

Open Method of Coordination and Theory of Reflexive Governance

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The search for mechanisms capable of regulating collective action in order to better 'maximize' the satisfaction of the public interest lies at the heart of current research in social science. One of its most commonly underlined features is its utilization of the concept of 'governance' to characterize what was traditionally called 'regulation' (in economics and political science) or 'government' (in law and political philosophy). As Renate Mayntz¹ points out, 'governance is the type of regulation typical of the cooperative state, where state and non-state actors participate in mixed public/private policy networks'. This new orientation in the approach to questions of 'regulation' relies on the observation that both the traditional forms of hierarchical control (command-and-control regulation) and the form of self-regulation based simply on the recourse to market mechanisms (coordination of collective action through the competitive aggregation of individual preferences) are insufficient. This reflection has focused on two main problems: on the one hand, those problems which are linked to the reorganization of our social democracies (reorganization of the activities of the public sector and the search for a better institutional supervision of the market activities) and, on the other hand, those which are associated with the search, notably in the area of international environmental protection, for a system of international governance suited to a context in which the growing interdependence of the actors makes the consideration of forms of 'horizontal' and 'cooperative' regulation of collective action necessary².

The process of European construction is a good example of these tendencies, since it combines the two problems just referred to. Naturally, the public policies that the European Union endeavours to promote raise problems that are identical to those confronting all advanced social democracies. The idea is to identify the conditions for a more efficient regulation of economic activities, which also safeguards the objectives of social solidarity. At the same time, however, the legal and political context of European construction obliges us to look for ways to develop those public policies that take into account the desire of Member States to maintain national independence in the most politically sensitive areas. Therefore, the challenge, in these areas, is to develop new mechanisms capable of coordinating collective action through less hierarchical

¹ R. Mayntz (2002), 'Common Goods and Governance', in A. Héritier (ed.), *Common Goods. Reinventing European and International Governance*, Lanham/New York/Oxford, Rowman & Littlefield Pub., p. 21.

² O. R. Young (2002), *The Institutional Dimensions of Environmental Change*, Cambridge (MA), MIT Press; R. W. A. Rosenau and E. -O. Czempiel (1997), *Governance without Government: Order and Change in World Politics*, Cambridge, Cambridge UP.

forms of governance than directives and regulations, i.e. forms which are based more on the voluntary cooperation of States. It is in this perspective that the recent European debate on the 'new modes of governance' has been developed (CEC, *European Governance: A White Paper*, Brussels, July 2001).

Among these 'new modes'³, the *Open Method of Coordination* (OMC) occupies an important place. Developed in the Treaty of Maastricht for the coordination of the economic policies of Member States (Art. 98 and 99 TEC) and applied to employment policy in the Treaty of Amsterdam (Art. 125 to 130 TEC), the OMC was confirmed and used in a generic way at the Lisbon summit in several areas of industrial and social policy. As we know, this method implies that Member States, while collectively agreeing on a number of common objectives, nevertheless retain final responsibility for political choices. The 'OMC seeks to initiate an iterative process of mutual learning on the basis of diverse national experiences with reform experiments. While there are fixed guidelines and timetables for achieving goals at the EU level, policies and specific targets are spelled out on the national level. National performance is constantly monitored and evaluated through peer review and benchmarking – mechanisms which act as "soft law" catalysts for greater convergence towards European "best practice"⁴.

The OMC and, more generally, the *new modes of governance* suggested by the Commission White Paper on *European Governance* within the European Union have been assessed in divergent ways by various authors. Research in political science has focused on the evaluation of this new form of governance. Even if several authors (e.g. Eberlein & Kerwer 2002, Trubek & Mosher 2003) have underlined the fruitfulness of the OMC, the main tendency in the political science literature remains – rightly, in my opinion – guarded, if not sceptical, with respect to the capacity of such a mechanism to effectively address the problems of collective action it seeks to resolve. This predominant scepticism found an effective expression in two of the leading exponents of European political science: Fritz Scharpf and Adrienne Héritier⁵. The argument developed here takes this dominant approach as a point of departure, but contends that the approach remains problematic insofar as it requires extension in a 'reflexive' perspective. The idea is not to provide an in-depth analysis of the theory of

³ A. Héritier (2002), "New Modes of Governance in Europe: Policy-Making without Legislating?", in A. Héritier (ed.) *Common Goods. Reinventing European and International Governance*, Lanham-New York-Oxford, Rowman & Littlefield Pub., pp. 185-206.

⁴ B. Eberlein and D. Kerwer (2002), 'Theorizing the New Modes of European Union Governance', in *European Integration online Papers (EioP)*, vol 6, no. 5, p. 2; voy. aussi sur la procédure de la MOC, D. Hodson and I. Maher (2001), 'The Open Method of Coordination. The Case of Soft Economic Policy Coordination', in *Journal of Common Market Studies*, vol. 39, no. 4, pp. 719-746.

⁵ F. W. Scharpf (2002), 'La Diversité Légitime: Nouveau Défi de l'Intégration Européenne', in *Revue Française de Science Politique*, vol. 52, no. 5-6, pp. 609-639; A. Héritier (2002), 'New Modes of Governance in Europe', *ibid.*

Scharpf or of Héritier or the more reflexive perspective that should complement these theories. Rather, the scope of the present text is more limited and more practical. The objective is twofold: first, to highlight the problematic nature of certain implicit assumptions in the approach of Scharpf and Héritier, and secondly, to show how a better understanding of the questions raised by these assumptions allows a reformulation of the correct intuition that Scharpf and Héritier have regarding the inadequacies of the current procedure of the OMC. This reformulation, apart from allowing us to overcome the false opposition of the favourable and sceptical positions with regard to the OMC, should help us to direct more empirical investigations for the evaluation and improvement of this new form of governance. This twofold objective explains the approach developed here. We will begin by briefly recalling the position of Scharpf and Héritier with respect to the OMC. This recollection will straight away lead us to highlight the problematic nature of a background presupposition underlying it (A). Next, we will show how this first lesson is confirmed when we refer this position of Scharpf and Héritier regarding the OMC to the theoretical model of action which they explicitly cite as methodological framework, which they term 'actor-oriented institutionalism', for their analyses (B). On this basis, we conclude by highlighting the ways in which overcoming this problematic presupposition helps us both to overcome and synthesize the partial truths which are contained in two currently conflicting positions: on the one hand, the position of those who denounce the inadequacy of the current approaches to the OMC and, and the other the position of those who value its dimension of deliberation and collective learning (C).