



The Impact of the European Employment Strategy on the labour market policies of Germany and France

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Abstract: Based on 18 interviews in Berlin, Paris and Brussels, this article analyses the impact of the EES on the labour market policies in France and Germany. It can be demonstrated that the EES has shaped these policies mostly on the cognitive dimension of influence, while the normative and strategic impacts of the EES are limited. The first result reflects the use of numerous instruments for mutual learning and opportunities for free deliberation. Second, the low importance of the normative dimension can be explained by the openness of the guidelines and by the limited role of “soft pressure”. Finally, the EES was too much locked in bureaucratic routines and was not a truly integrated part of national political life, resulting in a low strategic utility for national actors in political “struggles”.

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List of abbreviations

- BDA: Confederation of German Employers' Associations
- BMWA: Federal Ministry of Economics and Employment (This ministry has been split up in 2005)
- BMFSFJ: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.
- CDSEI: Social Dialogue Committee on European and International Questions
- CGT: General Confederation of Labour
- CFDT: French Democratic Confederation of Labour
- COPARSOC: Contribution by National Social Partners to the Luxembourg Process
- DGB: German Confederation of Trade Unions
- ECJ: European Court of Justice
- EES: European Employment Strategy
- EMCO: Employment Committee
- ESF: European Social Funds
- EUREXTER: European Association for Regional Excellence
- FO: Labour Force (a French Union)
- Govacor: Economic Governance through Self Coordination
- GM: Gender Mainstreaming
- JER: Joint Employment Report
- MECSL: French Ministry for Employment, Social Cohesion and Housing
- MEDEF: French Business Confederation
- MENESR French Ministry of National Education, Higher Education and Research
- MINEFI: French Ministry of Economics and Finance
- NAP: National Action Plan
- NRP: National Reform Plan
- OMC: Open Method of Coordination
- PISA: Programme for International Student Assessment
- SGCI (today: SGAE): General Secretariat of the Inter-ministerial Committee for European Economic Questions
- STMAS: Bavarian State Ministry of Labour and Social Welfare, Family Affairs, Women and Health
- StV: Permanent Representation of the Federal Republic of Germany to the European Union

1. Introduction

Since the late 1990s the Open Method of Coordination (OMC) has increasingly been used as an alternative mode of governance to the traditional “Community Method”. Many scholars have argued that the OMC would help to give the EU a more important role in nationally sensitive policy areas such as social inclusion, pensions, health and employment. In its ideal type form the OMC appeared promising¹. First, it is claimed that it avoids the classical conflict between supranationalists and federalists (Rhodes 2005, p. 282) as it provides only for legally unbinding common goals, guidelines and in some cases (for instance in employment policies) recommendations to the member states (“soft law”). Instead, benchmarking, public “naming and shaming” and peer pressure are expected to push governments’ reform will. Second, the openness of the guidelines and the inherent subsidiarity principle seem to be a way of coping with the persisting diversity of European welfare state regimes and underlying philosophical cleavages (Hodson and Maher 2001, p. 739). Third, the OMC is “*organised as mutual learning processes*” (European Council 2000, p. 12) using systematic benchmarking, peer reviews and other instruments to enhance the common knowledge base of member states. Fourth, the participation of all relevant stakeholders at all levels (local, regional, national and European) shall foster the implementation of the guidelines and combat Europe’s widely discussed democratic deficit (de la Porte and Pochet 2003).

If on the one hand these theoretical promises of the OMC have exhaustively been discussed, there existed on the other hand for a long time only very few empirical research on the real impact of the various OMCs on member states’ policies (see de la Porte and Pochet 2004 for the case of the European Employment Strategy). Only recently a growing number of studies has dealt with the “real life” of the OMCs (cf. the Govecor project; Zeitlin et al. 2006). This paper wants to contribute to a better understanding of what OMCs really can achieve. Based on 18 interviews in Berlin, Paris and Brussels with representatives of ministries, of the Commission and of the Social Partners it examines the impact of the European Employment Strategy (EES) on the policies of France and Germany. The EES has now been running for almost nine years and is likely to offer the best insight on the functioning of the OMCs.

¹ Note: There is a wide range of “real life” OMCs, that may considerably differ in some respects (see e.g. Radaelli 2003).

To begin with I will shortly discuss the German and French policy traditions against the background of the policy orientations of the EES. Then a theoretical framework for the analysis of the EES impact on France and Germany will be proposed. I will develop three hypothesis corresponding to the *normative, the strategic and the cognitive* dimensions of the EES impact on member states policies. These hypothesis shall then be examined in the light of the empirical data. At the end of the paper I will focus on four main policy concepts of the EES (Gender Mainstreaming, Flexicurity, active and preventive labour market policies and Active Ageing) and assess their influence on recent French and German reforms. Finally I will resume the most important results of my study and discuss possible reform strategies of the EES/OMCs.

2. The EES and the labour market structures of France and Germany

In this chapter I will first outline the central policy orientations of the EES and then discuss the policy traditions and the institutional legacies of France and Germany at the beginning of the EES. I will conclude that the policies of both countries did to a large extent not fit in the EES philosophy of *inclusive labour markets*.

The EES has now been “in action” for almost one decade. In the course of the years several changes of the process itself and the contents of the strategy have occurred. For the purpose of this paper it is not important to recapitulate all the developments of the “Luxemburg process” in detail². I will concentrate on the most important concepts of the EES in order to compare them with the German and French traditions.

Since its beginning in 1997 the EES has mainly been focused on supply-side measures (Scharpf 2002) that aim at making European labour markets more inclusive (Heidenreich and Bischoff 2006). One of the original four “pillars” of the EES was entirely dedicated to the discrimination of certain groups, especially of women. The “gender mainstreaming” concept calls for increasing the employment rates of women by reducing the sometimes pronounced gender pay gaps, by putting an end to existing tax-benefits disincentives for female employment or by reconciling work and family life. In 2001, with the “Active Ageing” another group-specific concept appeared on the EES-agenda. It advocates a paradigmatic

change regarding older employees: People from 54 onwards should no more be systematically withdrawn from the labour markets by generous early retirement programs but be held as long as possible in gainful employment.

In addition to these group-specific goals other EES contents aimed at increasing the labour market participation in general, above all the “Flexicurity”-principle and the activation and prevention philosophy of public employment services. The Flexicurity idea tries to reconcile two potentially conflictive objectives: On the one hand the contemporary, by global competition induced need for flexible work organization (working time arrangements, easy “hiring and firing”) and on the other hand a nevertheless high degree of social security for workers. The aim of this originally Danish concept is to make labour markets more inclusive while safeguarding at the same time high standards of unemployment benefits, health services or vocational training. Furthermore, according to the guidelines of the EES the member states shall pursue an active and preventive approach of labour market policy. Passive measures such as unemployment payments are to be complemented by active measures to reintegrate jobless people as fast as possible in the labour market: state subsidies for the adoption of low paid work, cutting unemployment benefits of jobseekers who refuse job offers, training of unemployed. Altogether the philosophy of the EES aims at making European labour markets more inclusive³.

In contrast to this EES-philosophy the policies and the labour market structures in France and Germany reflected for a long time an implicit exclusive approach favouring systematically 25 to 50 years old men to the detriment of other groups (women, older and young workers, handicapped people, immigrants; cf. Heidenreich 2004).

In both countries middle-aged men encountered the lowest unemployment problems, earned the highest wages and could rely on a good system of social security. Their jobs were subject to high employment protection and standardised working hours (Lallement 1999, p. 54; Bonß and Ludwig-Mayerhofer 2000, p. 120-121; Gottschall and Dingeldey 2000, p. 313ff)⁴. With respect to the Flexicurity principle one can say that the security element was clearly dominant. While men aged 25-54 mostly benefited from this institutional setting, other

² For more detailed descriptions of the history and the “streamlining” of the EES with other co-ordination processes see Goetschy 1999 and 2003; van Riel and van der Meer 2002; Schäfer 2002 and 2004; Aust 2000; European Commission 2003 and 2005.

³ The subsequently formulated quantitative targets with regard to the employment rates affirm the importance of a higher integration of the labour force potential in the labour market: An overall employment rate of 70%, a female employment rate of 67% (adopted at the Lisbon Council in 2000), and an employment rate of older workers of 50% (decided at the Stockholm Council in 2001).

⁴ Mückenberger (1985) called this type of employment “Normalarbeitsverhältnis”. Lallement (1999) speaks of “la condition salariale” for the French case.

groups remained the outsiders of the system. For reasons of limited resources, I will focus in this paper on the exclusion of women and older workers, bearing in mind that other population groups (immigrants, young handicapped people) tend to be excluded, too.

Both Germany and France resolved company restructuring in the 80ies and 90ies by extended programs of early retirement (Esping-Andersen 1999; Eichhorst and Rhein 2005; Bonß and Ludwig-Mayerhofer 2000, p. 128). In case of economic downturns employees aged 55+ were urged to leave firms in trouble and to draw upon the pension systems. In addition, wide-spread prejudices about older workers' capacities affected and still do affect in both countries the chances of the older generation in the labour markets. From this exclusion resulted very low employment rates of the older workers in France (1997: 29,0%) and low employment rates in Germany (1997: 38,1% against 62,6% in Sweden; source: Eurostat⁵).

Women made up another disadvantaged group on the German and French labour markets. This is particularly true for Germany, where the system of income tax splitting ("Ehegattensplitting") set and still sets nowadays disincentives for a two earner full time household, which in reality meant that in most families women stayed at home or worked part time (Gottschall and Dingeldey 2000, p. 314; Richardt 2004, p. 29). In addition, Germany lacked sufficient child care facilities for the very young (0-3 years) and most German Kindergartens and schools opened only until noon, leaving to parents (in practise mostly to women) the responsibility for their children for the rest of the day (Becker 1999, p. 201ff.; Bonß and Ludwig-Mayerhofer 2000, p. 119; Richardt 2004, p. 29-31). France differs from the German system with respect to its whole day school system and its extended child care services, which favour the reconciliation of family and work live (Barbier et al. 2006, p. 211; Neumann and Veil 2004, p. 5ff.; Becker 1999, p. 201ff). However, French women often suffered from precarious employment and faced in the past higher unemployment rates than their male counterparts, especially young women (Reuter 2002). Furthermore, the welfare state system was not designed to match women's needs. Barbier et al. (2006, p. 211) state that the reasons for women's exclusion in France can be seen in „*lower quality social protection and lower quality provision of services related to employment*” for women. Hence, the employment rates of French (1997: 52,4%) and German women (55,3%) remained well below

⁵ See: http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996,39140985&_dad=portal&_schema=PORTAL &screen=detailref&language=de&product=STRIND_EMPLOI&root=STRIND_EMPLOI /emploi/em014, 20.7.2006.

those of the European high-performers Sweden (67,2%) and Denmark (69,1%; source: Eurostat⁶).

To sum up, the exclusion of certain population groups in France and Germany did not fit in the inclusive EES-model, which advocates the highest possible integration of the complete labour force potential in the labour markets. In addition, the disadvantaged groups also suffered from the fact that both French and German public labour market services were primarily based on the “passive” payment of unemployment benefits rather than on individualised preventive measures as postulated by the EES⁷. All in all, one can say that with respect to some of the central elements of the EES (Active Ageing, gender mainstreaming, Flexicurity, and the preference of active and preventive labour market policies) the labour market structures and policies in France and Germany did not correspond to the European conception of modern employment policy. I will come back to this issue in chapter 7 and ask if recent reforms in Germany and France can be related to the EES. However, to begin it is necessary to develop an analytic framework for the analysis of the EES.

3. How to assess the EES impact on national labour market policies? An analytic framework

Most of the literature on Europeanization claims that the impact of European regulation structures on national policies can be explained by a misfit between the two levels, which creates adaptational pressures on the member states. I deem this theory inappropriate for the analysis of the EES (chapter 3.1) and suggest instead to examine the influence of the EES on national policy making on the normative (3.2), on the strategic (3.3) and on the cognitive (3.4) dimension. For each of the dimensions I will develop an hypothesis concerning the strength of its impact. These hypothesis shall then be examined in the light of the empirical data (4.).

⁶ See: http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996,39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=de&product=SDI_MAIN&root=SDI_MAIN/sdi/sdi_ed/sdi_ed_emp/sdi_ed1421, 20.7.2006.

⁷ Yet, one should note that active labour market policies (ALMP) started off well before the beginning of the EES. In Germany the “Arbeitsförderungsgesetz” (1969) meant the beginning of ALMP, whereas in France the “insertion” programmes of the 1970ies can be regarded as forerunners of ALMP (cf. Barbier et al. 2006, p. 206).

3.1. The weaknesses of the “misfit model”

In recent years the “misfit-model” has become the predominating theoretical approach for the explanation of EU-induced change of national policies (cf. Börzel and Risse 2000; Risse et al. 2001; Héritier 2001; Meyer and Umbach 2004). Simplifying, one can resume the misfit model as follows: At the superior European level, common rules are set that have to be respected by the lower national level. In case of a misfit (also “mismatch”) between the two spheres of governance, adaptational pressures on the inferior national level arise. These adaptational pressures are then transposed into national policies, depending on a certain set of mediating factors⁸. At a first glance, this theory seems plausible. However, I find that it can not be applied to the special conditions of the OMC.

The inappropriateness of the misfit model refers to three important shortcomings. First, on the *strategic dimension* the misfit theory is based on the assumption that the EU disposes of powerful European institutions that can enforce the transposition of superior EU-law into national policies. „*Adaptational pressures are created by the fact (...) that the EU member states have no exit option given that EU-law constitutes the law of the land.*” (Börzel and Risse 2000, p. 5). This may be true for the hierarchic processes of “vertical Europeanization”, where the Commission monitors member states’ policies and, if necessary, sanctions the laggards among the member states (for example in the case of the Stability and Growth Pact), whereas the European Court of Justice decides on the interpretation of EU-law. However the EES/OMC does not dispose of such a “*clear, vertical, chain-of-command, in which EU policy descends from Brussels into member states.*” (Bulmer and Radaelli 2004, p. 9). The Commission lacks formal sanctioning powers and the ECJ has no jurisdiction competences in the OMC processes. Thus, a real potential of threat necessary for adaptational pressures can barely be claimed.

Second, on the *normative dimension* the misfit theory presupposes a clear, precise model of appropriate acting, against which national policies can be assessed. Again, the theory proves to be too much orientated towards classical EU governance. The traditional regulations and directives do indeed leave little or no “room for manoeuvre”, but the EES guidelines form only an abstract template of “good practise”, as described in chapter 2. The guidelines are of a comparatively general nature, open for interpretation and compatible with very different national policy approaches (cf. Barbier et al. 2006; Rubery 2002 and 2005 on

⁸ According to Börzel and Risse (2000), these mediating factors are: multiple veto points, supporting formal institutions, norm entrepreneurs, and a cooperative political culture.

Gender Mainstreaming; Eichhorst and Rhein 2005 on Active Ageing). On the one hand, this openness is a precondition for a European dimension in sensitive policy fields (see chapter 1), but on the other hand it means that the adaptational pressures emanating from the guidelines will not attain the same strength as those arising from regulations and directives⁹.

A third limitation of the misfit model can be seen in its relative blindness vis-à-vis transnational learning processes (*cognitive dimension*). Of course, misfit-scholars do not ignore the importance of the cognitive transformation of national policies (f. ex., Börzel and Risse stress the importance of norm entrepreneurs), but their focus is on the national level. A theory of the EES impact on member states has to be adapted to its – at least rhetorically – important mutual learning element.

In conclusion, the misfit theory appears inappropriate for the analysis of the EES, because its assumptions on the strategic (no “vertical chain of command”) and the normative dimension (no clear precise EU code of good acting) are not fulfilled and because it pays insufficient attention to transnational learning processes. In the following chapters I will suggest an alternative analytic frame.

3.2. The normative dimension

The normative dimension refers to socially defined, shared formal and informal rules of appropriate behaviour (March and Olsen 1995). For instance, one might think of commonly agreed, concrete measures in case of high youth unemployment. In the previous chapter I have argued that the EES is only endowed with a very abstract model of what represents good policy. But nevertheless the EES might be influential on this dimension by the so-called “soft pressure”. Soft pressure in the context of the EES is usually divided into peer pressure and public “naming and shaming” (cf. Jacobsson 2004a and b; Jacobsson and Vifell 2004; Buechs 2005; Trubek and Trubek 2005; Govecor 2004a and 2004b; Zeitlin 2005).

Peer pressure is deemed to be effective in small groups of highly professionalized civil servants. Authors claiming the effectiveness of peer pressure argue that in committees such as the “Employment Committee” close and confidential relationships would evolve between their members and common goals would be agreed on. A shared language (“Eurotalk”), a shared knowledge base, “visual artefacts” (graphs), rituals and “ceremonies” would

⁹ Furthermore some of the EES goals are potentially contradictory (f. ex. quantity vs. quality of work, flexibility vs. security; cf. Buechs 2005, p. 46).

strengthen the awareness of a common project¹⁰ (Jacobsson 2004a and 2004b). According to advocates of peer pressure in such a climate a certain competition for the best solutions would arise between the participants and bad performers would run the risk of losing face – this is where peer pressure could be felt.

Peer pressure might be supported by public “naming and shaming”. In this respect, the EES provides for recommendations¹¹ and the country fiches in the Joint Employment Report, which are both negotiated by the Commission and the member states. Naming and shaming shall incite bad performers to increase their efforts and direct their attention to examples of “good practise”.

However, it seems arguable if soft pressure can really have a major impact on national policy making. Politics in modern democracies depend on multiple conditions and complex power relations, whereas soft pressure is basically a micro-sociological phenomenon (Buechs 2005, p. 43). Only if bad performances were accompanied by vivid discussions in national media could one expect a stronger role of soft pressure, but empirical studies (cf. Ardy and Umbach 2004; Govecor 2004b; Meyer 2004) do not point to a continuous media coverage on the EES.

All in all, on the normative dimension *I expect only a limited impact of the EES on national policies. This is due to the abstract and partially contradictory guidelines and the micro-sociological nature of soft pressure, which cannot dominate the national agenda given the complex conditions and power structures of national politics* (first hypothesis).

3.3. The strategic dimension

When talking about the strategic dimension of the EES impact on national policies one has to ask if the EES constitutes a structure of opportunities and constraints that may be exploited by participating actors for their goals. These actors are behaving rationally and calculate the possible outcomes of their actions - March and Olsen 1995 speak of a “*logic of consequentialism*”. They dispose of certain resources (money and power) and may try to use the EES for a “*redistribution of resources*” (Börzel and Risse 2000) in their favour. In the following, I would like to discuss three possible ways of the EES impact on this strategic dimension: First, the Brussels arena with the Commission and the member states as most important actors deserves attention. Second, the European Social Fund may serve as a

¹⁰ In the case of the EES the Lisbon Strategy of 2000 can be regarded as the common ground.

“carrot” for national policy makers to implement the goals of the EES. Third, the EES can be conceived as a legitimising source that actors can draw on to gain ground in political debates.

Concerning *the power relations in Brussels* one has to remember first of all that the Commission does not dispose of legal sanctions in case of member states’ failures. Nevertheless EU history has shown that the Commission has often succeeded in acquiring additional competences from the member states (for instance by white papers) and that it sometimes has widened its room for manoeuvre by a very broad interpretation of the treaty provisions. Similarly, in the case of the EES it would be possible that the Commission tries to strengthen its position vis-à-vis the member states by new initiatives. The member states on the other side will tend to prevent such attempts *collectively* in order to remain autonomous in their decisions. *Individually*, the member states will try to sway the EES in a favourable manner for their national policy legacies. Given the persisting diversity of national welfare states, bargaining between the governments and coalition-building may occur. Furthermore, in the bilateral negotiations¹² with the Commission the member states will aim at modifying very negative assessments of their policies in order to avoid a national exploitation of such criticisms. Altogether I assume that the national governments will remain the most powerful actors in the Brussels arena.

Second, the EES guidelines might impact on national policies via the financial instrument ESF. In 1999, the European Council of Berlin decided that the ESF funds should be allocated only in accordance with the goals of the EES. However, it is arguable, how strong this coupling between the two policy instruments actually is. Only the ESF community initiatives such as EQUAL and the “innovative measures” – according to Hartwig (2002, p.8) about 5% of the global ESF-budget – are administrated independently by the Commission, whereas the allocation of the ESF mainstream funds are subject to complicated power and exchange relations between the Commission, the national governments and the regional authorities¹³. Hence it can be assumed that the interpretation of what projects are compatible with the EES goals cannot be done solely by the supranational Commission. These doubts about the link of the EES and the ESF are confirmed by the Commission itself. In its proposal for the new ESF programming period 2007-2013 it states, that “*the links between the Community financial instrument and the Union's policy framework need to be reinforced in*

¹¹ „Good“ countries usually get between one and three recommendations, “bad” member states four and more.

¹² These used to take place until recently on the country recommendations and the country fiches of the Joint Employment Report. In 2005, this practise was suspended by the Commission.

the future programming period to better contribute to the employment objectives and targets of the Lisbon strategy.” (European Commission 2004, p. 2). In addition, the ESF resources are relatively small compared to national labour market budgets¹⁴. To sum up, I expect an only moderate influence of the EES on national policies via its financial instrument ESF.

A *third way* of influence on the strategic dimension may be a “leverage effect” (Zeitlin 2005; p. 480) on domestic actors who refer to the EES in order to strengthen their position vis-à-vis their opponents. The government may legitimise new initiatives pointing at the EES (“blame sharing”), and the opposition, the social partners or regional actors may back up their criticism of governmental measures with the EES guidelines. This might be especially true as the official rhetoric of the Luxemburg Process stresses the high importance of a multi-level and a multi-actor governance. The Commission has repeatedly underlined the crucial role of the sub-national actors for the implementation of the EES¹⁵. Furthermore, the EES is conceived of as a *horizontal* strategy, which means that ideally not only the traditional labour ministries should be in charge of the employment policy, but also all other ministries relevant in the policy area should act jointly. This could lead to a stronger role of formally marginalised ministries such as the education ministries or the ministries for women. Zeitlin (2005, p. 480) claims that such leverage effects are „*probably the strongest and most effective mechanism of domestic influence*“. However, leverage effects depend crucially on the public perceptiveness of the EES. Only if the EES forms an integral part of the national political life, the national actors would relate to it for their purposes. Given the almost nonexistent media coverage on the EES, one can doubt whether EES documents (and most importantly the NAPs) are really integrated in national policy making processes.

All in all, *with respect to the strategic dimension of influence I expect only minor effects of the EES on national policies. In the Brussels arena the national governments will remain the most powerful actors and control the process; the ESF funds are of a comparatively small amount and their allocation is subject to complicated power and*

¹³ See the programming chart of the Commission: http://ec.europa.eu/employment_social/esf2000/flowchart_en.html, 26.7.2006.

¹⁴ According to the Commission, 10 billion € are distributed annually among the member states (http://ec.europa.eu/employment_social/esf2000/faqs_en.html#q6, 27.7.2006). The new conservative-social democratic government in Germany calculates a 38,7 billions € budget for labour market policies in Germany in 2006 (http://www.bundesfinanzministerium.de/lang_de/DE/Aktuelles/Monatsbericht_des_BMF/2006/05/060519agmb005.templateId=raw,property=publicationFile.pdf, 27.7.2006)

¹⁵ See for instance the communications “*Strengthening the local dimension of the European Employment Strategy*” (European Commission 2001) and “*Acting locally for employment. A local dimension for the European Employment Strategy*” (European Commission 2000).

exchange relations; and last but not least, the EES does not appear as a rewarding reference point for domestic actors (second hypothesis).

3.4. The cognitive dimension

The cognitive dimension of the EES influence on member states' policies refers to changes of sets of beliefs. In such a perspective, "reality constructions" encompassing the central challenges of today's employment policies, perceptions of interactions between relevant variables and possible solutions for existing problems would alter through the EES. From this point of view, policy changes do not result from rules of appropriate behaviour (normative dimension) or from a redistribution of resources (strategic dimension), but from cognitive transformations.

Many scholars stress the potential of the EES on this dimension of influence¹⁶. I suggest to analyse the cognitive transformation in two ways: On the one hand, one can discuss the EES as an institutional setting for the systematic search of "good practise" and the diffusion of information between the member states. On the other hand, the EES can be conceived of as a professionalized discourse arena which favours an "ideational convergence" amongst the participating actors.

Claudio Radaelli (2003, p. 9) states that the EES works like a "*radar searching for solutions and new usable knowledge*". The Commission characterises the Luxemburg Process as "*a natural laboratory for policy experimentation*" (European Commission DG EMPL 2002, p. 37). Both statements point to the importance that many scholars and at least some politicians assign to what is usually referred to as "*mutual learning processes*"¹⁷. The EES disposes of various instruments that are deemed to enhance the knowledge base on existing employment policy measures in Europe. Amongst them are: the joint writing of the annual Employment Reports; the "peer reviews", that deal with the working, the effects and the transferability of selected national measures; the "Cambridge Processes" in the Employment Committee, where two member states mutually examine their National Action Plans (NAPs).

At large, these instruments favour what Bernhard (2005) calls "decontextualisation". The participating actors are reflecting common problems detached from their usual context

¹⁶ See for instance: Jacobsson 2004a and 2004b; Jacobsson and Vifell 2004; Barbier 2004; Barbier and Sylla 2001; Bernhard 2005; Mosher and Trubek 2003; Radaelli 2003; Trubek and Trubek 2005; Zeitlin 2005; Govecor 2004a and 2004b; Buechs 2005; Nedergaard 2005; Meyer 2003; Hodson and Maher 2001.

and may thus pass over previously taken-for-granted limits of reasoning (ibid., p. 49). However, it is arguable if the exchange of good practices actually results in a direct transfer of policy instruments from one country to another. Given the long standing differences of state traditions, industrial relations, and - not to forget - welfare state traditions, it is more likely that countries receive inspiration from other member states' good practices and accordingly conceive their own national implementations, rather than copying other member states solutions (Dolowitz and March 2000).

The *second aspect* of the cognitive dimension of influence deals with the *socialisation of actors in deliberative committees*¹⁸. Such deliberative committees are thought to be based on “arguing” rather than “bargaining”: Not the relative size, history or power of the represented member state determine the status of a committee member but his ability to convince his peers by arguing¹⁹. The obligation to give reasons for proposals would in the end produce a consensus which is not due to strategic considerations but to a inter-subjective recognition of claims. Deliberative committees “construct” a new cognitive “matrix” that becomes relevant for future actions of the committee members.

Many authors have highlighted the supposed discursive transformation of national policies through the EES and the OMC, referring to them as „*deliberative governance*“ (Jacobsson and Vifell 2004), „*reflexive governance*“ (DeSchutter and Deakin 2005) or „*deliberative supranationalism*“ (Govecor 2004; Hodson and Maher 2001). If this is true, the EES would have to be endowed with sufficient space for open discussions based on mutual understanding rather than power relations. Some *context factors* may affect the discursive transformation of national politics. *First, basic preconditions* for deliberation processes must be fulfilled. Above all, this argument relates to time. Overloading the Employment Committee with bureaucratic reporting obligations would not enable an “*ideal speech situation*”, nor would restricted time tables. Rare meetings of the committee would interfere with the emergence of an “epistemic community” (Haas 1992). *Second, deliberative processes* depend crucially on the degree of “de-politicization”. Only if committee meetings are relatively free from political combats and bargaining, open-minded discourses will evolve (Jacobsson and Vifell 2004, p. 7). In this respect, the unbinding character of the EES guidelines clearly appears favourable to “domination-free” discourses in the Habermasian

¹⁷ This expression stems from the Conclusions of the Lisbon Council of 2000.

¹⁸ Cf. Joerges and Neyer 1997 on comitology in general; Jacobsson 2004a and 2004b; Jacobsson and Vifell 2004; Barbier 2004; Barbier and Sylla 2001; Zeitlin 2005; Nedergaard 2005; Govecor 2004a and 2004b; Radaelli 2003

tradition. Furthermore, the “*micro-orientation*” (Radaelli 2003, p. 20) of the EES may facilitate deliberative discussions. Singular policy problems are “de-coupled” from ideological backgrounds. The “*micro-orientation breaks down political complexities into smaller compounds that are more manageable.*” (ibid.). Finally, the Luxemburg process and the Lisbon Strategy include long-term and intermediate goals, which makes them less susceptible to political day-to-day fights. Under these circumstances, policy actors may work out solutions for the European labour markets on a regular and professional basis (Goetschy 2003, p.73).

However, even if the EES seems to be favourable to a discursive transformation of national policies, one should not overestimate the cognitive impact of the EES on member states’ policies. Historically grown, taken-for-granted assumptions on the reality are not likely to be replaced from one year to another by a new, shared European approach of employment policy. From my point of view, slow adaptation processes are more likely. Cognitive influence will resemble the model of a “*long and vulnerable implementation chain*” (Jacobsson 2004b, p. 99-100) rather than a spontaneous “domino-effect”.

Nevertheless, concluding this chapter *I suppose that the EES has its largest potential on the cognitive dimension of influence. The EES functions as a sort of “radar” that systematically searches and spreads best practise around Europe. Furthermore, I expect that the EES leaves enough room for open-minded debates favouring a discursive transformation of policy making.* (third hypothesis).

In the following three chapters the above formulated hypothesis on the normative, cognitive and strategic dimension of influence shall be examined in the light of the empirical data resulting from 18 non-standardised interviews. In chapter 7 I will illustrate my findings by an analysis of the impact of four central EES-concepts (“Gender Mainstreaming”, “Flexicurity”, active and preventive labour market policies and “Active Ageing”) on France and Germany.

4. The normative dimension of influence

Following the structure of chapter 3.2, in this chapter I will first examine the normative regulation through the EES guidelines and then assess the importance of “soft pressure”. As

¹⁹ Explicitly or implicitly all authors discussing the discursive transformation of national policies refer to Habermas’ (1981) ideal type of “communicative action”.

in the following chapters, I will not devise completely separate arguments for France and Germany, because most of the findings can be claimed for both of the countries.

There is much evidence that the EES guidelines form a kind of “*policy for all seasons*” (Visser 2004, p. 6), allowing the member states’ governments to focus on certain aspects of the EES, along with their respective policy approaches. The guidelines are referred to as “*broad and abstract fields of action*” (a representative of the Bavarian STMAS) or “*buzzwords that have (...) to be fed with national policies*” (a BDA representative). The actual implementation of EU employment policy depends on the governments:

“If I take the flexibility example, the French until recently adopted this to a very large extent – the previous government in any case – as reduction of working time. This was not advocated in any way by the European level, it was just the French interpreting flexibility applying the request of flexibility to their national situation. Since we have the present government, this has totally gone. Flexibility is now something completely different. (...) Previously there was no way that this was going to be interpreted as: We need to look at labour law again and we need to make hiring and firing more easy. But this is what the French government is now doing (...). If you look at a NAP under the last socialist government and then at the second one of the new government, it’s totally different. If you didn’t put the country on it, you would not necessarily say that it’s the same country.” (A Commission officer)

Referring to this vague nature of the EES guidelines, a representative of the French union CGT stresses that the Luxemburg process was not good or bad per se. In her opinion, the EES is “*a tool that can be used from one or another perspective. It depends on who is influencing the tool and who is handling it*”. A MEDEF representative agrees with this description of the normative regulation:

“The contents are formulated in a way that everyone can agree on them. Everyone is for ‘Active Ageing’. Everyone is for the re-integration of the young. Everyone deems the entrepreneurship important etc., so there is nothing contentious in them. Bearing this in mind, one can already imagine the impact of the EES on the national level.” (A MEDEF representative)

Altogether, compared to the traditional EU directives and regulations, the EES guidelines seem to direct member states’ policies only at a very general level. They leave much room for national interpretation and produces only minor “*adaptational pressures*”. Can “*soft pressure*” compensate for this weakness of the EES?

My empirical findings confirm the results of Jacobsson and Vifell (2004) who argue that soft pressure is indeed relevant for national policy making²⁰. This is especially true for *peer pressure*. Even though its importance should not be over-estimated, peer pressure seems

to be an invisible, but always present companion of national actors. According to a Commission officer, EMCO-members from weak-performing member states feel a need to justify the bad outcomes of their policies:

“Peer pressure does really exist and I think even more than some people would have admitted before the OMC was being applied. (...) I have never seen a delegation that was not annoyed by performing badly and being seen to perform badly by the other member states. For example in EMCO (...) they [the delegations, A.H.] will try to say that the goals or the targets are to assess within two years so these results are very intermediate. They do not like it and it exists [the peer pressure, A.H.]. And it is very good, that it exists, it’s one of the strengths of the OMC.” (A Commission officer)

One should not imagine peer pressure as openly expressed criticisms between member states. Peer pressure resembles more a self-motivated will to improve the own performance compared to the peers. *“If you had to admit this [bad policy outcomes; A.H.] in a forum like this [EMCO, A.H.] (...) and if you said that it would perhaps be better in 9-month-time, but then, when you go again to that meeting and it hasn’t improved (...), that’s where the peer pressure is.”* (a Commission officer).

Public *naming and shaming* seems to be a way of supporting peer pressure in its effectiveness. According to a SGCI representative the high sensibility of governments towards the recommendations is an indicator for the existence of peer pressure:

“If peer pressure did not exist, member states could actually make fun of the recommendations. However, one can observe that member states pay an almost spasmodic attention to them. They go through them with a fine-tooth comb, they - negotiate the wording. (...) One knows that good member states get two or three recommendations, and bad ones five or six.”
(A SGCI representative)

The distinction between “good” and “bad” member states is based on the measurement of policies by indicators and quantitative objectives. This *focus on policy outcomes* rather than distinctive policy measures seems to be of key importance for the effectiveness of the EES. A representative of the German BMFSFJ supposes that EES documents and guidelines were not even decisive for the functioning of the EES, *“but rather singular, real evaluations that reveal how far Germany has fallen behind”*. Figures are easy to remember and to visualize in graphs or tables. That’s why they incite policy makers to increase their efforts (cf. de la Porte 2002, p. 43; de la Porte et al. 2001, p. 295):

²⁰ The authors cite two interviewees who claimed that „*peer pressure feels*“ and that „*one does not want to be the worst one in the class.*“ (Jacobsson and Vifell 2004, p. 20).

“At least 85% of the youth [measured as a share of the 22-years old, A.H.] shall achieve a secondary level degree. This [objective; A.H.] was negotiated for the EU as a whole (...), but in the end every member state says to himself: I have to achieve at least the 85%. (...) I think this works as pressure, even if it is not made explicit, everyone keeps that in mind.” (A MENESR representative)

It has become clear at this stage that soft pressure does indeed exist and that it is at least not irrelevant for national policy making. Yet, the role of peer pressure and public naming and shaming is not of major importance when it comes to implementing reforms. Soft pressure does certainly not trigger reforms, it is just a catalyst of policy changes. This appraisal is confirmed by the following statements:

“I think one should not attribute more importance [to the soft pressure; A.H.] (...) than it actually has. It does not have a very strong effect. It’s a little bit annoying, when you have an article in the national press reporting that you were badly ranked. (...) The ministers don’t like that at all. (...) So, there is some stimulation through peer pressure, but not an enormous one.” (A SGCI representative)

“You are definitely aware that something has to be done. But the pressure is not so strong that you say: ‘We have to change immediately our law’. That would be an exaggeration.” (A BMWA representative)

All in all, one can say that my hypothesis of chapter 3.2 is confirmed by empirical evidence. The normative regulation through the guidelines is at best moderate, with their interpretation lying at the national level. Soft pressure may boost reform efforts, but it will rarely set the ball rolling. My data suggest rather that national factors are more important for the planning and the implementation of policy changes.

5. The strategic dimension of influence

The aim of this chapter is to examine the theoretical assumptions on the strategic dimension (see chapter 3.3). I will first assess the *Brussels arena*, with the Commission and the national governments being the main actors (5.1). Thereafter I will analyse, if national actors refer to the EES in order to back up their standpoints (5.2) and if the EES plays a prominent role in national policy making via its financial instrument ESF (5.3).

5.1. The power relations in the Brussels arena

My empirical data indicate that member states' governments remain the dominating actors in employment policy. This appraisal can be illustrated in a threefold analysis: Collectively, the member states succeed in controlling the Commission's attempts to increase its influence on national policies. Individually, the governments successfully water down any too negative evaluations of their policies, because these could be exploited by the national opposition or other domestic actors. Finally, when it comes to adopting guidelines or indicators, the governments pay high attention to the compatibility with national priorities and traditions. Classical coalition building of member states and "package deals" are likely to occur.

In spite of its comparatively weak position defined in the treaty, the Commission has tried to enlarge its relative power vis-à-vis the governments. My interviewees reported on two examples of such power expansion attempts of the Commission. First, in 2000 the Commission published the recommendations to the member states without having communicated them to the governments before. This proceeding was regarded as a betrayal of confidence by the member states and met their fierce opposition. The governments feared that negative assessments might be exploited by the national opposition and the media. As a result, the following year the Commission refrained from pre-publishing the recommendations package.

Second, in the course of the reorganisation of the EES guidelines in 2003, the Commission aimed at quantifying the goals as much as possible. This would have meant a higher transparency of policy outcomes and could also have served the purposes of competing national actors²¹. *"In our current situation it is very problematic to fix [quantified; A.H.] goals."* (A BMW representative). In order to narrow the Commission's power some member states (among them France, Germany, the UK and Italy) held informal meetings before the official EMCO negotiations in order to find a concerted position. *"The Commission tried to gain much more influence on the member states. We have jointly opposed this [plan; A.H.] and were very successful in doing so."* (a BMW representative). As a SGCI officer puts it, this conflict resembled a lot the classical debate of intergovernmentalism versus communitarism. *"Without any doubt we had in mind that we shouldn't leave the field clear for the Commission."* These examples show that, if necessary, member states are capable of

²¹ Some of my interviewees explained their reluctance to more quantified indicators and goals with the blindness of statistics for national circumstances. Even though this may be generally true, this reason is likely to be a pretext rather than a real obstacle.

hindering the Commission from grasping more power. The Commission itself seems to be very conscious of its limited power. A Commission officer acknowledges the superiority of the member states who “*have acted unanimously*”.

Member states’ “ownership” of the EES also proved true for the *bilateral meetings* between the national delegations²² and the Commission, where the “country fiches” and the recommendations were negotiated²³. Governments tried to minimise negative assessments of their policies, whereas the Commission adopted the role of the “devil’s advocate” in order to enhance governments’ reform will. In case of disagreements, the two parties tried to find formulations that were acceptable to both of them (“wording”):

“[In the bilateral meetings; A.H.] we try to reach agreements with the Commission on, let’s say, trenchant formulations, misinterpretations, exaggerations, and we try to modify politically unpopular contents. Hence, if the Commission says that we should provide more child care facilities, we struggle for the formulation ‘Germany shall continue expanding its child care facilities’ in order to make clear: We have already made some efforts, we just have to increase them. This sounds somehow different than: ‘We finally have to start moving things’. (...) And it’s like always in negotiations: If you have five proposals for amendments, two or three get through and two or three do not.”
(A StV officer)

A Commission officer remembers tough discussions with the French delegation on a very unfavourable figure (for the French) that she finally had to leave out of the French JER Chapter:

“I absolutely wanted it in there to show how bad it was. I must say they had arguments...(...) I mean, my director general (...) may insist on a number of things, but ultimately you need to reach consensus on the text because it’s a Joint Employment Report.” (A Commission officer)

To sum up, both the French and German delegations seem to succeed in watering down negative assessments of their policies. Thus, potentially strong Commission instruments like recommendations lose much of their force. As a result, member states’ governments remain relatively autonomous in their decisions. The Commission can and will of course try to incite policy changes, but in the end it has to acknowledge its limited power:

“At one point the member state is still autonomous on its policy - it’s still member state competence and not community competence. I think it’s fair to say that you talk about disciplines where you reach the limit of the EU-competence, where you have to admit that the member state determines and sees it fit that this is the best policy given the

²² These are composed by representatives of ministries and, depending on the country (e.g. in the case of Germany), of social partners.

²³ As already mentioned before, these bilateral meetings have meanwhile been abolished unilaterally by the Commission.

*national circumstances. The Commission disagrees, but that's it.*²⁴ (A Commission officer)

So far I have shown in this chapter that France and Germany are most of the time – collectively or individually - successful in fighting attempts of the Commission to gain more influence on national policies. Even though member states sometimes jointly oppose Commission proposals, this does not exclude profound cleavages *between governments*, when it comes to adopting a new guidelines package. For instance, this was the case in 2003:

“There were on the one hand countries who desired a strong rationalisation [the UK, the Netherlands, Denmark; A.H.] (...), who found that the EES was too sluggish and too bureaucratic. They thought that the EES was too indeterminate and that it encompassed too many guidelines. (...) They really advocated a restriction on the essential, with some few priorities [among others: making work pay, increasing the employment rates; A.H.]. On the other hand, there were countries like France, but in a way also Germany, Portugal, Sweden and Belgium who claimed that the EES should remain balanced, that the different aspects of employment policy should be taken into account.” (A SGCI representative)

Given the large variety of welfare state types, industrial relations and underlying philosophies, these differing approaches are not surprising. The described country division in 2003 may reflect the different employment policy traditions in Europe: On the one hand, countries with flexible, highly inclusive labour markets (the UK, Denmark, the Netherlands); on the other hand countries such as Germany, France and Belgium with traditionally less dynamic and strongly regulated labour markets²⁵. My empirical data reveal that in case of such disagreements typical coalition building and so-called “package deals” are likely to happen, just like intergovernmentalism literature suggests. For instance, the first guidelines in 1997 resulted from a compromise between Anglo-Saxon and Scandinavian ideas (Bertozzi and Bonoli 2002). Similarly, for the EES-relaunch in 2003, elements of the opposed “camps” were brought together. *“In my opinion, the EES resembles a puzzle of different components that are mostly nationally determined and that are put together in Brussels to a so-called ‘strategy’.”* (A DGB representative). In the end, this “hotchpotch” can more or less be accepted by everyone and governments implement the EES according to their national priorities (see the chapter on normative regulation).

²⁴ The following – slightly provocative - statement shows that governments are very conscious of their strength: *“What is it meant for, this bilateral meeting with the Commission? Is this an oral exam? (...) Is it us telling the Commission ‘You have not understood, what we wrote!’ (...) or is it the Commission asking us questions and pretending that we were passing an oral exam?”* (A SGCI representative).

²⁵ The guidelines on „quality of the work“ constitute somehow a counterweight to this priority of “more jobs” and is due to French engagements (cf. Raveaud 2001, p. 37).

In conclusion one can say that member states governments apparently do not lose much of their autonomy in the Brussels arena. Empirical evidence suggests that they mostly manage to control the EU processes and to make them compatible with national priorities.

5.2. Do national actors refer to the EES?

A second interesting topic concerning the strategic dimension of influence is the question whether national actors draw on the EES to back up their arguments in national debates. My findings on the situation in France and Germany indicate that the EES serves only rarely as a reference point in domestic disputes. I claim that this is due to the status of the EES in national politics. The former NAPs (meantime replaced by the more global “National Reform Plans”) were too much locked in bureaucratic routines and resembled too much a *report* rather than a strategic *plan*.

In some cases the EES may indeed give some more clouts to domestic actors in national political debates. A DGB representative admits, “*that we search for the parts of the EES that correspond to our position and say: ‘Look, in Brussels they advocate the same things, why does this not work in Germany?’*”. Yet, the EES doesn’t seem to be a really strong support for one’s position: “*You can sometimes rely on the Commission to back up your own concerns, and this is definitely happening from time to time in inter-ministerial affairs. (...) But the fact that ‘Europe’ postulates the same thing than you is certainly not a decisive point*” (a BMFSFJ representative).

The EES could be more decisive, if it was a truly integrated part of France’ and Germany’s political life²⁶. However, the NAPs, being the formerly most important national EES documents, were largely backward looking *reports* rather than strategic *action plans* for the future. The NAPs were drawn up by mostly apolitical ministry officials in collaboration with some social partners experts and - in the case of Germany – with staff of the *Länder* and the municipalities²⁷. The NAP production was at large a routinised bureaucratic exercise or, in the words of Buechs, part of the “*normal day-to-day (...) work*” (ibid., p. 149). It gave only rarely rise to “powering” between the involved actors. The following citations give an idea of the NAP status:

²⁶ My statements refer to the EES as it was before the revamp of the Lisbon Strategy in 2005. I am unable to say if its role has changed meanwhile.

²⁷ For a more detailed description of the drawing up of German NAPs see Thiel (2004) and Buechs (2005).

“We look what was written down the years ago and check if something has changed since then.” (A MINEFI representative)

“You have one week to write something down. Consequently, [the drawing up of NAPs; A.H.] is lacking strategic elements. (...) I have the impression that we make it [the NAP; A.H.], because it is necessary. But I doubt whether it has the character of a government declaration. (...) If it had a higher importance, it could not be left to some ministry departments, but it would be a matter of real governmental acting.” (A STMAS representative)

“If the Commission asks us: ‘What’s your position concerning those points?’, it is important for us, that we can point at any time to our NAP contribution and that we have somehow done our part.” (A BDA representative)

So far one can conclude that neither in Germany nor in France the NAPs represented documents of political top priority. The NAPs were more or less drawn up in response to the treaty provisions. As the NAPs only rarely described future actions but mostly explained measures that had already been taken in the past²⁸, the collaboration between the involved actors was most of the time professional, unproblematic and hardly ideological. *“One does not want to get on each other’s nerves.”* (A BMFSFJ representative).

This low “politicization” of the EES in both countries becomes even more evident if one looks at the role of the EES in national parliaments. Two French interviewees even report that lately the NAPs were not sent any more to the *Assemblée Nationale*. This might partly be due to the *“absurd timetable”* and the *“crazy deadlines”* (a SGCI representative) that came along with the streamlining of the various policy coordination processes (since 2004). However, if the NAPs had really been documents of major political importance they could not have taken their silent way from Paris to Brussels without the fierce contestation of Parliament and public. In the German *Bundestag* the NAPs weren’t *“an important point of discussion”* (Buechs 2005, p. 156), either. In some years the NAPs were not discussed at all in the plenary, whereas in others parliament simply *“took notice”* of them. At best, the NAPs were mentioned together with other documents (cf. *ibid.*; Buechs and Friedrich 2005, p. 256). The Committee for European Affairs seems to have attached the same importance to the NAPs as to many unnecessary documents coming from Brussels²⁹. Mostly it *“took notice of*

²⁸ The degree of politicization may have been slightly higher in France than in Germany. A SGCI officer insists that ultimately “Matignon”, i.e. the Prime Minister’s administration, intervened in the process. However, this is contested by her colleague of the ministry of education who claims that in contrast to former years no more inter-ministerial meetings on the NAPs were held and that the Prime Minister was no more involved in the EES.

²⁹ A DGB representative and former member of Parliament remembers the uselessness of many documents emanating from Brussels: *“Sometimes there are coming papers, that’s unbelievable. For*

them without debating them”, as a DGB representative reports. In the *Länder-chamber Bundesrat* the NAPs were mostly discussed in the committees and only rarely (at the request of one Land) in the plenary (Buechs 2005, p. 153-56). When it occurred, this was indeed a good opportunity for government bashing (a BMFSFJ officer), but still not comparable to disputes on singular, highly controversial topics.

To sum up, empirical evidence suggests that the “*leverage effect*” (Zeitlin 2005) through the EES was at best moderate in France and Germany. This is due to the backward-looking character of the NAPs, which mostly reported on measures already taken in the past rather than presenting future strategies of action. As a consequence, the drawing-up of NAPs was at large a bureaucratic exercise that did not give rise to severe conflicts of interests. Furthermore, the low importance of the NAPs for current and future policy making resulted in a wide-spread ignorance of parliaments and the public vis-à-vis the EES. All in all, for domestic actors it was not really rewarding to refer to the EES in order to gain ground in national debates.

5.3. Did the EES impact on France and Germany via the ESF?

Following my reasoning in chapter 3.3, a third way of EES influence on the strategic dimension may be an impact via its financial instrument ESF. Unfortunately, my empirical data on this question are quite limited³⁰. Furthermore, the involvement of many actors on all levels makes an appraisal of this issue difficult. “*The situation of ESF- (...) implementation at the local level is so complex that a more detailed analysis would require a further study.*” (Buechs 2005, p. 119). Consequently, my findings have to be interpreted with caution.

Yet, some preliminary statements on the importance of the ESF can be done. My empirical data (and other studies) point indeed to a considerable influence of the EES via its financial instrument ESF. „*ESF funding provides an incentive to adopt (...) policy measures in line with the EES that should not be underestimated.*” (Buechs and Friedrich 2005, p. 281). This is particularly true for the German *Länder*, which sometimes finance up to 90% of their labour market programmes with ESF funding (a BMFSFJ representative; cf. Buechs 2005, p. 121 and Buechs and Friedrich 2005, p. 259). Thus a Bavarian officer claims that the ESF is

instance, we had to deal with Commission proposals (...), although these proposals were already about to be adopted by the Council.”

³⁰

This is due to restrictions of time and financial resources. In Germany I could conduct only one interview with a *Länder* representative (Bavaria), in France not even one. Generally, hardly 10 minutes per interview were spent on the issue ESF.

“the material (...) realisation of the EES, because this programme is adjusted to the EES. (...) In my opinion,(...) this is how the Commission can take influence. Real influence! All the rest is voluntary political compliance.” (A STMAS representative)

As far as France is concerned, a CFDT representative states that the EES has become more prominent on the regional and local level through the ESF “*irrigation*”. Also, a MENESR officer confirms that *“our interest in the NAP has quite closely been linked to our will to acquire European [ESF; A.H.] funds.”*

In addition, it seems that the ESF sometimes influences national policies “through the backdoor”. Thus a Commission officer reports that some contents of the German Hartz III and IV reforms can be related to former pioneer projects at the Länder level that were co-funded by the ESF.

Altogether, it is surely not wrong to assume a certain impact of the EES on national policies via the ESF. It’s not surprising that the Commission regards it *“a very nice instrument”* (a Commission officer)³¹. Still, one should not overestimate the ESF “stamp” on national policies. Several aspects restrict the potential impact of the ESF. First of all, when talking about ESF funds, one should keep in mind the comparatively small amounts of means (see also chapter 3.3). ESF funding is conceived of as an *additional* financial instrument. *“It [the ESF; A.H.] supports additional projects, it can be innovative. Things that cannot be done with the mainstream and the legislation. And it can be a supplement, where we lack sufficient action.”* (a STMAS representative).

Apart from this quantitative limitation, the ESF impact is diminished by a second, qualitative limitation. The Commission can only influence the basic “Community Support Framework” and the “Operational Programmes”, but not the concrete spending of structural fund money, which is up to regional authorities:

“It is not defined in advance which kind of measures will be supported through the structural funds. This also means that it is not the EU level (e.g. the EU Commission) that can decide on the kind of projects to be supported by structural fund money. Since the structural fund objectives that are connected to the EES are formulated relatively broadly, these objectives must be applied and interpreted at the local level which restricts the influence of the EU to support particular labour market policy projects or programmes.” (Buechs 2005, p. 119)

Finally, the differing timetables of ESF and EES impede a closer link between the two instruments and thus restrict the EES influence on national policy making, too. On the one

³¹ This instrument may even become „nicer“ for the Commission with the new funding period 2007-13: *„Very profound action that will be eligible will need to fit into the EES (...), which gives the EC also a bit more clouts.“* (a Commission officer).

hand, the EES guidelines have undergone several significant changes since their first announcement, in 2003 and 2005 even major shifts. On the other hand, ESF programming is fixed for a 7-years-period and can't be annually adapted to changing EES guidelines (cf. Hartwig 2002, p. 7; Nauertz 2004, p. 35). A BMFSFJ representative reports on the case of Schleswig-Holstein, where 80-90% of the ESF-means are designated to long-term projects and only a small part can be varied, e.g. for innovative measures. *“You can't expect them to adjust their funding annually depending on new guidelines and recommendations from Brussels.”* (A BMFSFJ representative).

All in all, one can conclude that the EES impact on national policies via its financial instrument ESF is certainly not negligible, especially at the regional level. However, the comparatively small ESF amounts, the “regional ownership” of the means' allocation and the differing timetables restrict the EES influence through the ESF.

Coming back to my initially formulated hypothesis (see chapter 3.3), one can say that it has largely been confirmed by empirical evidence. In the Brussels arena the French and German government have lost only little of their decision taking capacity. On the national level, the EES, with its mostly backward-looking NAPs, proved to be too bureaucratic and irrelevant for the current political life in France and Germany, resulting in only a few attempts of domestic actors to use the EES as a “leverage effect”. Finally, due to the limitations described in this chapter, the ESF supports only partially the implementation of EES guidelines in national policies. In the next chapter I will analyse whether the EES induced cognitive transformations at the national level.

6. The cognitive dimension of EES influence

In chapter 3.4 I have supposed that the highest potential of EES influence lies on the cognitive dimension. As I will show in this chapter, this assumption proves only partly true. Whereas I could indeed find a significant impact on national policies through socialisation processes (chapter 6.2), the EES “radar” instruments did not fully correspond to the theoretical promises (chapter 6.1). However, the EES impact on the cognitive dimension is most importantly restricted by the low participation of actors and the diffusion of EES knowledge (chapter 6.3).

6.1. Achievements and limitations of the “radar” EES

Without any doubt the “radar” functions of the EES have contributed to a better mutual knowledge on employment policies across the EU. This can be claimed above all for a small number of “best practise” examples that my interviewees repeatedly referred to. Among them are e.g. the Finnish approach of Active Ageing, the Danish Flexicurity concept combining low employment protection with high quality welfare state provisions, the British Jobcentres that proved very successful in quickly re-placing unemployed workers in new jobs and the “Dutch miracle” concerning part-time employment.

However, my interviews also revealed that the importance of mutual learning processes through the EES should not be overestimated. The EES role has to be relativised for three reasons. *First*, the increased mutual knowledge on each other’s employment policies is not only due to the exchanges within the EES, but also to a generally higher bias of looking abroad. Thus several interviewees remember that both the French and German employment ministers visited other EU countries (e.g. the UK, Denmark and Spain) in order to get a closer insight of their policies (see also Zeitlin 2005; p. 471). Furthermore, a MINEF representative reports that he conducted studies on the Spanish and Danish labour markets, independently from EES structures: “*We continuously observe the reforms of our big European partners. (...) The aim is to draw systematically conclusions for France.*” Consequently, the exchange of good practices can not only be ascribed to the EES, even though it is, in the words of a MEDEF representative, still “*a big inflow*” into national policy thinking. With regard to the provision of information, the OECD “Employment Outlook” is often cited as an important alternative source of information. Three interviewees deem this publication very important for their work because of its systematic, encompassing and recurring cross-country studies on selected topics. Compared to the EES, the Employment Outlook seems to provide a more “scientific” and independent knowledge, as it does not reflect the governments’ opinion (unlike the NAPs and the JER). Thus, according to a BMFSFJ representative, Germany’s efforts to expand its child care facilities are clearly linked to the OECD PISA-study on educational systems. On the other hand, the strength of the EES seems to lie in its regular, routinised structures that keep relevant issues on the agenda.

Second, these basically favourable conditions for mutual learning processes did apparently not help to build up a fully satisfactory “learning environment”. The recent

reforms of the “Peer Review Programme” and of the so-called “Cambridge Processes”³² (in 2004) already indicate that these instruments did not work as expected. Whereas my French interviewees mostly defended these instruments (they called the Cambridge Processes “*useful*” and “*enriching*” [a SGCI officer], and the peer reviews “*a channel of mutual influence*” and “*an important source of learning*” [a MINEF representative]³³), the Germans mostly criticised them³⁴. They deemed the Peer Review Programme “*absolutely ineffective*” (a BMW representative), expressed doubts “*whether this is an appropriate instrument*” and claimed “*a need of reform*” (a BMFSFJ representative). Also the Cambridge Processes seem to have lacked efficiency:

“You have a look at the NAP of another member state and try to ask four, five questions (...). This is certainly not completely useless, but I can’t see a qualitative value added for the EES (...). In my opinion it remains too superficial. [It would require; A.H.] more time than what I have experienced in the Employment Committee: half an hour, three quarters of an hour per country.”
(A StV representative)

With my data these differences between the French and the German appraisals cannot be solidly explained. However, a SGCI representative admits that the French were quite isolated with their support for these widely criticised mutual learning instruments³⁵.

Third, it is important to note that a direct transfer of good practices from one to another member state is not very likely to happen. Mutual learning in the EES framework mostly means inspiring rather than copying. Even those interviewees claiming that the EES was favourable to mutual learning processes could not give a concrete example of policy transfer. Drawing on Casey’s and Gold’s (2004) outcomes, it is fair to assume that this is due to the varying institutional settings across the EU member states. Differing systems of industrial relations (e.g. corporatism vs. etatism), of social security systems (e.g. rules of entitlement) or of political systems (e.g. federalism vs. centralism) may impede a direct transfer of measures.

³² Since then the Cambridge Processes take place in four small working groups. The results stemming from them are afterwards discussed in the plenary (cf. Zeitlin 2005, p. 489). As for the Peer Review Programme, “thematic seminars” on specific topics are now held in Brussels, with participants from all member states and independent experts. These are to be complemented by national “follow up-seminars” (a BMW representative; see also: *ibid.*, p. 489-490).

³³ See also Barbier and Sylla (2001, p. 66-67).

³⁴ See also Zeitlin (2005, p. 474), who states that previously the peer review meetings suffered from their “*show and tell*”-character resembling to a “*beauty-contest*”.

³⁵ Social partners’ COPARSOC project (for a detailed description see EUREXTER [2002]), which is somehow an adaptation of governments’ peer reviews to the social partner concerns, gives rise to mixed statements, too. A CFDT representative found the exchanges with his European counterparts “*extremely interesting*”, but “*nevertheless it was a little bit general. We did not go into details (...). I think Robert Villeneuve [the chief coordinator; A.H.] had a more detailed follow-up in mind, but obviously this did not happen.*”

Reforms depend on the previous national “path”: *“Member States (...) are interested in adapting them [policies; A.H.] to their own circumstances. In most cases, Member States have been inspired by their participation in the peer reviews to develop new initiatives or improve existing ones”* (European Commission DG EMPL 2001, p. 3; found in: Zeitlin 2005, p. 473).

All in all, one can conclude that the EES has certainly contributed to a better understanding of each other’s employment policies. However, the EES is only part of a generally increased interest in the practises of other European states. Furthermore, important mutual learning instruments were criticised as being inefficient. Finally, it should be considered that mutual learning mostly occurred as inspiration rather than copying.

6.2. Does discursive transformation work?

As I have argued in chapter 3.4, discursive transformation depends crucially on the question, if the EES leaves enough room to free deliberation. In this chapter I will first try to answer this question and then assess the degree of “ideational convergence” resulting from free deliberation.

My findings suggest that the EES structures are indeed favourable to free deliberation. At the European level, the Employment Committee (“EMCO”) is an important place for open debates and at the national level the French CDSEI constitutes another relevant “discourse arena”³⁶.

In chapter 5.1 I have described the EMCO as a place where classical coalition building and package deals may occur when it comes to decision taking. However, this is just one side of the medal. Many interviewees have stressed its otherwise barely ideological, confidential and professional atmosphere:

“People know each other, it’s a relatively stable circle of persons, closer personal networks have arisen among the labour markets experts (...). There are controversial and open discussions, in any case no one is reading from previously prepared papers – that’s always a visible indicator for the quality of discussions. All in all (...), compared to other bodies, I deem it relatively open, problem-orientated (...) and unideological.”
(A StV representative)

The EMCO is largely described as a committee, where “puzzling” mostly prevails over “powering” (Heclo 1974). This low “politicisation” is also confirmed by the fact that many delegations remain unchanged even after government changes. Furthermore, several

³⁶ In Germany no comparable structure has been set up.

interviewees point to the fact that the importance of a delegation depends less on the size and tradition of the represented member state, but on the competences and the charisma of its members³⁷.

In comparison to other Council committees, free deliberation seems to be favoured by the overall lower time pressure: „*The dossiers, (...) on the table are not necessarily files which need immediate adoption (...). If I think about the employment indicators, they have been on the EMCO table for years now.*” (A Commission officer). However, some aspects impede open discussions. First of all, since the recent EU enlargement in 2004 more than 50 persons come together for the EMCO meetings and complicate the organisation of the latter. “*We usually meet for one or two days. If (...) every one spoke just for four, five minutes on a topic, the day would almost be over.*” (A BMW representative). A consequence of this organisation problem may be the growing formalization of EMCO meetings: “*In the EMCO they are very much concerned with procedures and formalities (...), which are certainly not unimportant (...). But talking exclusively about formalities is definitely too less.*” (a Commission officer). Finally, as I explained in chapter 5.1, bargaining can interfere with the deliberative atmosphere of the Committee, especially when new guidelines are to be adopted.

French CDSEI approaches even more the ideal type of a domination-free discourse arena. Social partners and the government meet between eight and ten times a year for the sake of *mutual information and discussion*. Several interviewees emphasize that the CDSEI is not conceived of as a place of negotiation, but as an institution complementary to other consultation committees where negotiations take place. This high degree of de-politicisation enables open debates. For a SGCI representative, the CDSEI is “*a privileged place of discussion*”, which is “*rare*” in France. Her colleague of the MECSL appreciates the “*fruitful exchanges*” arising from the “*confidential relations*” between the participants. “*The CDSEI is an absolutely informal committee, which means that (...) we are saying what we want, there is no list of speakers and we don’t vote.*”

Having presented the EMCO and the CDSEI as places where at least sometimes free deliberation evolves³⁸, I will now turn to the question whether these discourses have contributed to some kind of “ideational convergence”. My interviews revealed that a certain

³⁷ For instance, a Commission officer estimates that the delegation of a comparatively small country is as influential as the UK’s one, because it is composed of very competent staff.

³⁸ Note: The CDSEI and the EMCO are by far not the only arenas, where free deliberation occurs. For instance, social partners’ COPARSOC project clearly adopted a deliberative approach: “*The ‘no bargaining’ aspect is important: it refers to an attitude of sympathetic and attentive listening by the participants, necessary for creating a pragmatic position on employment issues without being charged with any conflict due to the economic climate or ideologies.*” (EUREXTER 2002, p. 41).

consensus around EES key concepts has indeed emerged. It is fair to say that basic policy principles such as making work pay, Flexicurity, Active Ageing and Gender Mainstreaming have become an - abstract - shared cognitive frame that broadly shapes German and French discourses (cf. Barbier and Sylla 2001; Barbier 2004; Govecor 2004b, p. 16; Zeitlin 2005): “*I believe that (...) employment policy thinking is strongly influenced by the discussions taking place both at the European Council level and in the working groups.*” (a BMWA representative). As a result of this growing consensus one can observe today e.g. a clear predominance of preventive measures over curative policies:

“Never before did you see e.g. in all member states, that there was a preventive approach. Previous to the EES there were member states who simply were 90% orientated towards a curative approach, towards basically unemployment benefits and very little links between the unemployed and the individual assessment existed. (...) I would say the discussion now is the allocation of budget to preventative measures. The battle is gained. It is preventative measures now dominating curative measures. It’s how to efficiently spend labour market budget on preventative measures and it is also how to measure the results. (...) So yes, the focus of the debate has definitely changed.”
(A Commission officer)

However, this ideational convergence does not mean that national patterns of reasoning merge. Rather it seems that differing national reality interpretations persist and that mutual misunderstandings still separate member states. „*Committee deliberation (...) has its limits when it comes to solving political problems and conflicts of interest or value.*” (Govecor 2004b, p. 17; see also Zeitlin 2005, p. 479):

“I’m sure, if we discussed tomorrow, whether (...) one should recalibrate the guidelines, this would give a real ‘battle’ in the EMCO (...). As soon as we come back to somehow strategic questions (...), we find ourselves in really tough discussions with real negotiations and real cleavages (...), even though we know each other well and even though a certain consensus exists regarding the community orientations.”
(A SGCI representative)

The situation of the French CDSEI can be described in a similar manner. As in the EMCO, participants’ perspectives on policies seem to have converged in some respects³⁹. A SGCI representative finds that at least sometimes “*some consensus*” had been reached and that one could observe from time to time a certain “*widening of horizons*”. A CFDT representative

³⁹ A CGT representative points to “*the long learning process*” that came along with the EES. The new European structures with NAPs and common guidelines containing partially new ideas constituted at the beginning a somehow “unidentified policy object” and made it difficult to play one’s role: “*You are invited by the French government to start off a ‘European discussion’ and you are not sure if you should argue with what you know from CGT or if you should adapt to what is said at the European level in order to integrate CGT at the European level. (...) I went there with my ‘CGT perspective’ and*

reports that “*synergies*” had arisen between his and the other representative unions, with the exception of Force Ouvrière (FO)⁴⁰.

On the other hand, there are clear limits of convergence. Some “soft” issues such as vocational training may now be more easy to reach consensus on. Yet, core aspects of identities are very unlikely to change in short- or medium-term. For instance, a CFDT representative explains that an Anglo-Saxon activation policy with strong punitive elements is unacceptable to French unions, whereas French employers postulate such a tightening of eligibility rules.

All in all, the EES has to a certain degree modified the worlds of beliefs of the participating actors. A new European cognitive framework has evolved and re-orientated national discourses. However, I found almost no evidence for radical changes of patterns of interpretations. Discursive transformation is a long-term process: “*Everyone comes with his national logic and goes away with a little bit more ‘Europeanised’ vision. But I still think that still too many national logics remain.*” (A CFDT representative).

6.3. EES, just an expert talk?

The cognitive EES impact on member states depends not only on *how* national beliefs are changed, but also on *who* is aware of the Luxemburg process, its goals and its examples of good practise. My empirical data and the outcomes of other studies⁴¹ indicate that the cognitive EES impact suffers from the low actor participation and diffusion of knowledge. One widely discussed deficit of the EES is the low media coverage on it (cf. Zeitlin 2005; Ardy and Umbach 2004; Meyer and Umbach 2004; Govecor 2004b, p. 18; Meyer 2003, Salais et al. 2002, p. 36)⁴². Meyer and Umbach (2004) have shown that in Germany and Britain this lack of publicity even worsened in the course of the years⁴³. However, rather than re-discussing this low media coverage on the EES, I will focus in this chapter on the low circulation of information in state institutions and in the social partner organisations.

tried to grasp information that came up from ‘Europe’ in order to play my role.” (a CGT representative).

⁴⁰ Like FO, the French employer association MEDEF was also widely criticised by my interviewees as being unwilling to cooperate and reluctant to learning.

⁴¹ Cf. Ardy and Umbach (2004); Meyer and Umbach (2004); Govecor (2004b); Raveaud (2001); Salais et al. (2002); Zeitlin (2005); Meyer (2003); Buechs (2005).

⁴² However, my subjective impression is that the Lisbon Strategy has been paid significantly more attention in national daily newspapers such as the “*Süddeutsche Zeitung*” since its revamp in 2005.

In state institutions only a few persons are really up to date with the EES developments. *National Parliaments* don't attach much importance to the EES because of its low strategic utility (see chapter 5.3). *Intra- and inter-ministerial exchanges* on the EES do take place, however not on a regular basis. There are no permanent working groups that constantly discuss EES topics. The EES appears only on the agenda at singular moments, e.g. for the drawing up of NAPs/NRPs or on the occasion of the Kok II report. A MECSL representative states that the EES is not a matter that "*sets the whole ministry in motion*". His colleague in the same ministry admits that the diffusion of information in her ministry is "*insufficient*".

With regard to the *regions* the situation seems to be slightly better in Germany than in France. Because of the status granted to them by the German constitution "Grundgesetz" the German *Länder* are better included in EES processes than the French *régions* and *departements*. A Commission officer reports that his institution holds regular, "*systematic*" relationships with the *Länder*⁴⁴. As far as the exchanges with the federal level are concerned, the *Länder* are mostly suppliers of good practise and of statistical information for the NAPs/NRPs, but there is no real debate about the EES:

"The debate about what has been decided [in the EMCO; A.H.] takes place only at a very high level. But it would be desirable (...), that Länder such as Bavaria, North Rhine Westphalia or Lower Saxony would start off a debate about: how do we perform? [regarding the EES goals]." (A Commission officer)

In France the inclusion of the *régions* and departments is even worse – a SGCI representative calls it a "*very weak point*". According to a SGCI representative, the government has tried to include the "Association des Régions en France" (Association of French Regions) and the "Comité de la Coordination des Régions" (Committee for the Coordination of French Regions), but "*it remained very formal.*" (A SGCI representative)⁴⁵.

It is not surprising that *local actors* know even less about the EES than the regional ones. Nauertz (2004) found out that only some few big German cities were informed about the EES within the framework of the ESF. Besides, the associations of the German municipalities and cities participated only marginally in the drawing-up of NAPs: „*The*

⁴³ As I have argued in chapter 5.2 I ascribe this low visibility of the EES to its marginal strategic importance.

⁴⁴ The Commission exchanges with the *Länder* bilaterally or in formalised structures such as the Arbeits- und Sozialministerkonferenz (ASMK, conference of ministers for employment and social affairs; cf. Buechs 2005, p. 150).

⁴⁵ The situation may have changed with the recent legislation on decentralisation. The *régions* are now responsible for vocational training, whereas the *departements* are in charge of the RMI (social assistance) since the 2003 reform (Hofmann-Matignon 2005).

information of local authorities on the European Employment Strategy remains superficial.“ (ibid., p. 20)⁴⁶.

Similarly, also in the French and German social partner organisations only a few experts seem to be well informed about the EES, with the only exception of German employers' association BDA. According to a representative, BDA has always had intensive discussions on the EES with its member organisations. This “*very, very important*” exchange is meant as a two-way channel aiming also at transporting information “bottom-up” to Brussels.

However, apart from the German employers' organisation, only a few experts deal with the EES in the social partners' organisation. Information on the EES hardly passes the borders of this communication sphere:

“If you ask an entrepreneur, what the EES is, he will tell you: ‘Never heard of that’. If you ask a local unionist, what the EES is, he will answer: ‘Never heard of that’. (...) This is a topic discussed by the ministry administrations in Paris, MEDEF and the unions [their umbrella organisations; A.H.]” (A MEDEF representative)

This very low degree of information about the EES in the regional and local social partner organisations can certainly be partly explained with a lack of personnel and financial resources (Raveaud 2001, p. 24). In some cases also poor efforts to diffuse information may account for the low visibility of the EES at the sub-national level. Yet, the main reason seems to be the bad connectivity of “EES insiders” within their organisations:

*“I notice that (...) there are those, who decide and those, who attend the CDSEI meetings. Believe me, I really do my best to integrate [the EES in my organisation; A.H.] (...), but it's hard, it's terribly hard.”*⁴⁷ (A CGT representative)

Here again, the EES' low strategic importance in national politics may be crucial. Social partner organisations seem to be locked in a negotiation logic and lack a culture of deliberation. They select information mainly according to their strategic utility and are simply not interested in exhaustive discussions about the EES.

“We don't consider it (...) our main task to disseminate the European employment policy (...) ‘top down’. There's no point in that (...). This can't have an [outstanding A.H.] importance. (...) If I organised theoretical workshops [on; A.H.]: ‘How can the EES serve Germany?’, no one will come, that's an academic issue.” (A DGB representative)

⁴⁶ Of course this low involvement of the municipalities is also due to financial restrictions (Nauertz 2004, p. 27).

⁴⁷ Similarly, some interviewees regularly report on the EES in company newspapers, but they got hardly feed-back.

All in all, the number of people in France and Germany who deal at least from time to time with the EES will probably not exceed 100, even though this number may have slightly grown since the beginning of the EES⁴⁸. This means that processes of cognitive transformation are restricted to a few ministry officials and social partner representatives. However the cognitive EES impact on national policies crucially depends on the dynamic and the scope of debates.

With reference to my hypothesis of chapter 3.4 one can say that the EES impact on the cognitive dimension is lower than theoretically assumed. First, this is due to the “technical problems” of the EES “radar” functions. Mutual learning instruments were widely described as inefficient. Second, the cognitive EES impact suffers from the low degree of knowledge about and participation in the EES. Yet, empirical evidence has shown that the EES leaves enough room to free deliberation processes, which has favoured some “ideational convergence” among actors. Finally it has also become obvious that the cognitive EES impact is highly dependent on national traditions, styles and dominant “reality constructions”. In the following chapter I will illustrate the outcomes of my study on the normative, strategic and cognitive dimension with some considerations about the EES influence in four selected policy areas.

7. The EES impact on France and Germany in four selected policy areas

The previous chapters described the EES impact on German and French policies in a *general* manner. Now I will briefly analyse the EES influence on four selected policy areas and thus come back to the initially discussed differences between the EES and French and German policy approaches (see chapter 2).

7.1. The importance of Gender Mainstreaming in France and Germany

Interviewees in both countries point to the long history of Gender Mainstreaming (GM) in the EU, well before the EES was set in (directives and ECJ jurisdiction; Buechs and Friedrich 2005; p. 265).⁴⁹ Yet, at the moment of the Luxemburg Summit in 1997, most countries

⁴⁸ A DGB representative reports that he’s sometimes surprised by the number of people attending meetings on the EES: “*I say to myself: ‘Oops, that’s quite a lot.’ (...) I think, it [the number of involved people; A.H.] (...) has grown, but it’s still narrow.*”

⁴⁹ Besides, also the UN held conferences on GM (Buechs and Friedrich 2005, p. 265)

“started out with a at best weak and often a non-existent base for Gender Mainstreaming“ (Rubery 2002, p. 503).

My data indicate that the EES guidelines have helped to improve this situation in both analysed countries⁵⁰. Several French interviewees state that the EES provided for a new impetus in debates about GM. A CGT representative claims that the re-appointment of the French “Conseil Supérieur de l’Égalité Professionnelle“ (Superior Council for Gender Mainstreaming) can be closely related to the birth of the Luxemburg Process. According to a SGCI representative, the added value of the EES lied in breaking down the broad notion of GM in concrete aspects, such as equal pay and reconciling work and family life. Thus, it is fair to say that the EES contributed to recent policy changes, even if there were surely other “pieces of the puzzle“. Most importantly, this refers to the social partner agreement on GM (March 2004)⁵¹ and the law on GM (May 2001)⁵².

Unlike their counterparts in France, German interviewees didn’t associate recent legislation⁵³ and social partner initiatives⁵⁴ on GM with the EES guidelines. However, two interviewees stress the influence of GM at a lower level, i.e. through the ESF:

“GM has been very influential on implementing the ESF. And it was particularly important that the concept [GM; A.H.] was specified. We asked: What does that mean? To pay attention to the accessibility of training measures by public transport, to adapt the course hours to women’s needs, i.e. (...) we were eager to assure that the target group had no access difficulties. And this [approach; A.H.] has impacted on the number of participating women, which was quite close to the benchmarks.” (A Commission officer)

However, even though the EES may have a considerable impact on Germany via the ESF, one should not overlook that still much has to be done. The gender pay gap in Germany is one of

⁵⁰ Cf. Rubery 2002 and 2005; Barbier and Sylla 2001, p. 81-82; Evaluation France 2002; Le Cacheux and Touya 2004, p. 135; RWI and ISG 2002.

⁵¹ The agreement dealt with various aspects: „It adds to existing legislation by focusing on specific themes and methods. For example, motherhood should not hinder a woman’s career, and to ensure this, a link with the company must be maintained during the period of maternity leave, while the employer must offer a special interview before and after the period of leave. Furthermore, the agreement provides that: unjustified gender-based pay discrepancies must be corrected; the stereotypes surrounding employment areas thought of as ‘women’s work’ should be tackled; and access to training must be the same for everyone. The accord also aims to guide women’s choice of careers towards flourishing sectors and ensure gender balance in recruitment and career development.“ (Eironline 2004a).

⁵² This law committed social partners to consider GM aspects at all negotiations. Furthermore, companies with more than 50 employees were bound to submit a GM report at the disposal of their employees (Eironline 2005a).

⁵³ For instance the JobAQTIV-act adopted a gender-sensitive approach.

⁵⁴ For instance, in the „Alliance for Families“ the former German government and the social partners aimed at reconciling work and family life with numerous measures.

the highest in the EU (23% in 2004, source: Eurostat⁵⁵), the income tax system (“Ehegattensplitting”) continues to discriminate against women and the Germany’s child care services are far from meeting the real needs of German families.

In conclusion one can say that the EES has helped to improve women’s chances in working life. My interviews revealed at least two ways of EES influence: French interviewees perceived a new impetus for national debates through the EES guidelines (cognitive influence), whereas in Germany GM was reported to be fostered by the ESF. However, even if the countries have seen a “*steady progress*” (Germany) and “*a significant development*” (Rubery 2002; p. 512), there is still much room for improvement, especially in Germany.

7.2. The impact of the Flexicurity concept

In chapter 2 I argued that Germany’s and France’ strict employment protection rules favoured the security element of the Flexicurity concept at the expense of flexibility needs. During the first years of the Luxemburg Process this bias was hardly modified. As a SGCI representative explains, the unpopularity of flexibility also resulted from the origin of such liberal claims (see also: Salais et al. 2002, p. 31-32): “*We didn’t want to speak of flexibility (...), this word was banned. (...) It was an Anglo-Saxon connotation, that’s why we spoke of ‘souplesse’* [very francophone translation of flexibility, A.H.]”

However, in recent years the relation between flexibility and security has been re-organised in both countries. In 2002, the former social democratic-green German government abolished employment protection for small companies (those with less than 10 employees) and the new coalition under chancellor Merkel is currently discussing further deregulation measures. The French conservative government considerably modified the 35 hours act⁵⁶ and, in its act on social dialogue (May 2004), it allowed companies to deviate from minimum standards set out in higher level social partner agreements (NAP France 2004, p. 29-30). Finally, with the new contract type CNE (“*Contrat Nouvelle Embauche*”) releases were considerably facilitated⁵⁷.

⁵⁵ See: http://epp.eurostat.ec.europa.eu/portal/page?_pageid=1996,39140985&_dad=portal&_schema=PORTAL&screen=detailref&language=de&product=STRIND_EMPLOI&root=STRIND_EMPLOI/emploi/em030

⁵⁶ Small companies with less than 20 employees were exempted from 35 hours legislation. Furthermore, from 2005 on 220 hours of overtime are allowed instead of 180 before (cf. Eironline 2004b).

⁵⁷ Within the first two years of their employment, workers of small companies (<20 employees) can now be released for a financial compensation without giving any reasons. However, after the fierce opposition and street demonstrations of students, Prime Minister de Villepin had to abandon his project of introducing a similar type of contract for the young (CPE, “*Contrat Première Embauche*”).

As for GM, the question has to be answered if this policy change can be related to the EES. Both German and French interviewees find that Flexicurity is now “*fashion*” (a SGCI officer) and “*a very important concept*” that is “*widely recognized and always paid attention to for all our reforms*” (a BMWA representative). But once again, one has to remember that claims to increase the flexibility in labour markets have been brought forward for many years by employer organisations, the OECD, the World Bank, liberal economists and others. Thus, the policy turn can certainly not be ascribed solely to the EES. In addition, the national embedding of the reforms has to be stressed. For instance, a MEDEF representative states that the French 35-hours act was a major ideological project of the former socialist government and, similarly, the softening up of this labour time regulation was an almost “natural” act of the now governing UMP. As a consequence, one can say that the EES may have contributed to recent policy changes in both countries, but it was certainly not the main factor.

7.3. The impact of the active and preventive approach

According to Barbier et. al (2006), a wide range of measures can be summed up under the category of “active labour market policies”. For analytic reasons I will separately discuss preventive measures and measures for “making work pay” on the one hand and measures for Active Ageing on the other hand (see chapter 7.4), keeping in mind their inter-dependencies. In this chapter I will first briefly review main reforms in France and Germany and then analyse the role of the EES for the changes.

In **Germany**, the JobAQTIV⁵⁸-act in 2001 is often regarded as an important step to more preventive employment policies (cf. Buechs 2005, p. 187). Most importantly, it introduced a profiling of jobless people for a better determination of their qualifications and needs and an “insertion agreement”⁵⁹ which is binding for both the unemployed person and the placement officer and fixes the rights and duties of both sides. The Hartz acts (2003-4) meant a paradigmatic change in Germany because of its “activating” philosophy (ibid., p. 170). It would go beyond the scope of this paper to re-discuss all provisions of the four Hartz-acts⁶⁰ in detail. Instead, I will confine myself to review very briefly only the most important ones. The most discussed changes came about with Hartz IV. With this act, a new “Arbeitslosengeld II” (unemployment benefit II) was created by merging the former

⁵⁸ AQTIV stands for activate, qualify, train, invest, and place.

⁵⁹ However a similar instrument had already been introduced by the “Arbeitsförderungsgesetz” (1969; see Buechs 2005, p. 186)

⁶⁰ Officially the laws are called “modern services for the labour market“.

“Sozialhilfe” (social assistance) and the former “Arbeitslosenhilfe” (unemployment assistance). This new benefit is means-tested and puts high pressure on the unemployed to get back into employment⁶¹. In addition, the receiving of “Arbeitslosengeld I” (unemployment benefit I) was restricted to 12 respectively 18 months for the 50+. Furthermore, by accepting a so-called “One-Euro-Job” (public employment which does not compete with regular employment) recipients of Arbeitslosengeld II can increase their income by a maximum of 200 € The Hartz acts I-III aimed at bringing jobless people faster back into gainful work, too.⁶²

All in all, the Hartz reforms in Germany were clearly guided by an “activating” philosophy containing strong punitive elements. In contrast to Germany, **French reforms** were bound for a long time to a “social handling of unemployment” (Neumann and Veil 2004, p. 14). In 2001, based on a social partner agreement, the French government reformed the unemployment assurance by introducing its project of PAP-ND (“personalised action plan for a new start”). Essentially, the reform entailed the new instrument “PARE” (action plan for the return to employment) which is meant to foster the re-integration of jobless people by identifying as early as possible the needs of each individual unemployed person and by conceiving possible strategies for action (i.e. training measures)⁶³. However, unlike the German government, the French socialist party did refrain from introducing sanctioning mechanisms as postulated by the French employer organisation MEDEF (Eironline 2001). All in all, PAP-ND added strong preventive elements to the mainly curative French policies (Le Cacheux and Touya 2004, p. 129-130; Salais et al., 2002, p. 18-19), but without adopting the German punitive orientation.

The “Prime pour l’Emploi” (PPE), started off in 2001, is another example of the French “social” approach. Unemployed people accepting low-paid jobs receive an earned-income tax credit. Meanwhile, the PPE has been reformed two times (in 2003 and 2005) in order to increase the incentives to take up work again. Furthermore, in his “Plan d’urgence pour l’emploi” (2005), Prime Minister de Villepin launched a new 1000 € credit for every long-term unemployed getting back into work (Eironline 2005b). Finally, numerous insertion

⁶¹ Theoretically, the unemployed have to accept any work offered to them unless immoral ones. Otherwise their benefits are cut.

⁶² “Personalserviceagenturen” (temporary-employment agencies) should train and place people with low employability; business start-ups were facilitated by the creation of a new type of one-person-company (“Ich-AG”); and the low-wages sector was expanded by the introduction of “mini jobs” (salary: 400 € monthly), which are exempted from social security contributions.

⁶³ PAP-ND followed the SPNDE (“personalised service for a new start towards employment”) which targeted the young with special difficulties and long-term unemployed people.

programmes that can hardly be overviewed by foreigners distinguish France from Germany⁶⁴. Some of them target special groups of unemployed people, such as the long-term unemployed or the young, but all of these programs reflect *“the social handling of unemployment”* (Neumann and Veil 2004, p. 117) delegating the state to be the *“employer of last resort”* (Barbier et al. 2006, p. 209). Only recently, the conservative government under Raffarin and later de Villepin adopted sanctioning mechanisms for jobseekers refusing job offers (NRP France 2005, p. 28-29).

All in all, France and Germany have taken quite different ways. France’s reforms followed until recently a philosophy that considers jobseekers primarily as victims of economic downturns, whereas Germany underwent a paradigmatic change from “social-democratic” to an Anglo-Saxon activation policies, putting strong pressure on the unemployed to get back into gainful work. These differences point again to the weak normative regulation through the EES. But did the EES nevertheless play a role for the policies in both countries?

The **German Hartz reforms** seem to be inspired by the EES, but still are clearly nationally induced. Thus, a DGB representative finds that the Hartz acts resulted from the “placement scandal” of the public employment service⁶⁵. A StV officer states that *“the necessity, the pressure, the will or whatever at the national level were so tremendous that one would overestimate the EES a bit, if he claimed a direct link [between the EES and the Hartz reforms; A.H.]”*. However, according to a BMWA representative, the contents of the reform are indeed influenced by European exchange processes:

“If you take the Agenda 2010, it is first of all striking, that ‘Agenda 2010’ sounds like Lisbon [the goals of the Lisbon Strategy were set for 2010; A.H]. And if you contemplate the measures (...), you become aware of the very strong interlinkages. That’s why we sometimes say: The Agenda 2010 is the implementation of the Lisbon Strategy.” (A BMWA representative)

With regard to the EES concepts, interviewees emphasized the importance of both “making work pay” and of the preventive orientation of policies. *“‘Making work pay’ is very present in our beliefs. This aspect certainly impacts on our labour market policies.”* (A BMWA

⁶⁴ Among them are : the „Contrat Emploi Solidarité“ (CES, until 2005), the „Contrat Initiative Emploi“ (CIE, reformed in 2005), the „Nouveaux Services – Emplois Jeunes“ (NS-EJ, since 1997, abolished in 2003), the „Contrat Jeune en Entreprises“ (since 2003) the „CIVIS“ (since 2003), the „Contrat d’Insertion - Revenue Minimum d’Activité“ (CI-RMA, since 2004), the „Contrat d’Activité“ (CDA, since 2004) and recently the „Contrat d’Avenir“ and the „Contrat d’Accompagnement dans l’Emploi“ (CAE), replacing the CES (both since 2005).

⁶⁵ The „placement scandal“ (2002) revealed that the German public employment service had falsified its placement statistics.

representative). *“Concerning the preventive orientation, I would definitely attribute a direct impact to the EES.”* (A StV representative).

The French reforms were at least as strongly shaped by the EES than the German ones. This refers above all to the preventive approach in employment policies⁶⁶. A SGCI representative stresses the EES importance for the SPNDE and the PAP-ND:

“The active and preventive approach, that was without any doubt the first important [EES; A.H.] impact on our employment policies. (...) What we call ‘Nouveau Départ’ in France (...), stems quite directly from the setting-up of the EES. Of course one may start a theoretical discussion on: Would this have been done also without the EES? I think yes, but possibly it wouldn’t have been done so quickly and not in the same manner.”
(A SGCI representative)

However, curative elements have been maintained, making the PAP-ND an EES implementation *“à la française”*, fiercely criticised by the Commission (a SGCI representative; cf. Barbier and Sylla 2001, p. 19). France displays also one of the rare cases of strategic use of the EES: The former employment minister Martine Aubry succeeded in obtaining a higher budget for the realisation of the SPNDE (see also Salais et. al. 2002, p. 19-20):

“At the end of the 90ies, they were speaking of ‘emplois de Luxembourg’ [Luxemburg jobs; A.H.] at the ANPE [Agence Nationale Pour l’Emploi, the public employment service; A.H.]. Why? Because the ANPE profited of a supplementary budget for the implementation of ‘Nouveau Départ’ [SPNDE; A.H.] and everyone knew that this was very closely linked to the Luxemburg Summit [in 1997, first guidelines; A.H.]” (A SGCI representative)

The “Prime pour l’Emploi” (PPE) may look at a first glance like the realisation of the “making work pay” principle. However, as several interviewees explain, the importance of this central EES-concept used to be low for French policies for many years. A MENESR representative states *“that we were more orientated towards policies guided by social support [accentuation by the author, A.H.]”*. This presumed contradiction between “social support” and “making work pay”, as well as the very French translation of the latter (*“valoriser le travail”*) indicate that the low impact of “making work pay” may, at the very least, partially result from its Anglo-Saxon origin⁶⁷. Only recently the government adopted more Anglo-Saxon style measures, that were influenced by both the US and EU countries (a MINEF representative).

⁶⁶ See also : Raveaud 2001, p. 28; Le Cacheux and Touya 2004, p. 134-135; Barbier and Sylla 2001, p. 79; Salais et al. 2002, p. 18-19, Evaluation France 2002; Zeitlin 2005, p. 451

Altogether, the preventive orientation of labour market policies in France and Germany has been shaped by the EES on the cognitive and in France even on the strategic dimension of influence. “Making work pay” was a dominant principle for the design of the Hartz reforms, whereas France was for a long time quite reluctant to this concept.

7.4. The impact of Active Ageing

In chapter 2 I have argued that both French and German policies were shaped by early-retirement programmes, that conflicted with the EES guidelines on Active Ageing. As in the preceding chapters, I will now briefly review major reforms in both countries and then analyse the EES role for these changes.

In **France** the 2003 pension reform brought about a significant shift in labour market policies, setting considerable disincentives for early-retirement. Since then, all employees need to exhibit 40 contribution years to be entitled to a full pension⁶⁸. People retiring before this threshold have to accept an annual 5%-reduction of their pension payments, whereas workers with more than 40 contribution years benefit from a 3%-bonus. Furthermore, an additional tax was introduced on companies relying on corporate early retirement schemes (cf. Eichhorst and Rhein 2005, p. 12; Le Cacheux and Touya 2004, p. 105-107; NAP France 2004). In May, 2006 after having consulted the social partners, the government adopted new measures to increase the employment rates of the elder generation⁶⁹.

In **Germany**, social partners and the red-green government declared a paradigmatic change in labour market policies, away from the exclusion of older workers and towards the prevention of unemployment and a fast re-integration of the jobseekers (NAP Germany 2002, p. 35). The JobAQTIV and the Hartz I act provided for some important measures to increase the employability of older workers (NAP Germany 2003, pp. 21-22)⁷⁰. The 2004 “pension insurance sustainability act” raised the earliest age to draw a full pension following part-time work for older people or unemployment from 60 to 63 (NAP Germany 2004, p. 27).

⁶⁷ Similarly, Barbier and Sylla (2001, p. 81) report that the former socialist government disliked the Anglo-Saxon term of “tax and benefit systems”.

⁶⁸ Thus, former privileges of public sector employees were abolished.

⁶⁹ Employers can no more force employees to retire. In addition, a new fixed-term contract was introduced for employees aged 57+. (http://www.premierministre.gouv.fr/de/information/in_den_schlagzeilen_112/aufwertung_der_seniorenerfahrung_56195.html)

⁷⁰ Above all, workers aged 52+ can now be employed with a fixed-term contract without giving reasons. In addition, employers are now exonerated from the unemployment insurance contributions, if they contract persons aged 58+.

In conclusion one can say that both countries have adopted measures to increase the employment rates of the older generation, even if some early retirement programs still remain (cf. Eichhorst and Rhein 2005). The EES role for these policy changes was probably higher in France than in Germany. Several interviewees stress the importance of Active Ageing for the **French policy changes**. For instance, a SGCI representative observes that it “*that the reports concerning Active Ageing always refer to the Stockholm objective of 50% for the older employees [i.e. the employment rate; A.H.] and also to the Finnish experiences*”. This statement reflects both the normative (the Stockholm benchmark) and the cognitive dimension (the Finnish best practise) of influence. Furthermore, according to my interviewees a shift towards a generally higher labour participation was considerably boosted by the EES: “*This question of employment rates, that’s something that is clearly shaped by Europe, (...) because before we were reasoning mostly in terms of unemployment rates.*” (a CFDT representative ; see also: Evaluation France 2002; Salais et al. 2002, p. 37-39; Le Cacheux and Touya 2001, p.135). Yet, most of my interviewees are sure that national circumstances prevailed for the actual implementation of the 2003 pension reform. Thus, several interviewees remember the fact that politicians had to encounter the enormous financial burden resulting from the retirement of the French baby boomer generation. Moreover, a MINEF representative reflects that the reform “*had become absolutely urgent, because we had to wait more or less until 2002, i.e. the presidential elections, to implement it*”. All in all, the EES had a cognitive and some normative impact on the French pension reform, but its realisation followed national constraints.

The **EES impact on German reforms** was seemingly lower than on the French ones. According to some of my interviewees, German politicians and social partners were already very conscious of the necessity of raising older workers’ employment rates when the EES guidelines on Active Ageing came into being in 1999. Already in 1995 the former conservative government under Chancellor Kohl had taken first steps to make early retirement less attractive⁷¹. Nevertheless, the EES was not irrelevant for German policies. A StV officer finds that the European level exerted an “*additional positive influence*” on Germany and a BDA representative claims a “*mutual reinforcing process*” between Germany and the EU.

To sum up, the concept of Active Ageing obviously inspired French policy changes, even though national circumstances were decisive for the eventual realisation of the pension reform. Germany is a case of a more moderate EES impact. In the last chapter I will very

⁷¹ Since then, unemployed persons younger than 65 and willing to retire have to accept reductions of their pension benefits from 3,6% up to 18% per year.

briefly review basic findings of my study and then outline possible reform strategies of the EES.

8. Conclusion: How could one strengthen the EES impact on national policies?

The preceding chapters have shown that there has been a considerable, mostly cognitive influence on the labour market policies of Germany and France. However, empirical evidence has revealed that employment policies in both countries are still basically nationally determined – Heidenreich and Bischoff (2006) refer to this aspect as “national ownership”. The EES plays only seldom an initiating role (at best this was the case for the French PAP-ND), but most of the time it “*fosters processes*” (a BDA representative), “*it works as an accelerator*” (a MEDEF representative) or it forms “*a synergetic relationship with national policies*” (a CFDT representative). The EES will hardly “*fundamentally change national policies*” (the same interviewee) and its role remains “*vague*” (a MEDEF representative) when it comes to the realisation of reforms. All in all, one can say that compared to the community method (see chapter 1) “*the regulation impact through the EES is (...) in the end considerably lower than it is usually presented to the public, because it [the impact; A.H.] depends on many other things.*” (A BMFSFJ officer).

This bounded impact can essentially be explained with the low importance of the EES on the *normative* and the *strategic* dimensions of influence, even if my interviews revealed some weaknesses on the cognitive dimension, too. Concerning the normative dimension my findings indicate that the EES guidelines leave much room for interpretation at the national level. Soft pressure seems to be relevant for policy making, but its role is nevertheless limited under the conditions of multiple national interests and factors. With regard to the strategic dimension I have argued that the EES lacks strategic importance in the political life of France and Germany. This is above all due to the former NAPs which resembled more backward-looking *reports* than forward-looking strategic action *plans*.

Consequently, if one has in mind to increase the potential EES impact on national policy making⁷², one should consider these two weak dimensions of influence. But what exactly could be done? As far as the normative dimension is concerned it is arguable whether

⁷² It has to be stressed that this is a purely normative question! Federalists may fiercely oppose to a stronger EES.

a more precise definition of the guidelines is desirable, given the fundamental differences between the nation states that demand individual solutions. (Furthermore it is highly unlikely that member states could agree on precise common guidelines.). Soft pressure may only be strengthened by more public attention for bad performers and this leads to the strategic dimension. Only if the EES played a stronger role in the national political life, the media coverage on it would increase. But, as Visser (2004, p. 5) puts it, the EES is lacking a “*political engine*”: According to Visser, one basic message of the Kok-Report (2003) was that “*we know and agree about what we want, we even know what are the best practices, but we need more political will (...) to make it work*“ (ibid., p. 4). A first step was taken by introducing a Mr./Mrs Lisbon in all member states which makes the European policy coordination processes more visible at the national level and thus somehow more political. However, a really fundamental change may be achieved by changing the status of NAPs/NRPs. If NAPs/NRPs became key governmental documents of similar importance as e.g. the budget bill, then the national media, the national opposition and social partners would attach the highest priority to it and incite a real political debate on it (cf. ibid., p. 15). However, in such a scenario the discursive transformation of national policies may suffer, as bargaining may replace deliberation processes (Govecor 2004b, p. 17). Thus, in the end it is a question of priorities: Do European politicians want to preserve room for free deliberation or do they want to increase the dynamics of reforms by a higher “*politicisation*”?

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