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## **Social federalism, subsidiarity and open method of coordination**

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## **Social federalism, subsidiarity and open method of coordination**

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## Introduction

The European Convention and the preparations for the new Treaty have launched a new round of debates regarding the future of Europe, European unification and consequently the European social policy. It was obvious that the discussions about the essence of the European political institutions and structures, culminating on the issue of intergovernmentalism or federalism, would certainly have had a serious impact in the pursue of the social construction of Europe. Under these circumstances, the current form of development and implementation of the European employment and social policy which is going mostly through the Open Method of Coordination (OMC) inaugurated in an integrated way by the Lisbon Council of 2000 and after, has found a new context of appraisal of its results, of its nature as well as of its future. The title as well as the concept of the present conference should be perceived as a reflection of the overall political developments. As the historical experience shows, the process and the progress of Europeanization, by itself, brings back continuously to the foreground the issue of the European social space, in other words, the issue of Europe as a social union.

In our paper we attempt to raise a number of questions about the prospects of social federalism in Europe taking into consideration the experiences accumulated by other federal states, as these are presented in the recent scientific literature. We will seek to link these experiences with the evolution of the European social policy as the latter is developed after the adoption of the OMC in the field of employment and social protection. Finally, we will attempt to locate several common issues of future initiatives. It is obvious that the projection of the federalist social experience onto social-political design with the form of OMC that takes place within non-federalist social structures, it appears as an extremely difficult undertaking. For this reason, our main aim is mostly to articulate some questions –not all– and to attempt to provide some preliminary answers.

The first question that I want to pose refers to what we mean with the term social federalism, within the European context. This is a prerequisite so as to form a common base of understanding and dialogue. The second question, which includes a series of sub-questions, refers to the experience of social federalism in other countries. What conclusions, if any, can we draw from these, and what is their use for the European social policy? Does social federalism contribute to higher levels

of social protection? Or is an impediment to the development and expansion of the welfare state? A third cluster of questions is related with the OMC and its role in formulating the future profile of the European social policy. In this particular context we pose some questions. Why just OMC? How can we estimate its contribution in the development of European social policy and European integration? Is OMC capable of producing results? What is its future development and its potential "federal content"? Finally, a fourth question is related with the form that a future OMC should take in order to support a federal social policy, as well as the conditions under which such an OMC would be successful.

These are some of the many questions that we would like to pick for our discussion in the frame of a provocative and, we hope, fruitful framework of the conference about the relations between social federalism, subsidiarity and open method of coordination.

## **1. How could we perceive social federalism?**

As we have noticed before, the discussion regarding the intergovernmental or the federal character of the Union has unavoidably affected other sub sectors including the field of social policy. In this frame, both the academic community and policy makers have embarked in a more intensive research and exploration of the experiences as well as the lessons from federal social policies. Thus, they focus their interests on federal states that they have, more or less, federalist structures. Those with bolder views have moved forward to state a first approach for a European social federalism (Peters 2003). Others, studying the federal sociopolitical experience of other countries and especially income redistribution, have expressed their hesitations for a federalist future recommending instead the full development of the dynamics of the OMC and proposing pan-European binding agreements for minimal social standards. Yet, they are entrusting the functions of the income redistribution between rich and poor countries and regions to the institutions of the European Union through structural funding of development policies in infrastructure, education, employment and public services (Cantillon 2003).

Nevertheless, beyond the special conditions which define the context of the social federalism discussion, there is a need to clarify and study both the notion of social federalism as well as its practical implementation. In addition to this, we have to agree upon the meaning of the term "social federalism in Europe", for there is a difference in the approaches between the different scientists as it is expressed by the two aforementioned scholars. The first study, intending to formulate a comprehensive theory of social federalism in Europe, is preoccupied

mostly with the legal recognition of regional or local competencies in the fields of employment, social exclusion or health care, as it is recognized in several constitutions of member states. "We prefer a clear, not a soft law approach to the division of competencies between member states and European Union; in such a clear division, full competence of the constituent elements can be guaranteed, as learns us the experience of the federal states having recognised legislative and other powers e.g. in areas of health care or social assistance to the regions or local authorities, within a pre-established federal framework. It is exactly such a binding framework we have also to reflect upon in the context of the European Union". (Peters 2003: 14)

On the other hand, in the second approach, social federalism is perceived as central redistribution of income. In this context fiscal federalism is a presupposition. The example of social assistance in United States is a case in point. In that case, the conclusions that accrue from a comparison between USA and Europe in favor of a European social federalism are not encouraged. "The comparison suggests that European social subsidiarity has not hindered the post-war development of Europe's welfare states. Quite to the contrary in fact. Conversely, American social federalism would appear to have rather stood in the way of the realization of social redistribution" (Cantillon, 2004)

From the above, it is obvious that a sober and objective discussion on the meaning of social federalism and the future of the European social policy needs a unified or, at least, an agreed approach so as to evaluate as much objectively as possible the current experience of the federal states. The typology, the forms and the levels at which federal social policy is exercised are so many and the procedures of homogenization so complex that, as it is commonly accepted, constructing a typology of them is very difficult. However, for the needs of our discussion we can agree in a broad and comprehensive understanding, that, as federalist social policy we should perceive a system of social policy provisions and regulations with -hierarchically constructed or not, yet institutionalized in constitutions or laws- many levels of decision making (federal, states, regions, localities, etc), funding, organization, provision of services and benefits. Within such a broad framework, we could study the experience of federal social policies and their value for the future of the European social policy.

## **2. Welfare and Federalism: some observations**

In analyzing social federalism some conclusions from the federal countries are valuable. Five remarks:

The first remark has to do with the relation between federalism and welfare state. Is federalism and welfare antagonistic? The dichotomist view for Unitarian and federal states implies the idea that decentralization and federalist structures are liberal and market preserving, and are negatively disposed of redistribution and the social programmes due to the divided powers and the multiple vetoes in decision making. Federalism introduces antagonism between the federal entities, resulting to the decrease in social spending and the race to the bottom. According to this view, decentralization and federalist structures are an impediment to the expansion and development of welfare state. This view was established from the fact that federal states had low levels of social expenditures in relation to their GDP and a weak welfare state. (Schmidt, 2002). However if this holds true in the case of USA and Switzerland it does not apply to other federal states as Germany, Austria, Belgium, whose social spending in relation to GDP is among the highest. In Germany, social spending reaches the 30% of the GDP, a little bit lower from countries like France, Sweden, and Holland (see Table 1).

Consequently, the relation between federalism and welfare state is not one-dimensional or unilateral as is implied by the research that focus exclusively on the case of some big states as the USA. Federalism and welfare state are fully compatible qualities and this is proven by experience. Simply, we have to study in each particular case the specific circumstances that existed or that were formed for the development or the contraction of the welfare state in federal systems.

**Table 1**  
**The relative size of Federal and non-Federal Welfare States**  
**(1997)**

Country	<u>A</u>	<u>B</u>	<u>C</u>
	Public social expenditure as percent of GDP	Column A minus taxes	Column B plus Tax expenditures
Denmark	35.9 %	26.7 %	26.7 %
Sweden	35.7	28.5	28.5
Finland	33.3	24.8	24.8
Belgium	30.4	25.8	26.3
Norway	30.2	24.4	24.4

Italy	29.4	24.1	24.1
Germany	29.2	25.5	25.5
Austria	28.5	23.0	23.4
Netherlands	27.1	20.2	20.3
United Kingdom	23.8	21.1	21.6
Czech Republic	21.7	19.3	19.3
Canada	20.7	17.8	18.7
New Zealand	20.7	17.0	17.0
Ireland	19.6	16.7	17.1
Australia	18.7	17.6	17.9
United States	15.8	15.0	16.4
Japan	15.1	14.4	14.8
Average	25.6 %	21.3 %	21.6 %

**Source:** Adema, W., 2001, *Net Social Expenditure*, (2<sup>nd</sup> ed.), OECD, Paris, Table 7.

A second remark has to do with the type of federalism. The recurrent dichotomy between federal and non federal systems is obsolete. Federal political systems do constitute neither a unified category nor an aggregate of many single cases. Recent bibliography has shown convincingly, using the criterion of institutional, political and cultural diversity, that federal systems are distinguished as majoritarian and multinational federations. The first type accrued from the need to govern democratically relatively large communities. United States falls into this type, as well as Germany and Australia. The separation of powers and of responsibilities was pursued so as to achieve a balance between the majoritarian institutions. The second type has to do with the need to provide autonomy to the ethnic, linguistic minorities in pluralistic and multiethnic countries. Among this type we can locate Canada, Belgium, and Switzerland. In this case, the aim of federalism has been to accommodate linguistic or cultural diversity. For these countries federalism constitutes a basic political condition. (Lijphard, 1999).

This distinction, although it enjoys gradually a wider approval in federalism's bibliography, in the studies analyzing public policy "has had almost no place" (Noël, 2003:5). Some first attempts were only undertaken in the field of employment policy. (Noël, 2003). For the further research on a possible European social federalism this distinction is, however, of great methodological and essential significance since both



types include advanced welfare structures created by historically different conditions and affected decisively its current efficiency and legitimacy. Yet, both types are characterized by constitutional decentralized, sub-national or local arrangements.

A third remark has to do with the causes and the driving forces that propelled the procedures for the development of social institutions and the welfare state in federal states of both types. These forces are the same with the forces that promoted the formation of welfare states in non federal countries. They are multiple, they differ from country to country and in general are reflected by the different theoretical approaches. Socio-economic forces (functional theory), work, ethic and state- intervention tradition (socio-cultural theory), class struggle (power resources and partisan theory) have, separately or cumulatively, played a crucial role in the modern formation of welfare states in federations in the same way as political-institutional factors, territorial politics and state-craft building. Schmidt (2002) underlies the three paths that contributed to the development of an advanced welfare state in the German Federation. a) The political ideas and the long standing tradition of state led amelioration and political control of the economy. b) The party competition between two encompassing welfare state parties. c) The federalistic constitutional structures, historical legacies and the distribution of costs and benefits of the welfare state. In Canada, the need for national integration and state-craft building has played an important role in the construction of the post-war welfare state ( Banting, 1995 ). As Obringer shows (1998) the role of political institutions, i.e. of the federal structures and direct democracy, explain mainly the growth of welfare state in Switzerland.

Although Europe as entity is now in a different historical and developmental phase than the federal states some decades earlier, and historical analogies have less explanatory power in this context, one can legitimately pose the question if analogous driving forces have been emerged for promoting social integration. The idea of a "European social model" does not seem to be, until now, the powerful political idea which could significantly push social Europe further. The pan-European parties are just doing their first steps, while the European Parliament has still restricted competencies. Finally, there is no serious intention for territorial unity or state-craft building. For the construction of a strong and comprehensive federal social Europe there is a need for a resolute political will. The Convention did not met this need.

A fourth remark relates to the way social federalism was evolved. Was the later a unique historical construction or it reflects an ongoing process where continuity elements coexist with discontinuity (reforms)?

To answer this question concerning the way and the time of appearance of the welfare state in the federations is very important as regards the European perspective. A comparative historical approach points out that the incremental, piecemeal and creeping welfare state development seems to be typical for federations like Swiss, USA and Canada (Obringer 1998:260, Noël et al. 2003). The reasons for that are not located only in the federal structures, which demand continuous policy compromises. There is a vast array of historical, social, ethnic, race and cultural factors of small, medium and long-term duration, which influenced and continue to influence the path of development in every case, so that we can not easily discern one model of social federalism even within the same country in the long run. Even more so that federalism as a form of political organization is expressed in various forms of functional and institutional interrelations (Watts 1999). A linear and balanced development is not characteristic for social federal systems in general. After a first phase of decentralized initiatives, social programs in Canada for a long period of time resembled a type of welfare state reminiscent of a unitary state (Noël et al.2003). Moreover, exceptional events, such as the great economic recession of the 30s, played an important role in the introduction of a central system of social security and redistribution in the USA (Social Security Act 1935). However, the devolvement of decentralized competences and regulations in the states and communities as in the case of ADC (Aid for Dependent Children) did not strengthen - instead it weakened- the federal character of public policy, as the black children of the South were excluded from the provisions (Lieberman and Lapiwski 2001: 329). If these observations have any meaning for the European experiment, this lies to the open, no-ended ,continuous, and some times contradictory, process of the social integration.

A fifth remark has to do with the enormous innovative potential that the decentralized constituencies incorporate regarding the welfare policies. Most scholars agree on this conclusion (Liebfried and Pierson 1995, Obringer 1998). This is the case especially on social policies that are executed better on a micro level, like the social services, social inclusion, health, employment. The institutional strengthening of the decentralized units benefits the trend for innovative solutions. In view of a European social federalism this issue deserves closer consideration since it includes an enormous potential on operational level.

### **3. European Subsidiarity and Open Method of Coordination**

European Social Policy is designed and impemented until now on the base of the principle of subsidiarity. The E.U member states have the

main responsibility for the design, organization and funding of their own national social programmes. Brussels acts only and when the member states are unwilling or when it is necessary for reasons of effectiveness and scale. The deeper meaning of this principle is that decisions should be taken as much closer as possible to the people and by the lowest level of power. This was and is the guiding principle in the formation of the current European social policy and the recent European Constitution did not present any changes to it.

Starting from this point of view and observing the poor performance since the establishment of European Union in the production of central, pan-European social programmes, legislative regulations and interventions, many academics, politicians and activists claim that a European social policy does not exist. What matters is mostly, the absence of a central pan-European mechanism for personal and national redistribution of resources that will aim to a unified social protection of all European citizens. Thus, they conclude that European unification does not go hand in hand with the formulation of a common European social space where social rights are secured and distributed equally to all European citizens (Kleinman and Piachaud 1993.) These views were expressed mainly in the past and they represent still a very powerful stream in the European discussion. At the beginning they were the result of a federal approach concerning the European integration and the fears that a competitive federalism could be emerged. Central interventions with the aim of the harmonization of social policies in order to avoid phenomena of social dumping were suggested. In a latter stage of the European integration the functionalist approach was prevailed and the harmonization process was presented again, but this time in a rather optimistic manner. It can be expected that the results of a faster economic integration will spill over in an easy and dynamic way to the social field and to social policies leading to a federal cooperative Europe. This was the approach of the spill-over effect (Kleinman 2002).

The "Multi-level governance approach" (MLG) from mid nineties (Liebfried-Pierson 1995) has broaden considerably the methodological point of view, the analytical framework and the research field on issues of European social policy. Avoiding the one-dimensional, unitary and static analysis that had its roots in the historical precedence of the national welfare states or the debate between supranationalism and intergovernmentalism, MLG perceived EU as a whole, consequently and the social space, as a multi-tiered system of multiple and overlapping levels of decision-making, organization and funding in supranational, national sub-national and local level. All these together contribute to a final result. According to this view, a European social policy was and is

already present, develops and contributes actively to the effectiveness and legitimation of European integration. It incorporates national and supra-national (European) social programs, institutions, and redistribution processes as well as their interconnections (Streeck 1995). A harmonization or convergence of the social systems of the member states is not possible due to the national and cultural diversity prevailed in Europe.

A logical and crucial result of this new perception of the European social policy and integration was the wholehearted adoption of the Open Method of Coordination at Lisbon Summit of 2000 in the fields of employment and social inclusion, (European Council 2000) and afterwards to pensions and health. Adhering to the principle of subsidiarity as well as to the national and cultural diversity of Europe, OMC was developed and develops as a complementary tool of soft policy on the side of the traditional European method. It implies mutual learning, benchmarking, multilateral surveillance and the commitment on common goals Europe-wide. It does not have a legislative basis; neither it obliges member states to obey. It is developed on a volunteer basis and the commitments that accrue out of it are of a political and moral nature. It is also characterized as active subsidiarity (Begg and Berghman 2002; Vandenbroucke 2002b). In what follows we will focus our analysis in three basic questions: 1) Under which conditions was OMC introduced as a soft tool in the European social policy?

2) Which is the precise role of the OMC concerning Europeanization?

3) Is OMC capable of producing results and what are the results so far? Which is the future development of OMC?

So, why the introduction of OMC in social protection took place in the year 2000 in Lisbon and not a few years earlier? Wasn't the benchmarking procedure, good practices and mutual learning known before? In administrative science, especially in the private sector, such methods were known for many years (Schaefer 2002). Many attribute the above timing in the fact that the majority of European governments in that period were headed by socialists. Although this fact made the above decision possible, it does not in itself explain the decision taken. Which were the conditions that determined the specific content?

The timing of the full deployment of the OMC after 2000 in the fields of employment and social protection coincides with the plan for economic and monetary union of Europe (EMU) and the introduction of the Euro. The path towards an economic unification of Europe should unavoidably be accompanied with a social union side, in order for the EMU to be convincing to the European citizens and the prospect of Europeanization to be justified in their consciousness, especially after the

stiff economic and fiscal policies of the member states along the Maastricht criteria throughout the 90s. Economic recession and high unemployment in pan European level did not leave any room for inaction in the social field. European trade unions and social-oriented political forces were exerting pressure towards this direction. Since 1997 with the Amsterdam treaty, the pressure of the European trade unions led to the inclusion of the articles on Employment.

It's interesting to refer to similar international developments. The same pressure in the direction of an economic and social union broke out in other federal states as well, as in Canada, when they were trying to overcome the problems of recession, fiscal debts and unemployment, through greater economic unification and fiscal (spending) cuts. The Social Union Framework Agreement (SUFA, 1999) between the federal government and the provincial governments in Canada, irrespective of the final outcome, illustrates a similar connection between economic and social targets in conditions of spending cuts, increasing social problems and efforts of legitimizing a greater economic unification. The fact that SUFA was very limited, mainly a procedural agreement that did not bring in the desired results (Noël et al., 2003), does not change the fact that in both the EU and Canada intense trends were noted towards a social union alongside the economic union.

In both the EU and Canada the aimed social union was inclusive of a double compromise of the forces that promoted economic union with the social-oriented forces. The first part of the compromise expresses the addition of social goals alongside the economic goals. The austere fiscal policy of the member states, which was imposed by Maastricht (EU), and the reduction of central (federal) spending (Canada), was exchanged with agreements over the social union. The second part of the compromise concerned the content of a social union. Not central redistribution, pan European or pan Canadian social programs or any other regulation which could promote a positive integration, but a choice of "soft" methods, institutions and procedures of social intervention, which would not increase social expenditure and would not disturb the free market forces and competition. SUFA was characterized as an agreement only for procedural affairs. It had very little to do with real social policy, since the federal central government intervention degenerated the aims of the provincial governments for substantive social regulations as a trade off to the federal spending cuts. Similar reservations were expressed for the OMC and its future development in Europe as we will see in the following. From the above, it is clear that OMC and other soft instruments or procedures were introduced and became typical for social purposes in the process of building bigger regional entities in the age of globalization.

The second question about OMC concerns its relation with the Europeanization process. To a large extent the argument has to do with the role and the aims of European social policy, as this is defined by various economic, social and political forces. Do the OMC form a means of convergence of the various social systems of the EU countries, reducing regional, national and local inequalities and delivering equal rights to the European citizens? Or OMC is just a means of formal legitimation of the European unification, which does not produce any direct substantive results, but consumes itself in conversations, texts, researches, communications, congresses etc, leaving the market forces totally free to shape up the future of European unification?

It's obvious that in both questions, theoretically, both performance and legitimation aspects co-exist. The crucial point is, however, if and when these specific results make their appearance. It is certain that in the second case the amelioration of the social problems, only through the market forces as a spillover effect of economic growth and unification, will be delayed. The legitimation of the Europeanization process will be formal for a short or long period of time and will not play the role which is expected to play.

This dichotomy cuts across –consciously or unconsciously- all the relevant bibliography on the OMC and European Social Policy. A large part of this bibliography links the OMC with the legitimation of the Europeanization process and the national and cultural diversity of European countries. In this context European Social Policy is the totality of central (from Brussels) social regulation and redistribution, member-states' social policies and their interrelations. Social rights are protected through national legal orders and social protection is better and more effectively organized and financed on a national level (Hemerijck, 2003).

On the other hand, in the context of the convergence approach, a central European social redistribution, accompanied by central European regulations in the social field must be the goal of a European social policy which brings results and legitimizes the Europeanization process. This approach is more cautious as regards the OMC, and in any case it suggests its transformation in obligatory rules and regulations and underscores the need for the Europeanization of social rights.

Both points of view, in different variations according to every writer's opinion, aim at determining and influencing the OMC to their desired direction. The same is true with the various economic, social and political forces. For many scholars OMC remains a soft method of mutual learning between technocratic elites and nothing more (Delaporte and Pohhet, 2002b). Others believe that OMC must be diffused to all interested parties. Transparency and participation must become basic

features of the OMC (Della Porte). Agreement on targets and a convergence on social indicators may form a good basis for benchmarking, evaluation and recommendations for the member states in order to adjust their social policies towards greater efficiency and legitimation (Atkinson et al., 2002). The institutional foundation of the OMC in binding rules and the obligatory nature of reaching certain social indicators can help the substantiation of the OMC, mainly as regards efficiency and a firm and stable policy environment in a Europe of 25 member states (Peters, 2003; Cantillon, 2004).

Since OMC has become a reality in social policy and since we have experienced the development of socio-political antagonisms that aim to influence it, we must consider the OMC as a dynamic field of sociopolitical intervention in a European level which contains all possible solutions. The pace, direction and fields of its growth will be determined from the balance of political and social forces, exactly because the set goals are primarily political. A total "big" OMC type of umbrella for social protection and employment seems less likely since it presupposes ambitious political initiatives which are connected with big events in the process of European unification. Such an opportunity was the European Convention (Sakellaropoulos 2004).

Under the present circumstances "small" OMsC in different fields must and should be converted in living laboratories of mutual learning, democratic participation and transparency not only for the national and European technocratic elites, but for the lower levels of decision making as well. Existing delays in transparency and democratic participation in the planning and execution of OMC do not offer a higher level of legitimation in the process of European unification, have a minor impact on the mutual learning mechanisms and diminish the connecting potential of the OMC between the different welfare regimes in Europe (Sakellaropoulos 2004).

The third question, which is linked with the second, is if the OMC can produce real results and how. It is obvious that this question concerns both the real results of European social policy and results in improvising the procedure itself (Sakellaropoulos 2004).

Considering the prevailing perceptions about OMC, it would be unrealistic to make the OMC and the European social policy responsible for the overall performance in employment and social security in Europe. The High Level Group points it out very clearly in its Report on the future of social policy in an enlarged European Union: "Taking in consideration the differences between Member -States, European social policy should define common objectives and not try to harmonize the social systems, which is both impossible and incompatible with the European political

framework"(European Commission 2004:36). Regarding the OMC it is noted that "Its added value lies in the definition of clear policy choices and its policy-making capacity". It provides a "framework for action at national level...Rather than making a ranking of performance, it uses benchmarks with a view to organize a learning process and to help exchange experience" (European Commission 2004: 76,72).

But even in this frame the evaluation of the OMC faces two difficulties: the first is the delimitation of what is national and what European is. Is national socio-political performance due to the national programs or the OMCs? The second difficulty concerns the object of the evaluation. In reality, what can be judged -and was indeed judged- it's the 5-year European Employment Strategy (EES), the first program on Social Inclusion (2001-2003) and the NAPs/incl. of the second generation where we have a fully-fledged growth of the OMC. We cannot evaluate the co-ordination in Pensions and Health, as it is not mature yet.

As far as the EES concerns, the European Commission states that considerable structural improvements are introduced in the labor market during the last five years. The general employment performance is difficult to be connected with the national policies and NAP's. However, a remarkable convergence of national employment policies with the objectives and guidelines of EES is ascertained (Commission, 2002:7). Yet, a tendency of the member states towards a better performances policy of the EU is also observed (Begg and Berhman 2002:192). Other scholars dispute this ascertainment as they consider the results of the convergence mediocre, at least in their initial stage (Goechy: 1999), the results at a national level questionable and the general results limited in a discursive level (Delaporte and Pohhet: 2002b:53).

Concerning the OMC itself, the High Level Group on the future of social policy, notes recently that the "OMC has proved remarkably successful in employment policy and has had very positive effects in social inclusion" as the new NAPs/incl. show (European Commission 2004: 36). However, even in the most single understanding of OMC as learning process and exchange of experience, it is ascertained that "the number of good practices reviewed each year is limited and conclusions are not widely debated" (Employment Taskforce 2003: 59)

Similar weaknesses have been indicated by scholars almost in every coordination process on social inclusion, protection and employment (Delaporte and Pohhet: 2002b, Sakellaropoulos 2004, Trubek and Mosher 2003, Ferrera et al. 2002:236).

#### **4. Social federalism and OMC**



After the above short clarifications about the nature, function and potentials of OMC we turn back to our focus. We argue that OMC potentially includes both elements of social federalism: the central and the decentralized. If the central element is evident through the common objectives and the sum of social indicators, the decentralized element is evident through the roles provided for the lower levels of decision making, like the regions, social partners and democratic participation and the sub-indicators. When the Lisbon Council established the OMC, had underlined at the same time that "a fully decentralized 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 varied forms of partnership"(European Council, 2000) . Nevertheless, efficiency and legitimacy remain as important on micro-level as on the central one. In both cases the activation of this potential demands the full maturity of the mutual learning and experience exchanges procedures in pan-European level and their subsequent institutional foundation via European law. Decentralized, federal structures need legal certainty and support in order to develop their innovative possibilities.

The legal frame is a necessary precondition for successful implementation of federal patterns. Among other things, it expresses the presense of a strong political will. The concrete ways and the methods to create it, it is a subject that, I hope, it will be discussed by the jurists and law-makers in our conference. Nevertheless the legal basis is not a sufficient condition. Sociological, ideological, even theoretical factors exercise also a significant influence on real processes. I have shown elsewhere the dialectic relation between interior and exterior conditions for successful implementation of OMC ( Sakellaropoulos 2004:80-5). Such conditions are apparent and must also be considered in this case.

The first condition is related with the existence of a federal society. For a long time the discussion about federalism was focused rather on its political characteristics and institutional structures. Successes or failures were explained on this basis. This approach has recently changed. Successful federal examples and performances are connected with federal social structures .A federal society, where national, cultural, and linguistic diversity prevails, initiate, facilitate and implement easier decentralized policies.(Watts 1999:14-5,Livingston 1956:1-2). As far as Europe is concerned this is real a challenge for further research.

The second condition is the existence of a theoretical and ideological environment or reference context in favor of federal policies. Regionalism, new localism, communitarism and other theories were flourished during the last years, has prepared the ground and created a

positive environment for institutionalizing decentralized decision-making processes and structures. (Powell 2004). Minority's rights are now recognized. The demand for democracy has penetrated every cell of European societies. Nationalism and etatism are not so much influential any more as previously. Yet, the process of globalization itself pushes towards greater economic, social and cultural development of regions, cities and communities. International organizations devote a large part of their means and activities to promoting decentralized societal entities and regional thinking. Within this context federal suggestions and plans in Europe can not be easily disputed.

The third condition is related to the subjects and the forces promoting social federalism. Who will define the content and the fields of future federal initiatives? Elites, the people or both? Broader agreements in different areas are welcomed. In the questionnaire of Peters (2003) the European and national parliamentarians were asked and answered about the possible fields of federal social interventions. In other questionnaires the citizens rejected decentralized provision of social security (Baudenwyns and Dandoy, 2003).

Success requires, however, public support and legitimacy. A fully participative OMC can contribute significantly in the preparation and implementation of federal solutions.

If we wish to consider the OMC in social protection as a preparatory stage for a future social federalism in its decentralized dimension, then three immediate courses of action are required:

First, as initial step, the collection and yearly publishing of a Report about the state of the federal policies in Europe.

Secondly, the creation of a net of the existing decentralized structures in each member state, either independently or in the framework of the Committee of the Regions, which will actively participate in the planning and implementation of OMC and make proposals to the EU bodies.

And third, a wide pan- European campaign for the participation of all decentralized levels of decision making in the planning of OMC in employment and social security.

## **5. Conclusions**

We examined thus far some important aspects of the federal social systems, of the European social policy and the OMC. A common element in these comparisons proved to be the multilevel character of function and organization of these systems in providing social protection. However, on a legal level where obligatory rules are made which create bounding commitments, we notice that in the first case social protection

is formed in a central and decentralized level, whereas in the second case (EU) it is formed mainly in an intermediate, "quasi decentralized", that is national, level. What is missing is the central European level and the smaller decentralized units, localities etc., with the exception of the related provisions of the national constitutions. The level of social protection in both groups of countries does not depend so much on their federal or non-federal character. We can find developed welfare states in both federal and non federal countries. Historical, national, institutional, political, economic and cultural conditions played and continue to play an important role in the forming of social protection. Thus, the requirement for federal social structures in Europe does not have to do with questions of "better" or "worse" welfare performance of the federal states. Reducing social inequalities in the interior of the EU is primarily and exclusively a duty of the national governments. The European Union neither wishes nor tries to play this role due to the subsidiarity principle and the lack of respective mechanisms. What's left, therefore, is a process of legitimation of the European unification and of mutual learning for enhancing the national efforts. In this context, the existing OMC or many OMsC can easily play their role. Any further progress presupposes implementation of common goals and common indicators under a bounding Maastricht-type framework. A hard co-ordination, which will include two or three indicators, like unemployment, poverty and social exclusion and a minimum income level, must form the basis of an agreement just like the Maastricht criteria.

Since European unification is a continuous process, the failure of including social provisions in the new European Constitution must not lead us to stop formulating new proposals and suggestions. The institutionalized decentralization of social protection as D. Pieters suggested in the issues of employment, health and social exclusion must continue to be at the center of our interests. Even more so that in this micro-level the federal systems have proven their capacity for path-breaking solutions.

On the other hand the effort of central regulations or redistribution in pan – European level can focus on less ambitious but of symbolic value issues, like the formation of a common European framework for disable people (Sakellaropoulos 2004). There is as well ample room for pan – European solutions (of which type, can be discussed) in confronting new social risks and the new social challenges that are linked with the new architecture of the welfare state. I can think of a child and family centered social policy, which can be planned from scratch in a pan – European level. It is obvious that in order to meet such challenges, the existing mechanisms and methods of OMC are insufficient. Obligatory

regulations and new European institutions will be required. As the development of European social policy shows, its methods, tools and results (including the OMC) are in close relation with a certain historicity and the stages of promoting European unification. Such types of federal social institutions though – as the experience of the federal welfare states shows – is a result of a gradual and continuous course of development and of some sudden economic, political and other changes which reconstruct the decision making process and policy directions. Take all these in consideration, federal social policy in Europe remains an open, non ending process.

### **Bibliography**

- Adema, W., 2001, *Net Social Expenditure*, (2<sup>nd</sup> ed.), OECD, Paris
- Atkinson A. , Cantillon B. , Marlier E. , Nolan B., (2002), *Social Indicators – The EU and Social Inclusion*, Oxford University Press, Oxford
- Atkinson, T. (2002), Evaluation of National Action Plans on Social Inclusion: The Role of Euromod, EUROMOD, *Working Paper* No.EM1/02.
- Baudenwyns,P. and R. Dandoy (2003) "Federalism and social security in Belgium", *Paper* presented in ECRP Conference in Edinburg 29 March-2 April 2003
- Banting,K.,(1995),"The wefare state as statecraft:Territoria lpolitics and Canadian social policy",In,Leibfried, S. and P. Pierson (eds.) *European Social Policy: Between fragmentation and Integration*, The Brookings Institution, Washington D.C.
- Begg I. / Berghman J. (2002) "Introduction: EU social (exclusion) policy revisited?", *Journal of European Social Policy*, 12, 3, 2002, pp. 179-194
- Begg I., Hodson D., and Macher I., "Economic Policy Co-ordination under EMU: a normative Analysis", *ECSA Canada* June 1, 2002 (draft)
- Cantillon,B (2004), "European Subsidiarity Versus American Social Federalism: Is Europe in Need of a Common Social Policy"Paper presented at ESPAnet Conference Oxford , 2004
- Chassard, Y., (2002) "Towards a new architecture for Social Protection in Europe? A broader perspective on pension policies". In, *Belgisch Tijdschrift voor sociale rekerheid*, 3/2002, p.p 441- 450
- Commission of the European Communities, (2001), "Communication from the Commission to the Council, to the European Parliament and to the Economic and Social Committee. Supporting national strategies for safe and sustainable pensions through an

- integrated approach", COM (2001), 362 final, 3/7/2001, Brussels.
- Commission of the European Communities, (2002a), "Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Tacking stock of five years of the European Employment Strategy", COM(2002) 416 final, Brussels 17/7/2002.
- Commission of the European Communities, (2002b), Joint Report on Social Inclusion, Luxemburg
- Commission of the European Communities, (2002c), Joint Report on Pensions, Communication by the Commission and the Council on adequate and sustainable pensions. Com 2002 yyy final (draft), 17/12/2002
- Commission of the European Communities, (2003a), "Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions. Proposal for a joint Commission-Council Report on health care and care for the elderly", COM(2002) 774 final, 3/1/2003, Brussels.
- Commission of the European Communities, (2003ba), "Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Joint Report on social Inclusion 2003-5(Draft)COM (2003)xxx
- Commission of the European Communities, (2004a), Report of the High Level Group on the future of social policy in an enlarged European Union, Brussels
- DeBurca G., Zeitlin J, (2003), Constitutionalising the Open Method of Co-ordination. A note for the Convention, In, [www.leucenter.wisc.edu/Memo-for-Convention\\_5a.pdf](http://www.leucenter.wisc.edu/Memo-for-Convention_5a.pdf)
- De la Porte C., Pochet Ph., Room Gr. (2001) "Social benchmarking, policy, policy making and new governance in the EU", *Journal of European Social Policy*, 11, 4, pp. 291-307
- De La Porte C., Pochet P., (2002a), "Introduction", in: De La Porte C., Pochet P., (eds.), *Building social Europe through the open method of co-ordination*, PIE Peter Lang, Brussels, pp11-26
- De La Porte C., Pochet P., (2002b), "Supple co-ordination at EU level and the key actors' involvement", in: De La Porte C., Pochet P., (eds.), *Building social Europe through the open method of co-ordination*, PIE Peter Lang, Brussels, pp. 27-68

- De La Porte C., Pochet P., (2002c), "Public Pension Reforms: European actors, discourses and outcomes", in: De La Porte C., Pochet P., (eds.), *Building social Europe through the open method of co-ordination*, PIE Peter Lag, Brussels, pp. 223-250
- De La Porte C., Pochet P., (2002d), "Conclusions", in: De La Porte C., Pochet P., (eds.), *Building social Europe through the open method of co-ordination*, PIE Peter Lang, Brussels, pp.285-304
- DelaPorte C. and Ph. Pochet (2003), "The omc intertwined with the debates on governance, democracy and social europe". *Research paper on the open method of co-ordination and european integration prepared for Minister Frank Vandenbroucke, Minister for Social Affairs and Pensions*
- Eberlein B., Kerwer D., (2002), "Theorizing the new modes of European Union Governance", in: *European Integration online Papers*, vol. 6, No. 5, <http://eiop.or.at/eiop/texte/2002-005a.htm>.
- Ekengren M., Jacobson K., (2000), "Explaining the constitutionalization of EU governance-the case of European Employment Cooperation", *Paper, Stockholm's Center for Organizational Research, Score Rapportserie*, Sweden.
- Employment Taskforce (2003), *Jobs, Jobs, Jobs. Creating more employment in Europe, Report of the Employment Taskforce chaired by Wim Kok*, November 2003
- Esping-Andersen, G. (1990), *The Three Worlds of Welfare Capitalism*, Cambridge: Polity Press.
- ETUC, (2002), *The Luxembourg Process-Where Next? ETUC Proposals* 22/05/2002.
- European Council (2000), "Presidency Conclusions", Lisbon European Council 23-24 March 2000
- Ferrera M. / Matsaganis M. / Sacchi St. (2002) "Open co-ordination against poverty: the new EU 'social inclusion process'". *Journal of European Social Policy*, 12, 3, pp. 227-240
- Ferrera, M. (2002) 'The European Social Model and the Open Method of Co-ordination', *Belgisch Tijdschrift voor Sociale Zekerheid*, Vol. 44, 3, Ministerie van Sociale Zaken, Brussel. , p.p. 469-472
- Ferrera, M., A. Hemerijck, and M. Rhodes (2000), *The Future of Social Europe: Recasting Work and Welfare in the New Economy*, Oeiras: Celta Editora.
- Gallego, R., R. Gomu and J. Subirats, (2003), "Welfare state and territorial politics: The emergency of regional welfare regimes in Spain", *Paper presented at ECPR Conference, Workshop 10, "The Welfare state and territorial politics: an under-explored relationship"*, University of Edinburgh, 28 March-2 April, 2003

- Goetschy, J. (1999), 'The European Employment Strategy: genesis and development', *European Journal of Industrial Relations* 6, No. 2: 117–37.
- Goetschy, J. (2000), 'The European Employment Strategy: strengths and weaknesses', *European Community Studies Review* 13(3): 2–7.
- Hantrais, L. (2000), *Social Policy in the European Union*, Basingstoke, Macmillan.
- Harvey T., (1998), "European social law and policy", Longman, London..
- Hemerijck, A.,(2003), "The Self- Transformation of the European Social Model(s)", In, Esping- Andersen C., G., D. Gallie, A. Hemerijck and J. Myles, (ed.) 2003 , *Why we need a New Welfare State*. Oxford, Oxford,
- Hemerijck, A.,(2003) Embedding Social Europe in an Enlarged Union, European University Institute, Florence, 19 March 2003, *manuscript*
- Hemerijck, A., and M. Schludi (2000), 'Sequences of policy failures and effective policy responses', in F.W. Scharpf and V.A. Schmidt (eds.), *Welfare and Work in the Open Economy*, volume 1: *From Vulnerability to Competitiveness*, pp. 125–228, Oxford: Oxford University Press.
- Heritier A., (2001), "New modes of governance in Europe: Policy-making without legislating?", Max Planck Projektgruppe, Recht der Gemeinschaftsgüter, Bonn.
- Hodson D., Maher I., (2001), "The Open Method as a new mode of governance: The case of soft economic policy co-ordination", in: *Journal of Common Market Studies*, vol. 39, no 4, pp.719-746.
- Hoffmann, J., R. Hoffmann, J. Kirton-Darling and L. Rampeltshammer (eds.) (2002) *The Europeanisation of industrial relations in a global perspective: A Literature review*, Office for Official Publications of the European Communities, Luxembourg.
- Jacobsson K., Schmid H., (2002), Real integration or just formal adaptation? – On the implementation of the National Action Plans for Employment, In De La Porte C., Pochet P., (eds.), "Building Social Europe through the Open Method of Co-ordination, P.I.E.- Peter Lang, Brussels
- Kleinman M., (2002), *A European welfare state? European Union social policy in context*, Palgrave, New York.
- Kleinman M., Piachaud D., (1993), "European social policy: Conceptions and choices", in, *Journal of European Social Policy*, Vol. 3, No 1, pp.1-19.

- Leibfried, S. and P. Pierson (eds.) *European Social Policy: Between fragmentation and Integration*, The Brookings Institution, Washington D.C.
- Lieberman R. and J. Lapinski, (2001), American Federalism, Race and the Administration of Welfare, in B.J.Pol.S., 2001/31, p.p. 303-329
- Lijphart, A., (1999), *Patterns of Democracy: Government Forms and Performance in Thirty-six Countries*, Yale University Press, New Haven
- Livingston, W. S.,(1956), *Federalism an Constitutional Change*, Clarendon Press, Oxford
- McEwen, N., (2003), "Welfare Solidarity in a Devolved Scotland", *Paper presented at ECPR Conference, Workshop 10, "The Welfare state and territorial politics: an under-explored relationship"*, University of Edinburgh, 28 March-2 April, 2003
- Mayes D. (2002) "Social exclusion and macro-economic policy in Europe: A problem of dynamic and spatial change", *Journal of European Social Policy*, 12, 3, pp.195-210
- Moreno, L. and N. McEwen, (2003), "The Welfare state and territorial politics: an under-explored relationship", *Paper presented at ECPR Conference, Workshop 10, "The Welfare state and territorial politics: an under-explored relationship"*, University of Edinburgh, 28 March-2 April, 2003.
- Mosher, J., (2000), "Open Method of Co- ordination: Functional and Political Origins". In *ECSA Review* 13:3. p.p. 2- 7
- Noël, A.,(2003)"Introduction: varieties of capitalism, varieties of federalism", In Noël, A.,(ed.) *Federalism and labour market policies .Comparing different governance and employment strategies*, Kingston, Institute of Intergovernmental Relations
- Noël, A., F. St-Hilaire and S. Fortin (2003)"Learning from the SUFA experience", in .Fortin, S., A. Noël, and F. St-Hilaire (eds.) *Forging the Canadian Social Union: SUFA and Beyond*, Institute for Research on Public Policy (IRPP), Montreal
- Obinger, H.,(2002) "Föderalismus und wohlfahrtsstaatliche Entwicklung. Ostereich und die Sweiz im Vergleich". *Politische Vierteljahresschrift* ,2/2002, pp 235-271
- Obinger, H.,(1998),"Federalism, Direct Democracy, and Welfare State Development in Switzerland", *Journal of Public Policy*,18,3,241-263)
- Overdevest C., (2002), "The Open Method of Coordination, new governance and learning. Towards a research agenda", University of Wisconsin-Madison.



- Pierson P.,and Leibfried S., (1995a), "Multi-tired institutions and the making of social policy" In,Leibfried, S. and P. Pierson (eds.) *European Social Policy: Between fragmentation and Integration*, The Brookings Institution, Washington D.C.
- Pierson P.,and Leibfried S., (1995b), "The dynamics of social policy integration", in: Leibfried S., Pierson P., (eds.), *European social policy. Between fragmentation and integration*, Brookings, Washington D.C.
- Pieters, D., (2003) "Towards a European concept of social federalism", *Contribution to the European Convention, The Secretariat, Brussels*
- Powell, M., (2004), "In search of New and Old Localism", *Paper presented at ESPAnet Conference, Oxford, 9-11 Sept. 2004.*
- Rhodes, M., (2000), Lisbon: Europe's "Maastricht for Welfare". In, ECSA Review (13:3) p.p 2- 7
- Regent S., (2002), "The open method of co-ordination: a supranational form of governance?", *Discussion Paper, International Institute for Labour Studies, DP/137/2002, Geneva..*
- Sakellaropoulos Th., (2004) "The open method of coordination: a sound instrument for the modernisation of the European Social Model", in Sakellaropoulos Th. and J. Berghman, (eds) *Connecting Welfare Diversity within the European Social Model*, Antwerpen-Oxford-New York ,Intersentia, pp55-92
- Schaefer, A., (2002) "Managing economic inerpedence: The Open Method of Co- ordination". *Paper prepared for the first meeting of the ERC- Rotherdam 29- 31/10/2002*
- Scharpf F. (2001) "European Governance: Common Concerns vs. The Challenge of Diversity", *Jean Monnet Working Paper*, New York University School of Law.
- Scharpf, F.W. (2002) 'The European Social Model: Coping with the Challenges of Diversity' *JCMS 2002*, Vol. 40, 4: 645-70, Max-Planck-Institute for the Study of Societies, Cologne,
- Scharpf, F.W., and V.A. Schmidt (eds) (2000), *Welfare and Work in the Open Economy*, volume I: *From Vulnerability to Competitiveness*, and volume II: *Diverse Responses to Common Challenges*, Oxford: Oxford University Press.
- Schmidt, M (2002),"Federalism and social policy. The case of the federal Republic of Germany". *Paper presented at the Workshop Federalism and Social Policy. Comparative Perspectives and the Old and New Politics of the Welfare State*
- Hanse Wissenschaftskolleg Delmenhorst May 24-27, 2002.

- Streeck W., (1995), "From market making to state building? Reflections on the political economy of European social policy", in: Leibfried S., Pierson P., (eds.), *European social policy. Between fragmentation and integration*, Brookings, Washington D.C.
- SUFA (1999), *A Framework to improve the Social Union for Canadians*.
- The European Convention, The Secretariat, (2002), "Coordination of national policies: the open method of coordination", *WG VI, WD 015*, Brussels.
- Treu, T., (2001), A New Phase of European Social Policy: the EMU and Beyond. In, *The International Journal of Comparative Law and Industrial Relations, Vol. 17/4*
- Trubek D., Mosher J., (2001), "New governance, EU employment policy and the European social model", in: Symposium: Mountain or molehill? A critical appraisal of the Commission White Paper on governance, *Jean Monnet Working Paper*, No 6/01.
- Vandenbrouke, F., (2002a) "Open Co- ordination on Pensions and the Future of Europe's Social Model". In, *Belgisch Tijdschrift voor Sociale Zekerheid*, 3/2002, p.p. 533- 543
- Vandenbroucke F., (2002b), "The EU and social protection: what should the European Convention propose?", *Paper presented at the Max Planck Institute for the Study of Societies*, 17 June 2002.
- Watts, R. L(1999), *Comparing Federal Systems*, School of Policy Studies, Queen's University and McGill- Queen's University Press, Montreal & Kingston-London-Ithaca
- Weiler, J.H.H. (2002) 'A Constitution for Europe? Some Hard Choices' *JCMS 2002*, Vol. 40, 4: 563-80, New York University School of Law, Oxford, Blackwell Publishers, Oxford..
- Zeitlin J., (2002a), "The Open Method of Coordination and the future of the European Employment Strategy", *Presentation* prepared for the mini-hearing of the Employment and Social Affairs Committee of the European Parliament on the first five year evaluation of the Employment Guidelines, 8 July 2002.
- Zeitlin J., (2002b), "Opening the Open Method of Coordination", *Presentation* prepared for the Committee of the Regions Conference on "The Open Method of Coordination: Improving European governance?", Brussels 30/9-1/10/2002.