



ARTICLES

SPECIAL SECTION – POLICY COORDINATION IN THE EU: TAKING STOCK OF THE OPEN METHOD OF COORDINATION

INTRODUCTION

This contribution introduces the five *Articles* of this Special Section that was originally conceived at a workshop entitled “Taking Stock of the Open Method of Coordination”, organised by Evangelia Psychogiopoulou and Bruno de Witte. The workshop took place in the framework of the *21st Ius Commune Congress* (24-25 November 2016) in Maastricht (the Netherlands) and focused on the open method of coordination (hereinafter, for the entire Special Section, OMC) with a view to deepening understanding of policy coordination in the EU. The workshop explored the trajectory of the OMC in the process of European integration, it examined its functioning in selected EU policy areas and compared it with other modes of EU and global governance directed at policy coordination.

The authors kindly agreed to participate in a collective project devoted to EU policy coordination, and their generous collaboration resulted in this collection of *Articles*. The aim has been to explore the application of the OMC in various EU policy areas, to study its different forms and the multiplicity of processes that it involves and to discuss its evolution. In doing so, an important consideration has been to place the OMC within the broader system of EU law and competences and also to examine its relationship with other coordination procedures and mechanisms used at the EU level.

As a result, key research questions guiding the analysis have been the following: What is the relationship of the OMC to EU law and the system of EU competences? What is the architecture of different OMC processes and how do they work? Has the OMC evolved during the past decade or so and if so, in what ways? More generally, what does EU policy coordination mean and what forms does it take? What are the key characteristics of policy coordination processes and how do they operate? Ultimately, is the OMC in decline or not? What explains its expansion in certain EU policy areas and its “replacement” in others? Against this background, the five *Articles* of this Special Section situate the OMC within the EU legal order; address well-known and lesser-known OMC processes; draw attention to novel processes of coordination at the EU level; and verify whether or not the OMC still remains a relevant conceptual framework for understanding EU policy coordination.

The first *Article* by Bruno de Witte contributes to an ongoing debate among legal scholars about the position of the OMC within the EU legal order. It addresses two

questions in particular: *a)* Can the OMC be used in policy areas outside the competences of the EU (as is often observed)?; and *b)* Is the OMC a form of “soft law” (as is commonly argued)? The analysis shows that first, in terms of EU competence, the principle of conferral applies to the OMC and secondly, in terms of the OMC’s nature and output, that the OMC is not a legal instrument but an institutional process that for the most part does not produce legal instruments.

The second *Article* by Stéphane de la Rosa also engages in legal analysis of the OMC, with the aim to identify its “legal share”, as the author puts it, that is, the main elements of its relationship to EU law. To do so, the author draws on policy coordination in the health care field. Originally designed as a specific OMC process, policy coordination in health care has come to rest on a variety of processes and tools, ranging from the European Semester to EU secondary legislation. This has gone hand in hand with the introduction, by the Treaty of Lisbon, of a specific legal basis for policy coordination in the area of public health, and the dilution of the OMC within the broader coordination framework established for economic governance that covers national health policies. Seen in this light, the OMC appears to be more of a toolbox that can nurture different processes of policy coordination than a method as such for policy coordination.

The next *Article* by Åse Gornitzka focuses on the OMC as a means of organising EU governance in the field of education. The analysis explores how the education OMC developed over time, showing that it very much remains a “living” process. Contrary to other sector-specific OMC processes, established in the OMC heyday, that have faded or transformed, the education OMC has not been supplanted or abandoned. The author examines what explains this. The fact that the OMC matched domestic preferences on how cooperation in the field of education should unfold seems to have played a significant role in this regard. This is also the case for the use of the OMC as a platform to defend the profile and contribution of education to European integration. Such defence has been greatly facilitated by the European Commission, which has fed and carefully adjusted the process to increase its resilience, even if the OMC label became progressively less “fashionable”.

The *Article* by Evangelia Psychogiopoulou addresses the OMC in the area of culture. Introduced in 2008 to structure Member States’ cultural cooperation and foster the exchange of best practice, the cultural OMC constitutes a relatively new OMC. The process lacks key features of the OMC as a framework for policy coordination: it is a particularly “light” OMC. This ensures that Member States’ autonomy in devising and implementing cultural policy is not undermined, which is in line with the EU’s cultural competence as a complementary competence. Such “tailor-made” arrangements have allowed the cultural OMC to gain a solid position in EU cultural policy as a principal instrument for cultural cooperation. However, the cultural OMC should not hide from view that the Member States have accepted more rigorous forms of coordination in other policy fields that relate to culture and that in some instances, they have also agreed to experiment with cultural pol-

icy coordination, though without borrowing from the OMC toolbox. This attests to the fact that cultural policy coordination at the EU level is complex and multifaceted.

The last *Article* by Paul Dermine is about EU economic governance. In a pre-crisis context, EU economic policy, fairly based on policy coordination and new governance techniques, displayed key characteristics of the OMC. The Eurocrisis and the norms and processes that emerged as a result have fundamentally altered the nature and scope of EU action in this field. In a post-crisis setting, policy coordination has a wider focus, it is more substantive, supranationally driven, equipped with wider-reaching means and oriented towards uniformity. All this shows a new model of economic governance that departs from the OMC and its founding rationale. From this perspective, the OMC no longer constitutes an adequate framework to understand and grasp the complexities of EU economic governance. This is despite the fact that the EU still relies on the conventional OMC discourse, and the constitutional provisions on economic coordination remain unchanged.

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