Governance, Policy-making and System-building of the European Union

Ingeborg Tömmel[*†] and Amy Verdun[†]

[*]University of Osnabrück

[†]University of Victoria

Email addresses for correspondence:

itoemmel@uvic.ca and averdun@uvic.ca

8839 words

Paper prepared for delivery at the 78th Annual CPSA Conference

June 1-3, 2006 at York University, Toronto ON

Governance, Policy-making and System-building of the European Union

Ingeborg Tömmel (University of Osnabrück and University of Victoria) and Amy Verdun (University of Victoria)

1. Introduction

In recent years the notion of 'governance' has taken off in the European Union studies literature. This term is often used to encompass a broader understanding of political steering which includes not only hierarchal imposition but also informal interactions; moreover, it focuses on a wide range of possible actors involved into these processes. The 'governance' concept seems to have emerged in response to a number of factors, such as dissatisfaction with the theoretical debates on the nature of European integration. Those early debates focused on various theories of integration that initially examined a narrow set of actors, namely national governments, supranational actors and interest groups. The processes that these debates identified as triggering integration were either of spill-over or nation-state bargaining. The dissatisfaction with integration theories was with (1) the scope of the study of integration, (2) the actors that are seen to play the most important role in facilitating integration, and (3) the process or mechanism by which integration occurs. The governance approach pointed to the importance of other actors and processes that had not been carefully considered in those original theoretical approaches.

The governance concept provides an opportunity to examine different aspects of European integration. The question is no longer 'why integration happens', but 'how European policy is made and how the EU governs'. The governance approach focuses on the institutional structure of the EU system and on the interaction of many different actors in European decision- and policy-making at the European, the national and sub-national (regional/local) level. Finally, it considers various modes of guiding the behaviour of actors, ranging from formally binding regulations to informal agreements and the effects of institutional settings, for example, networks, on the behaviour of actors.

Within the general concept of governance, the notion of ‘new modes of governance’ (NMG) has drawn considerable attention in recent years. This term responds to policy procedures and instruments that are being used in certain fields of European public policy, such as the ‘open method of coordination’, ‘bench-marking’, ‘best practices’, and so on. These procedures and instruments build on mechanisms of governance such as voluntarism, mutual learning, persuasion or standardisation of knowledge about policies (Héritier 2002: 187).

Inspired by actor-centred institutionalism (Mayntz 2005) the aim of this paper is twofold. First, we aim at clarifying the related concepts of ‘governance’ and ‘modes of governance’ as they are used with regard to the EU system. Second, we aim at elaborating how modes of governance relate to the systemic structure of the European Union and how they emerge in the process of policy-making. Our central hypothesis is the following: the EU system sets incentives and constraints to the emergence of new or specific modes of governance. The concrete form that European governance takes and the combination of various modes of governance in individual policy fields is shaped by the interaction between international actors involved in policy-making, in particular, but not exclusively, the representatives of national governments and the European level.

The paper is structured as follows. The next section briefly reviews the debate on modes of governance. The third section offers a definition of governance and distinguishes between four basic categories of modes of governance. The fourth section examines the interrelation between modes of governance and the systemic structure of the EU. The fifth section highlights how different modes of governance emerge in two policy fields of the EU, structural policy and monetary policy. The last section, draws conclusions about modes of governance in the EU, and how one might be able to obtain a better insight into governance and policy-making in the EU by adopting this approach to a broader study of EU various areas of policy-making.

2. The Governance approach and the EU - New modes of governance and beyond

The debate on governance started to take off in the early 1990s and has since much influenced the debates in EU studies. A number of changes occurred in the 1990s that triggered the use of a new concept, such as the revival of European integration and the adoption of the Maastricht Treaty which set out a system of governance that was not accompanied by a lasting transfer of sovereignty to the European level but rather gave rise to distinctive modes of governance in the EU as compared to those at the nation state level. More generally the world was experiencing two further political changes: an apparent retreat of the state (in domestic political matters) but simultaneously its increasing importance in the international arena, and a growing role of non-state actors in public decision- and policy-making. Regarding the notion of the 'retreat of the state', views on this matter since the early 1990s have changed again in that the consensus currently is that the state is still very much able to set policies. But what became clear is that the state's scope for autonomy is restricted even though the state is here to stay. Regarding the role of non-state actors, we are referring here to the inclusion in the policy-making process of all sorts of actors (public and private actors, both business actors, in particular those with high expertise, as well as representatives of civil society).

Given the breadth of the concept, there is no single, clear, generally held, common definition of the term 'governance'. The concept covers a broad range of highly diverging conceptualisations depending on the level of analysis and focus. Some scholars focus on the policy-making process as a state-centred affair and hence equate governance to policy-making or political steering. Others focus on a broader process and therefore include the interaction between public and private or societal actors. We see the concept of governance as referring to: governing by the state and a plurality of actors, through means of a variety of (non-hierarchical) modes of governance. The next section offers a more detailed conceptualisation of our use of this concept of governance.

In the EU the governance approach has attracted further attention in the late 1990s by the emergence and frequent usage of the concept of New Modes of Governance (NMG). The concept was used to describe the fact that more and more voluntary modes of cooperation were being deployed and were explicitly labelled as such in EU legislation. NMG are usually defined as modes of governance whereby there is a voluntary component and an element of comparison to others (through bench-marking, persuasion as mentioned above). Furthermore it is understood that a wider range of actors can be involved in NMG, such as civil society organisations and other local and regional actors. The concept attracted more attention following some developments in the late 1990s in the area of social policy, employment policy and economic coordination, in particular through the use of the so-called Open Method of Coordination (OMC). This type of governance is in a number of ways distinct from the usual modes of governance in nation states but to a large degree in line with the general concept of governance as discussed above.

The term Open Method of Coordination (OMC) refers back to a system of coordination that was made use of in the Treaty of Maastricht for the purpose of coordinating macro-economic policies of the Member States. It was also used in the Treaty of Amsterdam in 1997 (which entered into force in 1999), specifically in the context of the employment chapter. The term itself prominently emerged at the Lisbon European Council in 2000.

Some analysts argue that OMC offers a type of interaction where the EU level and the Member State level come together (see for example de Burca 2003). In this view the OMC represents the messy governance of the EU, namely a process whereby both the Member States and the EU level institutions interact. In so doing, OMC puts some of the EU institutional competence aside or, otherwise, it is being used in areas where the EC Treaty does not explicitly provide powers to the EU policy domain.

Another point often stressed in the literature is that the OMC is used as a devise to coordinate and to enforce collaboration. This process is organized in the following way. The Council creates guidelines and indicators that are to be used to examine whether targets have been made (comparing best practices). When setting targets national regional and local differences are taken into consideration; periodic monitoring and evaluation are organised as mutual learning processes. The process varies across policy fields (see for example on the European employment strategy Caroline della Porte 2002).

In sum, the emergence of the concept of New Modes of Governance responded to certain innovations in governance of the EU. The term NMG is used to describe a those changes, in particular the increasing use of non-hierarchical modes of governance that make use of soft steering instruments and include many different actors in the policy-making process. One could argue that the New Modes of Governance are not necessarily very ‘new’ but their prominence and frequent deployment are.

3. European modes of governance

Let us now turn to a further elaboration of the governance concept. Governance, in contrast to government, refers to various modes of establishing public order or of taking decisions and acting for the common good. The term has two dimensions. On the one hand, it describes a process, on the other hand it refers to the underlying regulatory structure. Governance as a process encompasses various modes of establishing order. Governance in its structural dimension refers to the actors involved in the process and thus to an institutional setting shaping its form.

In looking first at the modes of governance, we can differentiate between four basic categories: *hierarchy, negotiation, competition,* and *coordination*. With regard to the actors involved in governance, it is in the first place the state or public authorities which play the most prominent role. However, private or non-state actors are increasingly being involved. They may also exercise governance without interference of the public sphere, thus establishing order through self-regulation. The institutional setting, structuring the relationships between actors, can widely vary according to the level of governance (international, national or regional/local) and to the relationships between the political, the economic and the societal sphere. In looking at modes of governance under an actor-perspective, the interdependence between the two becomes obvious: according to the actors being involved, modes of governance vary and vice versa.

- *Hierarchy* as a mode of governance is usually associated with the state, in particular the sovereign state, exercising power over individual citizens or society as a whole. Hierarchy in modern states is primarily exercised by legislation and rule-making, accompanied by powers and action to enforce compliance. With regard to the EU, hierarchy is primarily seen in the legislative powers of the Union. Moreover, hierarchy plays a role in decisions at European level, i.e. those of the Commission, the European Court of Justice or the European Central Bank (ECB).

- *Negotiation*, by contrast, supposes the interaction of various types of actors. This can range from exclusively public actors of different government levels and functional sectors to a combination of public and private or non-state actors as well as to exclusively private or non-state actors. Negotiation is the preferred mode of governance for accommodating highly divergent interests among the actors involved. Therefore, negotiation is the most prominent mode of governance being used in the EU-system.
- Whereas both hierarchy and negotiation refer to processes of decision-making, negotiation is the most prominent mode of governance being used in the EU-system. *competition* as a mode of governance refers to a mechanism affecting the decisions of individual actors and thus coordinating their behaviour. However, competition does not emerge by itself but has to be established and sustained by defining the rules of the game and guaranteeing their validity and effectiveness. This means it is for a large part, although behind the screens, dependent on government or public authority creating and maintaining the regulatory framework. At the same time, it relies on individual actors accepting the rules and complying with the ensuing mechanisms. This implies that compliance, in contrast to hierarchy, is not being enforced but triggered by more or less strong incentives as well as disincentives. Competition as a mode of governance plays in the EU-system a major role since the core project of European integration, the creation of the single market, focuses on establishing competitive relationships between economic actors and member states.
- *Coordination* for its part encompasses a multitude of actors and a wide variety of measures aimed at guiding their behaviour. It does not at all rely on coercion, but is based on voluntary participation in a process of coordination. This implies that compliance with jointly taken decisions or common agreements is also voluntary. Thus compliance is not guaranteed; a larger degree of non-compliance is highly probable. However, some scholars expect compliance to be even higher, since actors have voluntarily agreed upon common objectives or measures to be taken

and, because of conviction, will be more inclined to implement them. Coordination, therefore, is a mode of governance with highly contingent outcomes; its effectiveness may vary according to the actors involved, the degree of their commitment, external circumstances and specific favouring conditions. Since coordination is based on voluntarism, it is increasingly being applied in the EU-system in all cases where formal competencies are missing. It thus allows circumventing the reluctance of member states to transfer powers to the EU. Moreover, since actors are more or less free in making their policy-choices within the framework of coordination, it serves to accommodate divergent policy options and strategies of national governments and other actors involved.

The four basic modes of governance, as defined above, constitute ideal types; in practice, they are often combined with each other or used in hybrid forms. However, the extent and the combinations of their use have not been stable through history. Thus, most scholars of the governance-approach assume that in recent times a major shift has occurred away from hierarchy as the most widely used mode of governance towards the so-called new modes of governance.

This shift is being explained, on the one hand, as a consequence of processes of globalization, shifting the balance between national governments and international organizations and regimes at the expense of the former and also the balance between public and private or non-state actors. On the other hand, processes within states as a consequence of the internationalization of the economy and an increasing differentiation of societies, transforming the state-economy and the state-society relationship, are seen as its cause. In both cases, the state is no longer held as being the exclusive actor establishing and maintaining public order.

It is both these shifts which are usually conceived of as causing the shift towards the emergence of new modes of governance. Although there is no clear consensus in the literature, new modes of governance are often characterized as non-binding decisions, voluntary agreements, non-formalized procedures of consensus-building and, more in general, as coordination between multitudes of actors, both public and private or non-state. We however see all modes of governance characterizing the EU that is, hierarchy, negotiation, competition and coordination, as more or less new, because they do not simply represent a replica of modes of governance used at national level and because they always – even in the case of hierarchical steering through legislation – rely on the interaction between a multitude of actors. By contrast, we consider the above-mentioned characteristics, referring to non-formalized decisions and procedures, as being a part or a more concrete form of European modes of governance, whereby the degree of non-formalization increases from negotiation via competition to coordination. This implies that also the degree of using soft instruments within the range of each mode of governance increases in the same direction.

To speak of new modes of governance in the EU-context, therefore, does not imply that these modes were invented right now or yesterday. It rather refers to their increasing use and significance, as well as their growing independence from the shadow of hierarchy. This increasing significance in turn is linked to the decreasing capacities of states in shaping exclusively the economic and social development of their territories. Thus, what is really new about new modes of governance is the phenomenon that governance can successfully be exercised without relying exclusively or predominantly on the authority of the state.

Against this background, it is obvious why new modes of governance have become such a salient issue for the study of the European Union, a political system lacking powers and sovereignty of a national state, yet, directing successfully the behaviour of Member States and non-state actors.

4. Governance and the nature of the EU-system

In applying the new modes of governance-approach to the EU, the most salient issue is whether and how these modes of governance are interrelated with the systemic structure of the EU. To tackle this question, our point of departure is an institutionalist perspective on the EU. We therefore will, first, briefly define the structure of the EU-system and then, second, look at the incentives and constraints that the system sets for the emergence of specific modes of governance.

The most prominent characteristic of the EU-system is its hybrid form, generally described as a mixture of intergovernmentalism and supranationalism. These terms however, often used as a dichotomy, are misleading in that they refer to different institutional categories and to contradicting theoretical strands. Therefore, we prefer to characterize the EU as a system which gravitates between two poles of power: the European and the national. This gravitation finds its institutional expression in both a horizontal fragmentation of power at the European level and a vertical fragmentation between European and national level. In the horizontal dimension at European level, the two poles of power are primarily represented by the Commission and the Council.[1] In the vertical dimension, they are represented by the Commission, sometimes with support of the Council[2], on the one hand, and by the individual Member States on the other hand. The relationship between the fragmented poles of power is seen as gravitation, because it is not a priori defined, for example by a clear division of powers, let alone by attributing sovereignty to one side of the poles or by clearly defining a structure of shared sovereignty. It is true that Member States are sovereign, but only individually and only to the extent that this sovereignty is not constrained by rule-making at European level. In the context of the EU-system, in order to be able to exercise power, Member States have to pool their sovereignty. This pooling however is not once and for all established but it is dependent on decision-making and consensus-building in the Council, and thus precarious.

The European level have been attributed certain competences, but they do not allow for taking independent action. Thus, the distribution of powers between the two poles is continuously being structured and re-structured through ongoing processes of decision-making, consensus-building, conflict and cooperation. The central institutional actors, in particular the Commission and the Council and the Commission and individual governments of the Member States, are continuously involved in negotiations determining their respective role and influence in every policy-field.

---

[1] However, the Commission is often supported by Parliament and the Court, while the Council has its own supporting substructure, i.e. COREPER, the Council secretariat and numerous Committees.
[2] Since the Council takes decisions on policy objectives etc., it has a role in guiding the behaviour of single Member States.

Against the background of this necessarily rough characterization of the EU-system, we can determine the major incentives and constraints, which the system sets to the use of the specific modes of governance. Major constraints lie in the following:

- Since the EU is not sovereign, it is constrained in making use of hierarchy as a mode of governance. Although it has legislative powers, the use of these powers depends largely on decision-making in the Council. Decision-making in the Council is precarious because of diversity among Member States.
- The EU is severely constrained in enforcing compliance with its rules. It does not have major competences in rule-enforcement, let alone the powers of command and control vis-à-vis the Member States. Since member-states are sovereign, they have many means and ways at their disposal to resist to all forms of exercising power by the European level.

Major incentives lay in the following:

- Since the EU-system is characterized by the fragmentation of powers between institutional actors with highly diverging interests, it offers incentives for both aggregating or transforming diverging interests and preferences. This in turn fosters the emergence of modes of governance based on negotiations, consensus-building and cooperation among diverging actors.
- The EU-system, insofar as powers have been transferred to European level, these powers mostly refer to the building and ensuring of market mechanisms. The system thus offers strong incentives for using market mechanisms and competition as modes of governance.
- Since the EU-system is dependent on consensus-building, it offers strong incentives for including a wide variety of institutional actors into its procedures of decision-making and for inventing procedures to foster convergence of visions, norms, attitudes and preferences held by these actors.

In sum, we consider, on the one hand, the “weak” and contradictory systemic structure of the EU as the main factor restricting the use of hierarchical modes of governance and thus limiting the exercise of power and authority in traditional forms. On the other hand, we assume that it is precisely this weak and contradictory structure that fosters the emergence of new modes of governance based on the use of market mechanisms and competition, negotiation and coordination as means of directing behaviour.

But even in the case of rule-making at the European level in more or less hierarchical form, we regard it as significantly differing from that at national level, that is, as less hierarchical. The reasons for this difference are threefold. First, in most cases, European legislation has to be transposed into national legislation, which implies that it gives Member States a high degree of discretion and, as a consequence, does not have a uniform impact on the whole EU. Second, as mentioned above, it is seldom accompanied by clear procedures of enforcement, thus lacking the authority of national legislation. Third, it is often aimed at creating procedures for guiding the behaviour of decentralized actors instead of directly intervening in economic or social life, thus having only an indirect impact. In sum, those European modes of governance, termed usually as hierarchical, are less hierarchical than it seems at first sight, in particular, if compared to traditional hierarchical modes of governance at national level. Therefore, also hierarchy as a mode of governance undergoes transformation at European level

Therefore, in the widest sense of the term, all modes of governance being used in the EU are to be considered as more or less new in that none of them is simply a replica of modes of governance used at national level.

Against the background of the theoretical framework as outlined above, we formulate some hypotheses for the following case-studies:

- New modes of governance did not emerge in recent years; they have been present in the EU-system since its inception, although in a less pronounced form. They recently became more visible because of their increasing use, their exclusive use in new policy fields and because of explicit reference to them in decisions and official documents of the EU.
- European modes of governance do not emerge by design but are the result of the process of policy-making, evolving through the interaction between the European and the national level and the actors representing them. They are shaped and modeled according to the incentives and constraints which the institutional structure of the EU sets to their emergence and evolution. New modes of governance, therefore, are inherently linked with the systemic structure of the EU.

- European modes of governance further shape and differentiate the structure of the EU-system by institutionalizing the role of various actors in decision-making and policy-implementation thus fostering the fine-tuning of the systemic structure.

5. New modes of governance in selected policy fields

In turning now to our case studies in two selected policy fields, we intend to elaborate on the significance of various modes of governance in the respective fields. In particular, we focus on when and why new modes of governance did emerge, in which form and combination they are applied, and how they relate to more traditional modes of governance. Moreover, our focus is on how the interaction between institutional actors favours the emergence of specific modes of governance and how modes of governance further structure their relationships and thus contribute to system-building of the EU. Finally we draw conclusions on the interrelation between modes of governance and the systemic structure of the EU.

5.1 Structural policy

Structural or cohesion policy of the EU was established in 1975 as a regional policy, consisting primarily of a fund providing subsidies for fostering economic development in less favoured regions. Thus, from its inception, this policy was based on financial incentives activating Member States for implementing regional development policies in order to reduce economic disparities at a European scale. However, Member States restricted this incentive to work by insisting on an a priori distribution of the cake among them. This resulted in setting fixed quotas for every state according to defined criteria (gross domestic product and unemployment rate). Since at this time, all Member States practiced regional policy at national level, European subsidies were primarily being used as a welcome reimbursement for the own expenses. Thus, EU structural policy was reduced to a mere, though limited, financial transfer between Member States.

The Commission however, from the very beginning, strove for implementing a genuinely European policy, that is, a policy tackling problems arising from European integration. This implied it tried to direct Member States on new policy objectives and concepts in contrast to classical regional policy practiced at national level. Whereas the latter, at that time, was based on heavy subsidies for industrial investment and infrastructural work in less favoured regions, thus fostering primarily the transfer of branch plants from central to peripheral regions, the Commission's strategy focused on improving the endogenous potential of less developed or restructuring regions. It therefore aimed at providing incentives, in both finance and kind, for local entrepreneurs to improve the competitive capacities of their firms in rapidly internationalizing markets. In addition and more so, it envisaged providing incentives for public policy-makers to embark on policies improving the competitive position of their regions as a whole. Such an ambitious strategy also implied that the Commission had to mobilize a growing range of actors, both public and private, for implementing the new policy-goals. Governments of the Member States however severely contested these policy objectives and used all available means and ways to ignore, evade or even obstruct the Commission's efforts.

Together with altering the substantial concept of structural policy, the procedures for formulating and implementing policy had to be altered. Since the Commission has no powers of command and control vis-à-vis the Member States, it relied, from the very beginning, on negotiations with national governments. At European level it negotiated with the Council on the basic policy objectives and the concept for implementation. With every single government it negotiated on terms and modes of policy implementation in the respective state: in the beginning on the adoption of single projects, later of programs and finally of overall national plans for subsidizing by the EU. With more actors being involved and with the growing importance of the whole policy-field, these negotiations were not only extended but also embedded into a more formalized procedure. Thus, with the reform of 1989, the system of partnership was introduced, defining the relationships between the European, the national and the regional government level as cooperation between all partners involved in policy-making for achieving common goals. At the same time, a sequence of negotiation steps was established, formalizing the procedure of designing and adopting programs for implementation.

This formalization of negotiation procedures paved the way to include not only regions, but also non-governmental actors into formal decision-making. With the reform of 1994, the system of partnership was extended to the economic and social partners; in 2000, selected representatives of civil society, as for example environmental, women's or youth groups were included. With the most recent reform of 2006, civil society in general was included into the system of partnership. Although governments of the Member States strongly opposed or even obstructed, with every reform, the extension of partnership to non-governmental actors, they finally had to accept it for the sake of a more efficient policy.

Negotiation however was not the only mode of trying to give guidance to the behaviour of Member States in structural policy. Because of continuous resistance to Commission proposals in such negotiations and the pressure on the Commission to finally compromise with national governments, it also established competitive mechanisms in order to orient them on European objectives. Thus it strove to establish competitive mechanisms for the distribution of the funds by trying to reserve at least a part of them for distribution according to quality criteria. This meant, Member States had to compete for subsidies with innovative policy proposals, matching the criteria and conditions set by the Commission or by Council decision. The Council however tried to restrict such a strategy by limiting the share of the funds for non-quota distribution to a minimum, thus allowing only small scale experiments to be implemented under competitive mechanisms. The consequence was that competition was primarily triggered among regions and non-state actors for whom also small scale subsidies formed a sufficient incentive for submitting policy proposals to the EU. Such small scale programs, implemented in the framework of Community initiatives and pilot actions, served later often as best practice examples for the mainstream of European regional policy. Finally, competitive mechanisms were also established by reporting regularly on the performance of Member States in implementing structural policies and by evaluating policy-implementation.

However, competitive mechanism were never dominant in structural policy, due to the strong resistance of Member States, but also to difficulties in establishing the regulatory framework needed to make such mechanisms work. Therefore, procedures for coordinating the behaviour and action of decentralized actors increasingly played a role in structural policy. Thus, cooperation among actors was set as a condition for funding regional development programs. This referred to both transnational cooperation between regions and intraregional cooperation between public and private or non-state actors. The rationale underlying these conditions was to create an institutional setting which would foster policy-transfer, exchange of experience and best practice examples among the actors involved. For the same purpose, the Commission also supported the creation of transnational interest associations, network-building among regions with similar structural problems or among non-state actors and agencies (for example Chambers of Commerce).[3] Finally, communication among all actors involved is continuously being improved and intensified, for example by organizing large conferences for exchanging ideas, policy-concepts and implementation experiences. All these activities are aimed at fostering, through mere discourse, a common perception on the problems at stake and convergent ideas and concepts on possible solutions.

Although all these modes of governance evolved slowly over time, their inception began much earlier than what is usually assumed. In this evolutionary process, we see a sequence in the use of modes of governance from negotiation via competition to coordination, which is, at the same time, a sequence from harder to softer modes of governance. At present, all three modes of governance are being used alongside each other. However negotiation is still dominant and competition plays the least important role, primarily due to strong resistance of the Member States.

The sequence in the use of modes of governance is not a logical one, but a reflection of the interaction between the Commission and the Council as well as between the European level and national governments. It was triggered and shaped, on the one hand, by the Commission, pushing as far as possible for a common policy. On the other hand, the restrictive behaviour of Member States, both individually and through the Council, counteracted this push from above and thus caused a sequence of changes in the Commissions strategic choices. The Commission was driven to invent new procedures and mechanisms which ever less provoked resistance by Member States. On the whole, it was this interaction which gave rise to the emergence of new modes of governance. That this interaction did and does not end up in stalemate is not only the merit of the Commissions activism; it is also the result of the contradicting preferences of Member

[3] Note that all these activities were subsidized in the framework of European regional policy.

States in the EU-system. For on the one hand, Member States do not want to be controlled by the European Union; on the other hand, they expect others to be controlled. In the framework of structural policy, it are in particular the so called net-payers, which are heavily inclined to assure that distributive policies of the EU puts pressure on recipient countries for due implementation. Therefore, soft modes of governance are not only preferred because they put weak pressure on Member States, but also, because they allow for *selectively* putting pressure on Member States.

Against this background, it becomes clear why, over the past years, a more vigorous push towards new modes of governance has come about. Thus the most recent reform of the structural funds, decided upon by Council in May 2006, introduced a series of new procedures, clearly derived from the model of OMC in employment policy. In particular, it envisages the Council to decide on common policy objectives. Moreover, Member States have to report yearly on their progress made in matching these objectives. The Commission will, on the basis of the Member States reports, elaborate a synthesis report which is adopted by the Council and, where necessary, accompanied by recommendations.

On the whole, a broad range of procedures derived from OMC in other policy-fields is being introduced into a long established and well functioning policy-field, further softening up its governance modes. However, the impact of these procedures has to be judged within the context of the institutional structure of the EU. Thus the Commission, when negotiating with every single member-state on its plans and programs within the framework of European structural policy, is often constrained to give in to their options and priorities, since it alone does not have sufficient authority to direct them on European objectives if they have other preferences. If however the Council takes decisions on common objectives, if Member States have to report on their performance in pursuing these objectives and if, in addition, the public or non-state actors are drawn into the evaluation of this performance pressure arises to adhere to the objectives agreed upon. Seen in this light, seemingly soft modes of governance can have a harder impact on the actors involved than might be assumed at first sight. Because Council decisions on common objectives or guidelines, although not formally binding for national governments, represent the aggregated will of the member-states, they close at least some loopholes for single states to escape pressure exerted by the Commission in negotiations on their national plans and programs.

In sum, the choice for certain modes of governance and the combination of modes of governance does not follow a deliberate design but emerges through the interaction between institutional actors. Resistance of important actors, mostly national governments, to one mode of governance fostered the emergence of others, more promising or less controversial ones. To date, this has resulted in the emergence and growing use of ever softer modes of governance, which however in the context of the systemic structure of the EU can sometimes have harder or more far-reaching impacts than what is usually assumed.

5.2 Economic and Monetary policy

Economic and monetary policy coordination was incorporated in the Treaty of Rome (EEC Treaty, 1957, Articles 103-109) (see Verdun 2000). However, the aim to create Economic and Monetary Union (EMU) only entered into the Treaty on European Union (TEU) in 1992. In Articles 103-109 economic policy referred broadly to budgetary and fiscal policies, whereas monetary policy referred to exchange rate policies. In these early years monetary and economic coordination took place in a number of committees. The EEC Treaty called for a Monetary Committee as an advisory organ. In the early 1960s, based on Commission proposals, numerous other committees were created to assist in coordination. After initial hesitation of the Council, the following committees were created in 1964: Committee of Central Bank Governors, a Budgetary Policy Committee, and a Medium-Term Policy Committee. Together with the Short-Term Policy Committee that also already existed, the Community now had five coordinating committees. The work that was done in the 1960s took place in these committees that had a hybrid form. The committee members represented the Member States but worked together towards coordination as a semi-Community oriented institution.

By the late 1960s EC leaders agreed that it was necessary to move on towards further economic and monetary unification. By now the Customs Union was completed, and other areas of policy-making (agriculture) would benefit from having stability in exchange rates. At the Hague Summit in December 1969 the proposal to create an Economic and Monetary Union was given approval, and a plan was to be made in 1970 to lay out the steps towards that goal. What became known as the Werner Plan set out a proposal in stages to create EMU. Those who were on the Werner Committee represented the Chairs of the various economic and monetary committees mentioned above. These persons had lots of experience from their deliberations in the years prior in coming to a proposal for EMU. The eventual plan was presented in 1970 adopted in 1971 but eventually failed to be implemented.

In the 1970s progress in the area of economic and monetary integration was mainly by seeking cooperation of monetary policy (exchange rate policy), first through the so-called ‘snake’ (exchange rate arrangement) and, as of 1979, the so-called European Monetary System (EMS). The coordination in the EMS was based on seeking to target exchange rate objectives. Most Member States sought to keep their currencies within 2.25% of an agreed parity. Any rearrangements of the agreed exchange rate parities were discussed and decided to in the monetary committee. During the 1980s the policies of Member States often reflected on and in committees discussed ‘best practices’ (well before those words were used to describe the process). In the case of monetary policy coordination, policy-makers used to look to the best performing country/countries and seek to follow the policies of the best performer(s) (notably: the Federal Republic of Germany). In the 1970s and 1980s, in the area of macroeconomic coordination, there was not much success in formal Community policy development. What did happen, however, was the development of the awareness that budgetary and fiscal policies had an important effect on monetary policies (exchange rates).

By the 1980s the EMS turned out to be quite a bit more successful than it had been in its early years. The main reason was the commitment by each of the participating Member States to keeping its exchange rates of its national currency within the agreed parities. It was a political decision to put much weight on that arrangement, and other policies were sought to be put in line with them. These policies were made by national monetary authorities and, as said, were based on best practices, policy learning and informal coordination and discussions.

The plan to create EMU in the late 1980s was triggered by the success in the Single Act, and subsequently the desire to try again to make the next step in economic and monetary unification, now also building on the success in keeping exchange rates stable. The Treaty on European Union envisaged a model of EMU where monetary policy was transferred to a new supranational central bank, whereas budgetary and fiscal policies remained at the level of Member States, and coordination would take place by targeting objectives. Furthermore, objectives would have to be met even to join the final stage of EMU. Again what we see are targets, informal coordination etc in the area of economic policy.

The Commission played an important role in facilitating the coordination. As part of this aim, so-called Broad Economic Policy Guidelines were set up, in which the Commission plays an important role to alert Member States when their policies or macroeconomic performance is getting out of line. Furthermore details of trying to enforce collaboration in the area of budgetary deficits and public debt were set out in the Stability and Growth Pact. Here too, the Commission plays an important role in giving Member States an early warning and in following the steps of the SGP regulations. These arrangements focus to a considerable degree on best practices, informal collaboration, and non-hierarchical sets of relationships in seeking to meet the end objectives. The actors involved in policy coordination in the area of budgetary and fiscal policies are Member States, the Council and of course the Commission. An important role is played by the policy community that provides input into the types of policies and EU arrangements that were desirable to create. The period of the 1990s and the start of the 2000s were characterised in this policy area by many interactions between the Commission and the Member States regarding the performance of the Member States on economic performance indicators and targets of budgetary deficits and public debt.

Going over the historical development in this area of policy-making it should be clear that the mode of governance has from the outset included facets of ‘new modes of governance’: informal exchanges of ideas; development in areas of policy-making where the mandate in the Treaty was not very clear (or at least vague, with language such as ‘coordination’); that informal advisory bodies were created to facilitate coordination, and that these bodies have a hybrid function (representing Member States, yet seeking to aim at Community coordination), and that best practices, benchmarking et cetera were part of the policy process well before those words were introduced in EU-jargon in the late 1990s or at the Lisbon Council in 2000. Furthermore, it should be clear from the above examples, that the 'soft coordination' – through committees, and informal targets, often through self-discipline – have been quite successful in creating real convergence in policies, which in turn provided a solid basis for making the next step in institutional change (take the example of the success of the EMS contributing to the desire to create EMU, and EMU in turn being put firmly in the Treaty). In recent years these modes of governance have been formalised and put in the language of the Treaty. But in fact, as so often in European integration, the procedures and practices preceded their formalization. In the area of budgetary and fiscal policies there was insufficient desire to transfer the policy competence to the supranational level and thus the choice was made to keep it at the level of nation states and have national governments try to meet such targets. The details of how to implement such a policy-making procedure has been at the heart of the development of the BEPGs and the SGP.

It is worth noting that part of the reason for not transferring powers over budgetary and fiscal policies to a supranational EU institution, is a fundamental distrust in what an EU supranational budgetary and fiscal policy would look like or what its mandate would be (see Verdun 1998). Member States want to stay involved in this area of policy making. Thus the collaboration represents a mix of the various institutions: the Commission, the Council and the Member States (with the bulk of the work done in advisory committees). The outcome of this form of policy-making has been quite far-reaching, and is having a lasting impact. Over the years, critics of EMU have argued that without firm authority or firms rules EMU would not be able to survive. To date it appears that these modes of governance have been able to substantiate this development with quite some success.

6. Conclusion

In drawing conclusions on our theoretical concept of modes of governance and their interrelation to the systemic structure of the EU and on the lessons from the case studies, we come to the following findings:

New modes of governance emerged much prior to what is generally assumed in the literature; as our case-studies prove, they were abundant in the practice of European policy-making long before their official formulation in EU documents. However, they recently were pushed more vigorously to the forefront, not only in those cases, were member states did refuse to transfer powers to the European level, but also in long established and well functioning policy fields.

Soft modes of governance can, according to the institutional context and their embedding into procedures of decision-making, turn out to have harder impacts then the so called hard measures based on hierarchical means of steering. In structural policy, this is the case because of their combination with the authority of the Council; in the case of economic policy, this is the result from member states holding the formal powers in this field and their willingness to take responsibility for due implementation.[4]

All European modes of governance did emerge through interaction between institutional actors. Resistance of important actors, mostly national governments, to one mode of governance fostered the emergence of others, more promising or less controversial ones. This, on the whole, tended to give rise to ever softer modes of governance, which however in the context of the systemic structure of the EU can sometimes have harder or more far-reaching impacts than what is usually assumed.

7. Bibliography

Amtenbrink, F. and J de Haan (2003) 'Economic governance in the European Union- Fiscal policy discipline versus flexibility', *Common Market Law Review.*

Armstrong, Kenneth A. and Simon Bulmer (1998) *The Governance of the Single European Market* Manchester; New York: Manchester University Press.

Arthur Benz, Burkard Eberlein (1999) 'The Europeanization of regional policies: patterns of multi-level governance' *Journal of European Public Policy* 6 (2): 329 – 348.

[4] This however is not always the case. Therefore, the success of European policies remains contingent.

Bache, Ian and Flinders, Matthew (eds) (2004), *Multi-level governance*. Oxford (Oxford University Press).

Beck, Ulrich, Grande, Edgar (2004), *Das kosmopolitische Europa. Gesellschaft und Politik in der Zweiten Moderne*. Frankfurt (Suhrkamp).

Benz, Arthur (2004b), 'Governance – Modebegriff oder nuetzliches sozialwissenschaftliches Konzept?' in: Benz, Arthur (ed.), *Governance – Regieren in komplexen Regelsystemen*. Wiesbaden (VS Verlag für Sozialwissenschaften), pp. 125-146..

Benz, Arthur (2004c), 'Multilevel Governance - Governance in Mehrebenensystemen', in: Benz, Arthur (ed.), *Governance – Regieren in komplexen Regelsystemen*. Wiesbaden (VS Verlag für Sozialwissenschaften), pp. 125-146.

Benz, Arthur (2005), 'Governance in Mehrebenensystemen', in: Schuppert, Gunnar F. (ed.) *Governance-Forschung. Vergewisserung über Stand und Entwicklungslinien*, Baden Baden (Nomos), pp. 95-120.

Benz, Arthur (ed.) (2004a), *Governance – Regieren in komplexen Regelsystemen*. Wiesbaden (VS Verlag für Sozialwissenschaften), pp. 125-146.

Borrás Susana and Kerstin Jacobsson (2004) 'The open method of co-ordination and new governance patterns in the EU' *Journal of European Public Policy* 11(2): 185-208.

Börzel, Tanja (2005), 'European Governance – nicht neu, aber anders', in: Schuppert, Gunnar F. (ed.) *Governance-Forschung. Vergewisserung über Stand und Entwicklungslinien*, Baden-Baden (Nomos), pp. 72-94.

Bulmer, Simon (1994) 'The Governance of the European Union: a New Institutional Approach' *Journal of Public Policy*

Carter C., Scott A. (1998) 'Legitimacy and Governance Beyond the European Nation State: Conceptualising Governance in the European Union' *European Law Journal,* 4 (4): 429-445.

Christiansen, Thomas and Emil Kirchner (2000) *Committee Governance in the European Union*, Manchester: Manchester University Press.

Christiansen, Thomas and Simona Piattoni (eds) (2003) *Informal governance in the European union*, Cheltenham, UK; Northampton, MA: Edward Elgar

De Búrca, Grainne (2003) ‘The Constitutional Challenge of New Governance in the European Union’ *European Law Review*,

de la Porte, Caroline and Philippe Pochet, (2001) ‘Social benchmarking, policy making and new governance in the EU’ *Journal of European Social Policy* 11, 291-307.

de Schutter, O, N. Lebessis, J. Paterson (2001) *Governance in the European Union*, Luxembourg: OOPEC

Eberlein, Burkard and Dieter Kerwer (2004) ‘New Governance in the European Union: A Theoretical Perspective’, *Journal of Common Market Studies* 42 (1): 121-142

Eberlein, Burkard and Kerwer, Dieter (2004), ‘New Governance in the European Union: a theoretical perspective’, in *Journal of Common Market Studies*, Vol. 42, 1, pp. 121-142.

European Commission (2001) ‘European Governance: A White Paper’, COM 2001 428 final.

Falkner, Gerda/Treib, Oliver/Hartlapp,Miriam/Leiber, Simone. (2005), *Complying with Europe: EU Harmonisation and Soft Law in the Member States*. Cambridge (Cambridge University Press).

Grande, Edgar (2000), ‚Multi-Level-Governance: Institutionelle Besonderheiten und Funktionsbedingungen des europäischen Mehrebenensystems’, in: Grande, dgar/Jachtenfuchs, Markus (ed.), *Wie problemlösungsfähig ist die EU?* Baden-Baden (Nomos).

Hartlapp, M. (2005), *Die Kontrolle der nationalen Rechtsdurchsetzung durch die Europäische Kommission*. Frankfurt/New York (Campus).

Heinelt, Hubert and Smith, Randall (eds), (1996) *Multi-Level Governance in the European Union and the Structural Funds*

Héritier, Adrienne (2002), ‘New Modes of Governance in Europe: Policy-Making without Legislating?’ in: Héritier, Adrienne (ed.), *Common Goods: Reinventing European and International Governance*, Lanham (Rowman & Littlefield), pp. 185-206.

Héritier, Adrienne (eds) (2002) *Common Goods: Reinventing European and International Governance*, Lanham, Rowman and Littlefield.

Hix, Simon (1998) ‘The Study of the European Union II: The “New Governance” Agenda and its Rival *Journal of European Public Policy,*

Hodson, Dermot & Maher, Imelda (2001) ‘The Open Method as a New Mode of Governance: The Case of Soft Economic Policy Co-ordination’, *Journal of Common Market Studies* 39 (4), 719-746.

Jachtenfuchs, Markus (2001) ‘Theorizing European Integration and Governance

KE Jørgensen (1997) *Reflective approaches to European governance* Houndmills: Macmillan

Knill, Christoph and Lenschow, Andrea (2005) ‘Compliance, Competition and Communication: Different Approaches of European Governance and their Impact on National Institutions’, in: *Journal of Common Market Studies*, Vol. 43, 3, pp. 583-606.

Kohler-Koch, Beate (1999), ‘The evolution and transformation of European governance’, in: Kohler-Koch, Beate/Eising, Rainer (eds), *The Transformation of Governance in the European Union*. London (Routledge), pp. 14-35.

Kohler-Koch, Beate, and Rainer Eising (eds) (1999) *The Transformation of Governance in the European Union*, London: Routledge.

Majone, Giandomenico (1996), *Regulating Europe*. London (Routledge)

Majone, Giandomenico (2005), *Dilemmas of European integration. The ambiguities and pitfalls of integration by stealth*. Oxford (Oxford University Press).

Marks, G., F. Scharpf, P. Schmitter and Wolfgang Streeck (1996) *Governance in the European Union*, Sage.

Marks, Gary (1993), ‘Structural Policy and Multilevel Governance in the European Community’, in: Cafruny, A./Rosenthal, G. (ed.), *The State of the European Community*. New York (Lynne Rienner), pp. 491-511.

Marks, Gary and Hooghe, Liesbet (2001), *Multi-Level Governance and European Integration*, Boulder (Rowman & Littlefield)

Marks, Gary, Hooghe, Liesbet and Blank, Kermit (1996), ‘European Integration and the State: Multi-level versus State-Centric Governance’, in: *Journal of Common Market Studies* (34) 3, pp. 341-378.

Mayntz, Renate (2002), ‘Common Goods and Governance’, in: Héritier, A. (ed.), *Common Goods: Reinventing European and International Governance*. Lanham (Rowman & Littlefield), pp. 15-27.

Mayntz, Renate (2004) ‘Governance im modernen Staat’, in: Benz, Arthur (ed.): *Governance – Regieren in komplexen Regelsystemen. Eine Einführung*. Wiesbaden (VS), pp. 65-76.

Mayntz, Renate (2005) ‘Governance Theory als fortentwickelte Steurerungstheorie?’ in Gunnar Folke Schuppert (ed.) *Governance-Forschung. Vergewisserung über Stand und Entwikclungslinien*, Baden-Baden: Nomos, pp. 11-20

Mayntz, Renate (2005), ‘Governance Theory als fortentwickelte Steuerungstheorie?’in: Schuppert, Gunnar F. (ed.) (2005), *Governance-Forschung. Vergewisserung über Stand und Entwicklungslinien*. Baden-Baden (Nomos), pp 11-20.

Pierre, J. (2000) *Debating governance*, New York: Oxford University Press

Porte C.D.L. (2002) ‘Is the Open Method of Coordination Appropriate for Organising Activities at European Level in Sensitive Policy Areas?’ *European Law Journal* Volume 8, Number 1, March 2002, pp. 38-58.

Radaelli, Claudio M. (2003) ‘The Open Method of Coordination: A new governance architecture for the European Union’ Swedish Institute for European Policy Studies.

Rosenau, James N. (1992), ‘Governance, Order and Change in World Politics’, in: Rosenau, James N./Czempiel, Ernst-O. (ed.), *Governance without Government. Order and Change in World Politics*. Cambridge (Cambridge University Press), pp. 1-29.

Rosenau, James N./Czempiel, Ernst-O. (ed.) (1992), *Governance without Government. Order and Change in World Politics*. Cambridge (Cambridge University Press).

Sandholtz, Wayne and Alec Stone Sweet (eds) (1998) *European Integration and Supranational Governance,* Oxford: Oxford University Press.

Schäfer, Armin (2004) ‘Beyond the Community Method: Why the Open Method of Coordination Was Introduced to EU Policy-making’ *European Integration online Papers (EIoP)* Vol. 8, N° 13.

Schäfer, Armin (2005), *Die neue Unverbindlichkeit. Wirtschaftspolitische Koordinierung in Europa*. Frankfurt/New York (Campus).

Scott J. and Trubek D.M (2002) 'Mind the Gap: Law and New Approaches to Governance in the European Union' *European Law Journal* Volume 8, Number 1, March pp. 1-18.

Strange, Susan (1986) *The Retreat of the State: The Diffusion of Power in the World Economy* Cambridge; New York: Cambridge University Press.

The Governance Approach to European Integration' *Journal of Common Market Studies* 39 (2): 245-264.

Tömmel, Ingeborg (2006), *Das politische System der EU*. München (Oldenbourg), 2. Aufl.

Verdun, Amy (1998) 'The Institutional Design of EMU: A Democratic Deficit?', Journal of Public Policy, Vol 18, part 2, pp. 107-32.

Verdun, Amy (2000) European Responses to Globalization and Financial Market Integration. Perceptions of EMU in Britain, France and Germany, International Political Economy Series, Basingstoke: Macmillan/ New York: St. Martin's Press.

Zürn, Michael (2005), 'Global Governance', in: Schuppert, Gunnar F. (ed.) G*overnance-Forschung. Vergewisserung über Stand und Entwicklungslinien*, Baden-Baden (Nomos), pp. 371-469.