a mode of transition into Community competence cannot be fully answered yet. But evidence in this thesis would point to the OMC as a new governance tool that will be held on to. It has an inherent benefit of legitimising integration and cooperation in new policy areas, with subsidiarity as the central norm. Its legitimacy lies partly in its horizontal character, which therefore is vital to maintain. It has been shown in this thesis that the OMC does not entirely fit into any of the existing modes of governance. Does this mean that by establishing the OMC we are also witnessing a new mode of European governance? It is not unlikely. Many scholars have lifted the OMC to being a sign of something new, but never really discussed its position in relation to the existing modes of governance. This is important in order to understand its present relevance and its potential for further evolution.

Concluding the findings in this thesis, the OMC can be said to relate to multi-level governance primarily, but it also has important influences of transgovernmental cooperation and policy coordination and benchmarking. There are also notions of network governance that are not negligible. Putting these modes of governance together creates an innovative form of governance, with intergovernmental notions. There is a clear difficulty in determining whether the OMC should be built on cooperation or coordination, which can be seen in the variety of interpretation of it. The features within social inclusion policy leans more on policy cooperation whereas the features within employment policy leans more on coordination. The inherent diversity and the discrepancy in interpretation can make it difficult to establish the OMC as a tool of governance with a permanent and recognised status in the European governance structure. The OMC is a multi-level structured method; it does however carry several signs of a process still under evolution. In employment matters the process is more developed, whereas in the area of social inclusion the OMC is rather conducted on the European and the central state levels. The multi-level structures are the least functioning, in particular regarding social inclusion. The first step to take is to create a broader knowledge and acceptance for the OMC on the central levels, to further include the regional and local levels, as well as the social partners, into the process. The features of intensive transgovernmentalism are still strong, especially as the OMC was not included into the draft constitutional treaty. The act of balance between these two modes of governance is the
strongest character of the OMC. This has both advantages and disadvantages for its functions. A possible solution is to link the OMC closer to the other policy-making methods. If it continues to be carried out apart from the general European governance structure, it will alienate the method further and the understanding and acceptance of it will take longer time.

It is interesting to see that both policy coordination and benchmarking and intensive transgovernmentalism are considered transitional and that important similarities with the OMC can be found in both. What makes the OMC different from these two becomes a highly relevant question. The firm intention of the member states to keep the OMC as a lighter, yet structured, form of cooperation can however be one reason to believe that the intention really is to establish a new mode of governance that secures national systems. This will make it all the more important to keep and structure the act of balance between multi-level and intergovernmental governance discussed above.

The interest in the OMC as a governance method in itself, and also as a sign of an innovative mode of governance, has just started. The next step will be to follow the first evaluation process that will be made by the Commission in 2004, and the reactions to that. But so far, it can be concluded that the OMC has several innovative features, and even though it carries features of already existing modes of governance, its mix and implications must be judged as innovative. Remains to be seen how the advocates of the OMC manages to fit it into the European governance structure on a permanent basis.
References

Literature:

Andersen S.S (1997), Case-studier og generalisering – Forskningsstrategi og design, Fagbokforlaget Vigmostad & Bjørke AS, Bergen-Sandviken


Kenner J. (2003), EU Employment Law- From Rome to Amsterdam and beyond, Oxford and Portland, Hart Publishing


Norén L (1990), Fallstudiens trovärdighet, FE-rapport, företagsekonomiska institutionen, Göteborgs universitet


European Union sources:


Commission of the European Communities (2003), "Strengthening the social dimension of the Lisbon strategy: Streamlining open coordination in the field of social protection”, COM(2003) 261

The Council of Ministers “Objectives in the fight against poverty and social exclusion”


Employment guidelines for 2002

The European Convention working group nr. VI on economic governance (2003), final report CONV 357/02, point 3 http://european-convention.eu.int/doc_wg.asp?lang=EN 2003-09-15


DOC/00/8, http://europa.eu.int/ISPO/services/docs/2000/jan-march/doc_00_8_en.html 2003-03-05

Luxembourg European Council 20-21 Nov. 1997

Overview of Joint Employment reports
http://europa.eu.int/comm/employment_social/employment_strategy/employ_en.htm 2003-09-09

Overview of National Action Plans
http://europa.eu.int/comm/employment_social/employment_strategy/02_national_en.htm 2003-09-06

The Social Protection Committee “Report on Indicators in the field of poverty and social exclusion” October 2001

Treaties:

The European Convention Draft Constitutional Treaty

Treaty of Amsterdam

Treaty of Maastricht (establishing a European Union)

Treaty of Nice

Interviews:

3 Officials at the Commission of the European Communities

2 Members of the European Parliament

2 Members of the European Economic and Social Committee (One unofficial)

1 Member of the Employment Committee

1 Member of local authority in Sweden
Appendix 1: Interview guide

The following questions were used as guiding in the interviews performed for this thesis.

1. Which is your position and in what way do you work with the OMC?

2. Please define the OMC from your own perspective, which are its main characteristics?

3. Which are the biggest advantages and disadvantages of the OMC? Please explain.

4. In your opinion, is the OMC working efficiently? Please explain. What would you like to change in the procedure?

5. Would you like to see the OMC as a governance tool also in the future?

6. The OMC is sometimes called the ‘happy medium’ between intergovernmental cooperation and supranational governance. How do you respond to such a statement?

7. Which would be the ideal position of your institution in the OMC procedure?