The Open Method of Coordination (OMC) and disability policies in Bulgaria

Svetlina Koeva

This article deals with the most prominent soft law instrument in the European social policy, namely the Open Method of Coordination (OMC) and its influence on the social inclusion of people with disabilities in Bulgaria. The paper focuses in particular on the introduction and the functioning of the OMC in the pre-accession period: it offers an analytical overview of the Bulgarian legal framework and examines, at the same time, the impact of the OMC on the main policy discourses and actors' networking in national disability policies, using the concepts of policy transfer and policy learning.

Introduction

The OMC, which was set up at the Lisbon European Council of March 2000, was supposed to provide a framework of coordination and convergence without the legal force of European directives. In a largely unregulated area, it was meant to be a promising instrument related to highly sensitive policy fields that are politically dominated by the member states.

In the OMC-literature, there are, however, contrasting opinions concerning the effectiveness of the method. On the one hand, the OMC is perceived as a new mode of governance that successfully promotes ideational and cognitive learning and so accomplishes a shift in policy actors' understanding of social problems and their solutions (Trubek/Mosher 2003; Zeitlin 2003; Erhel, Mandrin and Palier 2005). Because of their mostly negative empirical findings in the old member states, an increasing number of researchers, on the other hand, call into question the effectiveness of the learning process within the OMC as well as the relationship between learning and policy changes (Büchs/Friederich 2005; Armstrong 2005; Kröger 2006).

Although the new member states provide favorable conditions for global and supranational policy after the profound changes in 1989 (Deacon, Hulse and Stubs 1997), systematic empirical research on the OMC is largely missing[1].

Conceived as a contribution to OMC-research on the former socialist countries, this article deals with a typical OMC regulated policy field, namely the social inclusion of people with disabilities. The focus on disabled people has been chosen for two reasons. First, disability issues are a crucial part of the social inclusion process in all member states. The second reason concerns the thesis that policy transfers to 'vacant' areas, like the disability policy, are more likely to be successful than transfers to 'crowded' ones (Hvinden 2003).

Considering the domestic adaptation of the OMC Social Inclusion in Bulgaria, I am particularly interested in the following research questions:

- Which preconditions provide the pre-accession disability policy for the functioning of the post-accession OMC-Agenda?

- How does the OMC influence policy discourses and actor's networking in the disability policy in Bulgaria?

To better understand the functioning and the influence of the OMC within the Bulgarian transition context, we need a preliminary analytic overview of the pre-accession disability policy as a necessary legal framework for the ongoing post-accession OMC Social Inclusion. The decision to focus predominantly on the OMC-impact on policy discourses and actor's networking is due to the legally non-binding character of the method as well as its strong emphasis on actor participation.

The first theoretical part handles the concept of an emerging European social model in disability policy as the main legal and ideational source for policy diffusions as well as the use of two key concepts concerning the OMC - policy transfer and policy learning. The second, empirical part is devoted to the pre-accession disability policy. The emphasis will be put on the analysis of the development of the first and the second Bulgarian Disability Acts under the influences of the EU, the institutional conditions and the local actors. Furthermore, the question regarding the extent to which the pre-accession disability policy corresponds to the European social model of disability will also be explored. The third, empirical part tackles the OMC Social Inclusion in two aspects. On the one hand, it examines the development of two key OMC elements - the Joint Inclusion Memorandum on Social Inclusion (JIM) and the first Bulgarian National Action Plan on Social Inclusion 2006-2008 (NAP) - and the way it has been affected by the pre-accession disability policy. On the other hand, it deals with the policy learning process within the OMC Agenda, taking into consideration both the learning effects according to the expectations of the institutional OMC conception and the unexpected 'OMC-side effects' - the way different local actors interpret and /or make use of the single OMC elements.

The EU disability policy: Policy discourses and policy learning

The starting point for the forthcoming analysis is the question as to whether or not there is such a thing as a common European disability policy. Hvinden (2003) refers to two fundamental disabled policy discourses. The **discourse of societal costs** stands for the **redistributive** social policy of the welfare state. It corresponds to the so called **medical model of disability**, suggesting that a person's impairment is an individual health problem, which has to be compensated by mechanisms like social security, sheltered employment, and care provisions. In contrast, the **discourse of equal rights and opportunities** embodies the philosophy of the supranational **regulative** social policy approach in terms of human rights and equal opportunities, full participation in economic and social life, independent living and non-discrimination. The obstacles faced by disabled people are not seen as having been caused by an individual's impairment, but as a result of the way society is organised and physically designed. This view represents the **social model of disability** based on the EU disability strategy, on the one hand, and on the UN rights-based disability approach, on the other.

The milestones of the EU disability strategy include: Article 15 of the revised European Social Charter (1996), which stresses the right of persons with disabilities to independence, social integration and participation in the life of the community; the Communication from the Commission (1996) which focuses on equal opportunities for people with disabilities, non-discrimination and the rights-based approach; Article 13 of the Amsterdam Treaty (1997) which prescribes combating discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; and last but not least, the Directive (2000) establishing a general framework for equal treatment in employment and occupation.

The UN itself continues to make significant contributions to a sustainable social model of disability - it has been promoting the principles of full equality for persons with disabilities

and their participation in the social, economic, and political life worldwide since 1971. The result was the release of two of the most important documents on disability issues: the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (1993) and the Convention on the Rights of Persons with Disabilities (2006). They contributed, to a great extent, to the transformation of the traditional welfare disability approach into a discourse and approach based on equal rights and opportunities.
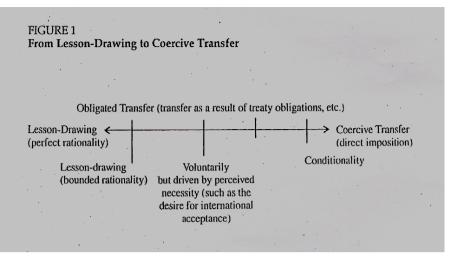
The social model of disability rests therefore on a rights-based approach, which means a specific interdependence between civil and political rights, on the one hand, and economic, social and cultural rights, on the other. The 'civilisation' of the social (Leisering 2007), however, also entails the decoupling of the social from its genuine welfare context. This process has three main consequences. Firstly, the 'civilised' social rights have less social substance than conventional social rights under the provider state, related to specific welfare outcomes.

Secondly, precisely the 'civilisation' of the social and its diminished social substance makes possible the establishment of a framework for the Europeanisation of social issues and a shift towards greater similarity in terms of general goals and policy principles. Thirdly, the adoption of similar operational goals does not necessarily lead to convergence at the level of outputs. As Hvinden points out, the prospects on the level of policy instruments in the member states appear mixed and uncertain – redistributive (welfare) and regulative (rights-based) social policy elements go hand in hand. This discrepancy is due to the specificity of the EU and international regulative framework, which is more often than not very general and sometimes devoid of limited legal force: the only Directive on disability issues refers to a single disability subfield, the equal treatment in employment and occupation, and is quite open-ended, leaving member states with more flexibility in shaping national legislation.[2] The Standard Rules on the Equalisation of Opportunities for Persons with Disabilities are legally non-binding and the Convention on the Rights of Persons with Disabilities still has not been enforced.

The actual way to provide convergence between the level of outputs and the level of operational goals in the disability policy is suggested to be the OMC. It is a framework for **coordinating policies between EU countries** on issues related to poverty and social exclusion, health care and long-term care as well as pensions, without the legal force of European directives (soft law). The OMC therefore includes a voluntary process for political cooperation based on agreeing to common objectives[3] and common indicators to measure the achieved progress. National governments translate the common objectives into national plans, submitted as national strategic reports to the European Commission. The OMC aims to achieve convergence through a mutual learning process involving the scrutiny of specific policies, programs or institutional agreements presented as good practices in the national strategic reports, increased public debate, awareness and attention to issues of exclusion and discrimination.[4]

Finally, it is necessary to analytically work out the two basic concepts in the forthcoming analysis - **policy learning** and **policy transfer.** The commonly used definition of policy transfer describes it as a quite neutral diffusion process '*...in which knowledge about policies, administrative arrangements, institutions and ideas in one political setting (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political setting*' (Dolowitz/Marsh2000:5). Policy Learning itself is an element of policy transfer with an emphasis on rational decision making when it comes to choosing a foreign model for the solving of a certain, often concrete, problem (Leisering 2005; Dolowitz/Marsh 2000) The best theoretical conceptualisation of policy transfer and policy learning is worked out by Dolowitz and Marsh, a policy continuum that runs from lesson-drawing (perfect rationality) to the coercive transfer (direct imposition) and encompasses mixed categories in between (see Figure1).

Figure 1

FIGURE 1
From Lesson-Drawing to Coercive Transfer

Obligated Transfer (transfer as a result of treaty obligations, etc.)

Lesson-Drawing ← | | | → Coercive Transfer
(perfect rationality)   (direct imposition)

Lesson-drawing   Voluntarily   Conditionality
(bounded rationality)   but driven by perceived
                        necessity (such as the
                        desire for international
                        acceptance)

Source: (Dolowitz/Marsh 2000:13)

It is exactly the mixed categories which allow for more systematic thinking regarding the policy processes involved and make the policy continuum an extremely useful theoretical construct for my analysis of the development of the pre-accession disability policy, in so far as it rests, to a great extent, on the concepts of lesson-drawing and coercive transfer.

In the specific case of OMC, policy learning represents an elaborated institutional concept for exchanging best practices, shifting towards Europe-wide convergence. The emphasis here is rather on cognitive outcomes such as the shifting of interests and policy change based on newly acquired knowledge (Hall 1993). Because of its relatively simple dual concept (lesson-drawing – coercive transfer), the policy continuum turns out to be only partially applicable to the OMC[5]. Since the OMC does not necessarily result in new legislation and aims to influence policy discourses and actor networking, a much more sensitive instrumental/methodological research approach to the OMC-outcomes is additionally recommended. One example is the actor centered approach (Bulmer/Radaelli 2004), which refers to the way local actors shape the national OMC-agenda in their national context and the way they handle the use of the OMC as an instrument in the policy making process.

The Pre-accession disability policy

This section outlines the pre-accession disability policy in the period between 1992-2004, with a focus on three basic policy documents which were drafted in this period and exerted a great amount of influence on the later post-accession OMC Agenda. For a better understanding of the pre-accession disability policy issues, a preliminary brief overview of the key policy actors will be given. The disability policy setting in Bulgaria after the fall of the iron curtain 1989 was shaped primarily by three actors – the post-socialist state, NGOs for disabled people and the EU.

The post-socialist state was no longer capable of providing a totally protectionist social policy under the conditions of the emerging market economy, which resulted in a significant decrease of existing benefits. The history of non-governmental organisations for people with disabilities in Bulgaria dates back to the early 20th century, when the two major unions for people with sensory impairment were founded. During the socialist regime they were massively privileged in terms of financial benefits, but were also expected to conform entirely to the official state policy discourse. After 1989, a wide spectrum of newly founded NGOs rapidly emerged, becoming key players in the policy making process. Firstly, **further NGOs** were founded, **representing different impairments**. The two most prominent examples are the Union of People with Physical Impairment and the Union of People with Intellectual

Impairment. Secondly, there emerged **social services providers** like the National Center for Rehabilitation and Social Integration. Thirdly, various **NGOs of parents of children with different impairments** were founded. Fourthly, in the mid-1990s, the only **human-rights based NGO** for people with disabilities was established: the Center for Independent Living. Most of the NGOs established contacts with similar international and European non-governmental structures in order to gain experience and receive financial support from abroad. Some NGOs imported European social services, such as the National Center for Rehabilitation and Social Integration and the Union of People with Intellectual Impairment, or the very idea of the social model of disability (the Center for Independent Living). This strengthened their position as stakeholders and the **main generators of new ideas**. The Role of the EU is important in the pre-accession period and encompasses the pre-accession strategy designed to prepare the candidate countries for future membership. It contains the following elements: association agreements, accession partnerships, pre-accession assistance, co-financing from international financing institutions, and participation in EU programs, agencies and committees, the national program for the adoption of acquis, progress reports, and political dialogues.

The first Bulgarian Disability Act – Policy learning under bounded rationality

On the one hand, the development of the first Bulgarian Disability Act is result of significant external influences. The **learning-willingness** (Leisering 2005) of Bulgarian NGOs and especially the partnership between the National Center for Rehabilitation and Social Integration and the Belgian Disability Forum not only contributed to bringing about the idea of passing a law, but shaped it greatly in terms of policy learning and the transfer of policy instruments. On the other hand, the domestic situation, the transition period after 1989 with its profound changes, had two different consequences for the disability issues. The first one was the emergence of the **context favorable to diffusion policy,** which is one of the most important preconditions for successful policy transfer and policy learning, aside from a willingness to learn. The second effect was the strong **path-dependency tendency**[6] (Esping-Andersen 1990; Pierson 2000), which also exerted a decisive impact on the idea of passing a law. The gradually vanishing protectionist state policy and the anxiety for keeping it in some measure played a crucial role in motivating the NGOs to develop a Disability Act, confirming the redistributive social policy approach. In 1992, six NGOs built a coalition with the goal of creating the first Bulgarian Disability Act. The final impetus, however, came from the advocacy coalition[7] between the coalition of NGOs and the vice chairman of the parliament at that time, an ex-teacher who had extensive experience with sensory impaired children. A working group was established, including members of the parliament, the coalition of NGOs and the Ministry of Labour and Social Policy, to study European and international experience in disability policy.

The first Bulgarian Disability Act, which came into effect in 1995, was also the first significant normative policy document in the area of disability policy after 1989. It could be treated as an example of policy learning under the conditions of bounded rationality, since the actor's decision-making process was massively influenced by their perceptions of the concrete policy situation[8]. The development of the Disability Act was mainly provoked by the understanding that a comprehensive normative policy document was needed, instead of the introduction of a completely new disability approach. That is to a large extent due to the "old" medical disability model, inherited from the former socialist regime. It dominated the viewpoint of state officials and NGO-leaders working on the Disability Act, as well as the attitudes of disabled people themselves. It is therefore not surprising that the new Disability Act was based entirely on the so called 'medical assessment' of the impairment. In that case, 'integrative' measures can be taken only on the grounds of a medical expertise, while individual social components like age, education, place of living etc. are disregarded. There are indeed innovative elements corresponding to the **social model of disability,** like accessibility to the architectural environment and communications, access to education and

employment promotion, introduced for the first time by the Disability Act. Thus they exerted almost no significant influence on the policy for the people with disabilities because of the lack of adequate policy instruments and sanction mechanisms for their accomplishment. For instance, the process of promoting equal access to education broke, to some extent, the standstill only after the adoption of the National Action Plan on the Integration of the children with Disabilities 2003 by the Ministry of Education. According to the employment promotion, the employers, who appoint more than 50 employees, are obliged to offer vacant jobs to people with disabilities if they want to avoid paying a fine. According to representatives of ministries and NGOs, no money at all was collected because of the total lack of institutional control. That was also one of the reasons for the unsuccessful policy transfer of the 'Rehabilitation and Social Integration' Fund, which was based on a Belgian model. It was supposed to accumulate the collected money and invest it in integrative measures. In accordance with the Disability Act, an additional 0.1 per cent of GDP per year was intended to flow into the fund. However, only one year after the adoption of the Disabled Act, the amount was reduced to about 0.1 per cent of the GDP because of general lack of financial resources, a fact which made the fund almost meaningless.

The National Strategy of Equal Opportunities for People with Disabilities and the Second

Disability Act – Voluntarily but driven by perceived necessity policy transfer or obliged

transfer

The other two fundamental policy documents in the pre-accession period are interrelated and were adopted under the conditions of running accession negotiations for EU membership and the process of compliance with European law. The development of the strategy was additionally stimulated by the official 'European Year of People with Disabilities' and by two international seminars, which took place in Bulgaria and were organised by Bulgarian NGOs, in cooperation with the European Disability Forum. There were heated seminar discussions on the **Standard Rules on the Equalisation of Opportunities for Persons with Disabilities**, upon which the strategy was supposed to be based. The strategy was developed as a part of the national governmental program 'Bulgaria for All', established on the occasion of the 2003 European Year of People with Disabilities. The main objective of the program was to create conditions favoring the elimination of discrimination and stimulation of successful social inclusion, worked out in detail through the national strategy. Numerous NGOs, representatives from the Ministry of Labour and Social Policy as well as the State Agency for Child Care formulated the program. This policy document pretended to introduce crucial change to the Bulgarian disability policy by way of a transition from the medical to the social model of disability. For the first time, the social policy discourse, inherited from the socialist regime and based on the isolation of people with disabilities from the rest of society, institutionalisation, lack of community-based social services, negative public attitudes towards disabled people, , was clearly brought to the fore as a fundamental problem. The specific measures elaborated in it included the introduction of a social assessment aside from existing medical expertise, accessibility to the architectural environment, access to education, encouragement of employers to hire people with disabilities, deinstitutionalisation and the promotion of alternative forms of social services in the community within the civil sector and among local authorities. Thus the lack of a key individual principle, upon which social assessment and the very idea of social inclusion are based, was revealed as the main lapse of the strategy. It has had, in turn, negative consequences on the implementation of the social assessment into the second Bulgarian Disability Act (2005), which is closely related to the strategy. The social assessment of disabilities is a European best practice created to complete the medical expertise which consists of personal **(individual)** information (age, education, place of living etc.). The integration supplement which people with disabilities are eligible for is based on social assessment. Therefore it is not surprising that people with the same impairment receive different integration supplements. In the second disability act, the so

called 'social assessment' does not work as such, but continues to be grounded only in medical expertise. The problem with the functioning of the social assessment also has a serious structural aspect. In accordance with the second disability act the 'Rehabilitation and Social Integration' Fund changed to the State Agency for People with Disabilities, responsible for the state's disabled policy, but devoid of adequate instruments, control functions or regional structures needed to   accomplish its goals. Instead, the regional structures of the Social Assistance Agency, initially created to combat poverty, were additionally charged with the 'integration' of disabled people in terms of receiving integration supplements, which are actually more similar to social benefits.

Policy learning in the case of The National Strategy on Equal Opportunities for People with Disabilities and the second Disability Act represents a mixed category, which is both voluntary but also driven by the perceived necessity transfer and obliged transfer forced by the accession negotiations. National governments can be forced to adopt programs and policies as part of their obligations as members of international regimes and structures (the EU), i.e. obliged transfer. However, since individual nations voluntarily join the European Union, any act of the EU can be considered voluntarily. Thus the lessons-drawing in accordance with the provisions of the accession partnership in the Bulgarian context seems to be rather a simple 'copy paste action' than a genuine policy learning process. This impression reveals the actual problem related to the policy diffusion in post-socialist countries in transition, where the **'learnability**' (appropriate institutional structures and available capacity), being the third important precondition for successful policy-learning (Leisering 2005), is generally missing. On the one hand, the transfer of 'new' policy instruments, such as the social assessment for instance, to an 'old' institutional context does not really make sense. On the other hand, the diffusion of entire models, like the social model of disability, requires the transformation of old institutional structures and the creation of new ones. A simultaneous, fundamental change of attitudes is also needed. These interrelated processes, however, usually take a very long time.

The post-accession OMC-agenda and disability policy

The OMC is not a single policy instrument, but rather a set of different instruments. My analysis focuses particularly on two fundamentals: the Joint Inclusion Memorandum and the first National Action Plan on Social Inclusion (2006-2008), as they are the two main OMC-policy documents shaping the pre-accession and the early post-accession disability policy.

The Joint Inclusion Memorandum (JIM) is a key policy transfer instrument on the boundary between pre-accession policy and post-accession OMC, which is designed to prepare candidate countries for full participation in the OMC social inclusion:

'The Memorandum outlines the principal challenges in relation to tackling poverty and social exclusion[9], presents the major policy measures taken by Bulgaria in the light of the agreement to start translating the EU's common objectives into national policies and identifies the key policy issues for future monitoring and policy review.'[10]

Moreover, its drafting was an obligatory precondition for EU membership and can therefore be defined as a mixed category between being voluntary, but driven by perceived necessity transfer and obligated transfer. JIM's drafting process in Bulgaria took place at the very end of the pre-accession period, between 2003 and 2005. Like in other post-socialist candidate countries, its development was completely guided and controlled by the Directorate General for Employment and Social Affairs of the European Commission. The Bulgarian counterpart, the Ministry of Labour and Social policy, was charged with the entire coordination procedure, taking into account an obligatory guidance note for the preparation of the memorandum, the critical remarks by the European Commission on the JIM's preliminary drafts and, of course, a particular deadline for the submission. In spite of paying special attention to the participation of all relevant stakeholders in the Bulgarian disability policy by the EU Commission - i.e. social policy governance, which is a core principle of the OMC -

the JIM's preparation in Bulgaria remained, in general, a bureaucratic process isolated from public debate and dominated by institutional actors, especially representatives from the Ministry of Labour and Social Policy. There were two NGOs which joined the working group on JIM, one of them being the National Centre for Rehabilitation and Social Integration, as a social services provider for disabled people. The NGOs were responsible for the submission of information, for example regarding the development of social services, but were not involved in the entire drafting process. The social partners took part only in the final stage, where there was already a prepared draft version of the document. There were no representatives of the local level of governance present. Exactly the same development pattern can also be observed in other post-socialist countries. Lendvai speaks in this regard of two main problems: **weak social policy governance** versus **strong social policy government, namely** underdeveloped civil society tradition versus a highly centralised, top-down manner of governance in the post-socialist countries. Furthermore, she sees a clear discrepancy in the EU-approach towards the post-socialist member states. The EU's focus on policy transfer, in terms of conditionality and compliance pressures during the accession, had little, if at all any, capacity to initiate and maintain wide civil society participation in the policy making process (Lendvai 2004).

The JIM also provides an appropriate discursive framework, a kind of 'neology' (Lendvai, 2004) which is unified within the OMC-Agenda for all member states. In the field of disability policy it refers to the term **social inclusion of people with disabilities** and therefore to the **social model of disability.** This neutralised language framework makes possible the shift towards convergence within the EU member states. At the same time, there is a great discrepancy between the new language framework as a product of a long process of political, economic and welfare state development in the 'old' EU member states and the policy context in the post-socialist countries**.** For example the overview of the actual situation of people with disabilities in the JIM shows that **institutional care** prevails and **community-based services** are underdeveloped. Moreover, the policy measures regarding people with disabilities in Bulgaria, as the previous analysis of the pre-accession legislative framework already revealed, resemble rather **social assistance** than **social inclusion** measures. Another example is the contested term 'people with disabilities'. It was officially introduced by the Second Bulgarian Disability Act, but NGOs, according to different impairments, prefer to use the old term 'invalid' or 'handicapped', because of the direct reference to specific impairment.

The second OMC element, **the first Bulgarian National Action Plan on Social Protection and Social Inclusion 2006-2008 (NAP),** is the main instrument for transformation and application of the OMC concept in the national context and an initial part of the post-accession OMC-Agenda. The member states are charged with translating the common objectives into NAP's for each of the three areas, namely social inclusion, pensions, health and long-term care. These plans, which cover a period of two years, are submitted to the Commission in the form of National Strategic Reports.

The process of preparation of the NAP on social inclusion was very similar to the JIM's development. The Ministry of Labour and Social Policy was the coordinator of the entire development process, which included mobilisation of all relevant stakeholders, the setting up of a working group and the development of a policy document in accordance with the guidance note submitted by the European Commission. The main difference concerns the institutional role of the European Commission in the post-accession OMC agenda. In contrast to the JIM's development, the Directorate-General for Employment and Social Affairs does not control the NAP's drafting process, but is engaged only in its evaluation through joint reports. Comparing the JIM's and the NAP's preparation, there was indeed noticeable progress: the working group on the NAP included more representatives from the non-governmental sector as well as representatives from the local government. The NAP's drafting process, however, was as bureaucratic and isolated from the public discourse as that of the JIM's. While the JIM gave an overview of the social policy situation and outlined the main challenges, the NAP was supposed to give a concrete answer to the question of how to cope with these challenges. In fact it is quite difficult to make more than only analytical

distinction between the JIM and the NAP, because the Bulgarian NAP foresees neither concrete policy measures nor concrete resource allocation in the two parts dedicated to disability issues. The real problem is related to the **lack of learnability**. As we have seen in the analysis of the pre-accession policy, particularly with regard to the Second Bulgarian Disability Act, the State Agency for People with Disabilities was created for accomplishing the state policy of **social inclusion, however** without having any adequate instruments for doing so either at the national or at the local level. As a matter of fact, the regional structures of the Social Assistance Agency took on their functions, embarking on a policy of fighting poverty. Nor did the NAP provide appropriate policy structures to cope with the problems of **social inclusion**. The government Agency for People with Disabilities fell short of enforcing its most ambitious plan to develop its own regional structures responsible for the social inclusion of disabled people and to become independent of the regional structures of the Social Assistance Agency while participating in the NAP's drafting.

The social policy governance discourse, as a key OMC-principle based on the participation of all relevant governmental and non-governmental actors, affected the actors' network twofold. Firstly, an **institutional expert network** was established and extended after JIM's and NAP's drafting process. Nevertheless, institutional cooperation continues to encounter difficulties due to the transitional context in Bulgarian society, including **policy fragmentation** in terms of compartmentalisation and sectorialism, lack of experience of inter-ministerial and cross-sectoral collaboration on joint activities (Lendvai 2004). The result is that the overall OMC concept is well-known, mostly to the Ministry of Labour and Social Policy and particularly to the experts coordinating JIM's and NAP's drafting. Secondly, the cooperation between GOs and NGOs turns out to be much more complicated issue than inter-ministerial cooperation. From the governmental point of view, most NGOs for people with disabilities struggle to solve the individual problems of their clients according to the different impairments, instead of representing the interests of people with disabilities as a whole.

On the other hand, the **underdeveloped civil sector** does not use the OMC concept in order to strengthen its positions as an equal partner in the policy making process. The Center for Independent Living is perhaps the only NGO for people with disabilities, which indeed makes use of the OMC, but not as an institutional concept. That particular NGO was not involved in the official OMC-Agenda and is in general very skeptical regarding the ultimate idea of the participation of all relevant actors and its successful application in the social policy field. The Center for Independent Living suggests that the theoretical concept of social policy governance is more or less a matter of interpretation, due to the specific societal context. It also assumes that, in the case of Bulgaria, the concept is to be used by the governmental actors as a powerful instrument for legitimizing the 'old' redistributive disability approach (**discourse of societal costs**) within a new language framework (**discourse of social inclusion**) and that the opinions of NGOs in the JIM's and NAP's drafting process are supposed to only formally be taken into consideration.

Going beyond the institutional concept of policy learning within the OMC, the Center for Independent Living has developed its own concept of OMC-learning effects. The NGO takes into consideration the defaults of the OMC and applies the method's concept to its work in promoting a rights-based approach in disability policy, intended to construct active attitudes towards disabled people and strengthen the position of the civil sector. The policy learning process in the municipalities also takes place beyond the OMC framework. On the one hand, the NAP was interpreted rather as an instrument for exchanging best practices between different Bulgarian municipalities with the goal of establishing a municipal network at the local level as well as a policy document outlining the basic topics for drafting projects for the implementation of innovative social inclusion services, which were to be financed primarily by the European Social Fund. On the other hand, the policy learning process is based on particular projects financially supported and guided by foreign NGOs providing innovative practices for people with disabilities, for example community based social services.[11]

Conclusion

The analysis revealed the disability field in Bulgaria rather as a policy area, which is in general open for a transition from the medical to the social disability model, although the transition turned out to be extremely slow and difficult. The detailed examination of the pre-accession and post-accession disability policy outlined the following tendencies:

The development of the disability legislative framework in the pre-accession period in Bulgaria turned out to be triggered both by external and internal influences. The internal factors are much more important as they exert considerable influence on the functioning of the post-accession OMC-Agenda. On the one hand, it is the willingness to learn which is typical for a transition period, that favors successful policy diffusions. On the other hand, it is the tendency towards path-dependency tendency, also typical for the transition situation, which results in the lack of adequate institutional structures (lack of learnability), thereby hindering policy transfer and policy learning processes.

The Open method of Coordination (OMC) is a supranational institutional concept encompassing different instruments for policy transfer und policy learning. On the boundary between pre-accession and early post-accession disability policy, it provides the policy transfer of two main discourses: social policy governance and social inclusion. Despite the key OMC principle of the participation of all relevant stakeholders, the OMC-Agenda in Bulgaria turned out to be a highly bureaucratic and institutionally closed process, like in other east and west European member states. The policy learning process therefore takes place mostly at the institutional level and refers to the establishing of an institutional, inter-ministerial expert network. The influence of the new social inclusion discourse on the disability policy in the sense of transition from the medical to the social model of disability remains limited. The medical model of disability still prevails in the Bulgarian Social Policy, due to the lack of learnability and the path-dependency tendency, which are typical for the post-socialist policy context.

Learning effects beyond the expectations inscribed in the institutional OMC-framework are emerging. This development is very important as an implication of a process of decoupling from path-dependency as well as from the institutional OMC model. At the national level of governance, single NGOs for people with disabilities make use of the OMC-concept for promoting the rights-based approach, for building active attitudes towards people with disabilities as well as for strengthening the position of the civil sector. At the local level of governance, the municipalities use the OMC as an instrument for learning and exchanging experience with other Bulgarian municipalities as well as an instrument for the better use of the European Social Fund to support projects that further OMC goals.

Notes

1. The first steps are provided by: Lendvai, N. (2004) 'The indigenisation of social inclusion policy in post-communist Europe and its implication for EU social policy after enlargement.' Paper for the second ESPANET conference, Oxford; Tulmets, E. (2005)(a) 'The introduction of the Open Method of Coordination in the European Enlargement Policy: Analysing the impact of the New Phare/Twinning Instrument', *European Political Economy Review*, 3 (1): 54-90; Tulmets, E. (2005)(b) 'The management of new forms of governance by former accession countries of the European Union: Institutional twinning in Estonia and Hungary', *European Law Journal*, 11 (5): 657–74; Schlegers, P. J. (2005) *Changing Welfare States. An Institutional Explanation for the Susceptibility to Policy Learning by Means of the OMC Social Inclusion. The Cases Czech Republic, Hungary and Latvia*. Master's Thesis: European Public Administaration and Public Policy, Faculty of Business,

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2. Like the OMC, the Community method (the directives) is, in part, a process designed to bring about changes in national law. To become law, directives must be transposed into national law. Under what Scott and Trubek (2002) call the 'Classic Community Method', this process led to the creation of more or less uniform rules throughout the Union. But partly under the influence of the *Protocol on the Application of the Principles of subsidiarity and Proportionality*, the Community method has changed and, as a result, many newer directives are quite open-ended. The results of the 1990–91 study were published in Melzer *et al.* (1991).

3. The main common objectives encompass social cohesion, gender mainstreaming and equal opportunities for all through efficient social protection systems and social inclusion policies, transparency and the involvement of stakeholders in the policy making process. See: <http://ec.europa.eu/social/main.jsp?catId=755&langId=en> [accessed 02.2013].The 2001 study results were published in: Koseła and Jonda (2005).

4. See: <http://ec.europa.eu/social/main.jsp?catId=753&langId=en> [accessed 02.013].

5. The policy continuum will be applied to only one OMC element - the Joint Inclusion Memorandum since it is an instrument for policy transfer on the boundary between pre-accession policy and post-accession OMC (see the empirical section on the OMC and on the JIM in particular).

6. In the Bulgarian case, path-dependency means the institutional design inherited from the past including the actor's constellations which continues to affect the further development of the welfare state. 'Młodzi ludzie bez pracy', available at: <http://www.solidarnosc.org.pl/pl/aktualnosci/mlodzi-ludzie-bez-pracy.html> [24.10.2012].

7. The advocacy coalitions could be defined as a set of actors coming from a wide variety of institutions who share core policy beliefs and coordinate their behaviour in different ways (cf. Sabatier 1998).

8. As Dolowitz and Marsh noted, 'it is rare that actors are perfectly rational. Most act with limited information or within the confines of "bounded rationality". At the same time, actors are influenced by their perception of a decision-making situation rather than the "real" situation' (Dolowitz/Marsh 2000:14).

9. The main challenges stemming from JIM are: expanding the labour market participation; improving the education and lifelong learning; reforming the social protection systems; enabling the access to health, social and transport services, and adequate housing; overcoming the regional concentrations of disadvantages; **including Roma, vulnerable ethnic minorities, disabled people and other vulnerable groups**; supporting the families & protecting rights of children.

10. Joint Memorandum on Social Inclusion of the Republic of Bulgaria. <http://ec.eu/employment_social/spsi/enlargement_de.htm#memoranda> [accessed 03.2006].

11. For example, the project of the English NGO 'ARG', dealing with sheltered housing in Stara Zagora.

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