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**NEWGOV**  
**New Modes of Governance**

Integrated Project  
Priority 7 – Citizens and Governance in the Knowledge-based Society

**First Annual Activity Report**  
**Covering the period months 1-12**  
**September 2004 – August 2005**  
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## **Executive Summary**

### ***1. The key objectives of NEWGOV***

The aim of the NEWGOV IP is to examine the transformation of governance in Europe (and beyond) by mapping, evaluating and analysing the emergence, execution, and evolution of what we refer to as ‘New Modes of Governance’ (NMG). By new modes of governance we mean the range of innovation and transformation that has been and continues to occur in the instruments, methods, modes and systems of governance in contemporary polities and economies, and especially within the European Union (EU) and its member states.

The precise scientific objectives of NEWGOV will be pursued within four different clusters, each of which contains a set of inter-linked projects. The four clusters are dedicated, respectively, to ‘emergence, evolution and evaluation’, ‘delegation, hierarchy and accountability’, ‘effectiveness, capacity and legitimacy’, and ‘learning, experimental governance, and reform’. Within these clusters there is a total of 24 projects which cover topics such as ‘capacity building and the OMC’ and ‘arguing and persuasion in EU governance’ in cluster 1, ‘regulatory agencies and network governance’, ‘governance and the EU securities sector’ and ‘European public services regulation’ in cluster 2, ‘new forms of governance and eastern enlargement’, ‘the domestic impact of European law’ and ‘new modes of governance in relations with non-member states’ in cluster 3, and ‘varieties of capitalism and economic governance in CE Europe’, ‘new corporate governance regimes’ and ‘distributive politics, learning and reform’ in cluster 4. The clusters and the projects are accompanied by two transversal task forces, one on ‘legal issues’, the other on issues of ‘legitimacy and democracy’ which will make inputs across the Integrated Project. Joint activities across the consortium as a whole include workshops, conferences, the mutual exchange and cross-fertilisation of ideas, information, and data, and through research training conducted in two summer schools.

### ***2. Major scientific achievements during the reporting period***

The first twelve months of the NEWGOV project have been dedicated to putting research designs in place at the consortium, cluster and project levels and implementing their first phases. The first six months or so saw an intense process of activity, as the overall design of the IP was refined: in an organisational innovation with scientific implications, new partners were brought in via our legal and democratic legitimacy task forces (a process which filled gaps in our subject coverage, but which also put in place the beginnings of a transversal structure linking our four clusters), while scientifically we also worked at all levels of the consortium to focus our collective attention on a specific set of theoretical and empirical concerns. This latter process culminated with the consortium meeting in May. The latter consisted of cluster meetings and an overall consortium assembly specifically defined to reflect on the overall scientific goals of the consortium and on the ways that they are being pursued at the project and cluster levels. The overall IP scientific document was revised for that consortium conference and has subsequently been revised in light of the comments received from our project partners.

At the cluster level, our cluster leaders have worked hard to ensure that the projects that fall under their responsibility are on track in meeting their initial objectives and in particular that their work conforms with overall cluster objectives. Some of our clusters are more integrated than others. Cluster one, for example, has a rather precise division of intellectual labour in which its project partners have been located, and the input from each project fits into a clear conception of an overall whole. This is largely related to its rather precise focus on mapping and categorising new modes of governance. Clusters two and three are less integrated within a common set of ob-

jectives, but each seeks rather to deal with a number of complementary dimensions of their subject areas, without elaborating one single methodological approach – the first examining the emergence of new transnational regulatory systems in Europe, and the second looking at policy and policy process innovations in the countries of the most recent and previous EU enlargement waves. The fourth cluster, while focusing on innovations on forms of socio-economic governance across the EU, is our most heterogeneous – not simply because its projects focus on different levels of economic governance, ranging from the local to the international, but because it contains a much more varied disciplinary mix, including economists, lawyers and political scientists.

The most important achievements have obviously been made at the level of our individual projects, since that is the level at which most of the hard research is being conducted. Although many of our projects have spent their first twelve months perfecting research designs and carrying out the preliminary phases of their investigations, many have equally managed to produce preliminary presentations of their results. Around 70 project deliverables have been produced during the first year, ranging from project workshops and meetings, websites, technical deliverables such as glossaries, indicators, scientific guidelines, refinements of research approaches, and interviews digests, to reports on empirical research, working papers, journal articles, book chapters, and an edited volume already published.

### ***3. Main elements of the plan for using and disseminating knowledge***

The ‘Plan for Using and Disseminating Knowledge’ of the NEWGOV Project focuses on the effective dissemination of the generated knowledge. We rely on a two-tier strategy which includes (a) activities coordinated and implemented on the Consortium level, and (b) activities which are implemented by the individual partners and projects.

The primary tool for disseminating the results of the research conducted by the Consortium is the Consortium web-site [www.eu-newgov.org](http://www.eu-newgov.org). Launched on 1 February, 2005, it contains topical information concerning the project, in particular publications, reports, articles and working papers of the Consortium. Links to other information sources relating to the project’s research fields are provided, as well as regularly updated information on events organised in the framework of NEWGOV. After a starting period, the website has now 2.100 visits per month on average, predominately from European and the US-American higher education institutions, but also from governmental institutions, companies and organisations.

The peer-reviewed working paper series EUROGOV, the joint series of the CONNEX and NEWGOV networks, is a crucial means of spreading this knowledge to the European and international scientific communities. The first NEWGOV paper was published in early September 2005, some papers are currently being reviewed, and other papers have been announced by NEWGOV researchers for the coming months. The website of the Working Papers series is: [www.connex-network.org/eurogov](http://www.connex-network.org/eurogov). A brochure presenting the aims and the structure of the Integrated Project has been produced in spring 2005.

Relaying the results of the research to the scientific community and strengthening the integration of the research carried out on the cluster and project level is mainly implemented by Consortium-level workshops, each of them focusing on specific analytical themes or empirical topics. The first Consortium Conference was organised in Florence in May 2005 and was attended by more than 80 researchers from within the Consortium. In the next months, Consortium-level workshops are planned on the topics of ‘Law in New Governance’ and ‘Governance and Economic

Theory'. In addition, the first NEWGOV Practitioner Forum in spring 2006 will focus on Economic Governance. It will bring together a mixed group of academics and practitioners from different sources to discuss the research outputs from the Consortium. The academic and policy making communities will also be target of the external NEWGOV newsletter, providing information concerning work in different parts of the Consortium, and the series of short and accessible Issues and Briefing Papers, relating to specific and topical events that arises during the course of the Integrated Project.

Beside these activities coordinated at the Consortium level, NEWGOV researchers have already been very actively disseminating project generated knowledge to the academic and policy making communities. During the first project year, they have presented NEWGOV research at more than 80 conferences, workshops, seminars and on other occasions. It included the most prestigious academic events such as the Ninth Biennial International Conference of the European Union Studies Association (EUSA), conferences of the European Consortium for Political Research (ECPR), the International Studies Association (ISA), the Society for the Advancement of Socio-Economics (SASE), the American Political Science Association (APSA), or the International Association for Legal and Social Philosophy. Beyond that, around 150 articles, book chapters, working papers etc. have been published or are in the process of being published by NEWGOV researchers.

## Projects and Project Leaders

### 1. List of Projects

(click on the cluster/project to be transferred to the presentation on the NEWGOV website)

#### Cluster 1: Emergence, Evolution and Evaluation

1. The Evolution and Impact of Governing Modes
2. The Open Method of Co-ordination
3. Arguing and Persuasion in EU Governance
4. Legal Perspectives on Democracy and New Modes of Governance

#### Cluster 2: Delegation, Hierarchy and Accountability

5. New Modes of Governance in the Shadow of Hierarchy
6. After Delegation: Regulatory Agencies & Network Governance
7. Governance and the EU Securities Sector
8. European Public Services Regulation
9. Choice and Combination of Policy Instruments
10. Private Dispute Resolution: Legitimate & Accountable?
11. The Role of Civil Society in Democratising European & Global Governance

#### Cluster 3: Effectiveness, Capacity and Legitimacy

12. Coping with Accession: New Forms of Governance and European Enlargement
13. The Domestic Impact of European Law
14. Smoothing Eastern Enlargement: Independent Regulatory Agencies and Non-Hierarchical Steering
15. Evolving Regional Governance Regimes: Challenges for Institution Building in the CEE Countries
16. Inside-Out: New Modes of Governance in Relations with Non-Member States
17. Democratisation, Capture of the State and New Forms of Governance in CEE countries

#### Cluster 4: Learning, Experimental Governance and Participation

- 18a. Distributive Politics, Learning and Reform: Emergence and Evolution of National Social Pacts
- 18b. Distributive Politics, Learning and Reform: Emergence and Evolution of Administrative Partnerships
- 19a. New Approaches to Economic Governance in the EU
- 19b. New Approaches to Economic Governance in the EU: The Politics of Central Bank Accountability in the Age of Globalisation
20. 'Varieties of Capitalism' and Economic Governance in CE Europe
21. Towards New Corporate Governance Regimes in Europe
22. Changing Governance Architecture of International Taxation – TAXGOV
23. Learning and Local Innovation System
24. Democratisation/Participation of Civil Society in New Modes of Governance

#### Task Forces

- Democracy Task Force
- Legal Task Forces
  - New Modes of Governance and the relevance for EU law
  - Which governance structures for European private law?
  - Litigating EU Law

## 2. *Contractors and project (co-)leaders*

(click on the name to be transferred to the contact details on the NEWGOV website)

- |   |  |
|---|--|
| 1. European University Institute                                      | Helen Wallace (Chairperson of the Steering Committee), Martin Rhodes (Scientific Director), Fabrizio Cafaggi, Gráinne de Búrca, Colin Crouch, Adrienne Héritier, Alec Stone Sweet, Ingo Linsenmann (Project Manager) |
| 2. Universität zu Köln  | Wolfgang Wessels, Udo Diedrichs  |
| 3. Freie Universität Berlin   | Tanja A. Börzel, Charalampos Koutalakis, Thomas Risse  |
| 4. Institut für Höhere Studien  | Gerda Falkner  |
| 5. University College Dublin  | Brigid Laffan  |
| 6. University of Sussex*  | Jörg Monar   |
| 7. Observatoire social européen asbl                                  | Philippe Pochet  |
| 8. Institute for World Economics of the Hungarian Academy of Sciences | Kalman Dezseri   |
| 9. Fondation Nationale des Sciences Politiques                        | Nicolas Jabko, Patrick Le Galès  |
| 10. Swedish Institute for European Policy Studies                     | Carl Fredrik Bergström, Ulrika Mörth   |
| 11. University College London   | Richard Bellamy, David Coen  |
| 12. Max-Planck Institut f. Gesellschaftsforschung                     | Susanne Schmidt  |
| 13. Università di Trento  | Carlo Ruzza, Stijn Smismans  |
| 14. Universidad de Granada  | Leonor Moral Soriano   |
| 17. Universität Bern  | Sandra Lavenex   |
| 18. Universitat Autònoma de Barcelona                                 | Nuria Font Borrás  |
| 19. Central European University Budapest                              | Laszlo Bruszt  |
| 20. Foundation The Institute of Public Affairs                        | Lena Kolarska-Bobinska   |
| 21. Universität Zürich  | Dirk Lehmkuhl  |
| 22. Stichting Katholieke Universiteit Brabant                         | Luc Renneboog  |
| 23. Universiteit van Amsterdam  | Daniela Obradovic, Jelle Visser  |
| 24. Università Bocconi  | Maurizio Ferrera   |
| 26. London School of Economics and Political Science                  | Iain Begg, Robert Hancké, Carol Harlow, Abigail Innes, Waltraud Schelkle, Mark Thatcher  |
| 27. University of Essex   | Albert Weale   |
| 28. University of Exeter  | Dario Castiglione, Claudio Radaelli  |
| 29. Universitetet i Oslo  | Andreas Follesdal  |
| 30. Universität Bremen  | Patrizia Isabelle Nanz, Jens Steffek   |
| 31. Wirtschaftsuniversität Wien                                       | Stefan Griller   |
| 32. Universität Basel   | Anne Peters  |
| 34. Institute of Sociology, Academy of Sciences of the Czech Republic | Zdenka Mansfeldova   |
| 35. Polish Academy of Sciences  | Michal Federowicz  |
| 37. University of Cambridge   | David Stuart Lane  |
| 38. Forschungsstelle Osteuropa an der Universität Bremen              | Heiko Pleines  |
| 40. University of Limerick  | Martin Kay   |
| 43. Université Catholique de Louvain                                  | Christian de Visscher, Frédéric Varone   |
| 44. Université Robert Schuman Strasbourg*                             | Jörg Monar   |

\* as of 1 September 2005, partner 4 was replaced by partner 44



## Overview of the major scientific objectives achieved during the first year

At the consortium level, the overarching scientific document for the whole consortium has gone through two reiterations during the last twelve months. The latest version of that report can be read in our new Implementation Plan. The main objective of that document is to provide a reference point for our clusters and projects, but we fully expect it to be outpaced by developments at the project level. This for two reasons. The first is that there is a clear contradiction between the scale of an Integrated Project and the utility of a rigid framework for straight jacketing its member projects. For that reason we have purposefully kept our overall scientific objectives at a high level of generality and have fully expected that our project members exploit the latitude created by those guidelines. The second, and related reason, is that we also fully expect the general scientific document of the consortium to follow the projects rather than lead them – even if the task of the consortium and project leaders is to ensure that our members are following parallel rather than tangential paths.

Thus after its preliminary role as an instrument for helping shape the orientations of our projects, we now expect that it will rather reflect in its subsequent iterations (and spin-off publications) the achievements and findings of those projects. Partly in response to issues raised already at the cluster and project levels, the scientific document of the consortium has made several innovations in the first year: to question the distinction between ‘old’ and ‘new’ modes of governance (it has become increasingly clear that what are regularly referred to as new modes of governance are rather the use and prioritisation of forms of mainly ‘soft’ and deliberative governance or informal and quasi-formal governing networks that have long been present in the EU’s multi-level polity); to question the widespread assumptions as to the utility and democratic potential of so-called new modes of governance as ‘superior’ approaches to policy making (their effectiveness has been thrown into doubt in many areas, and their ‘democratic’ character similarly questioned); and to emphasise the importance of specifying the scope conditions under which new modes of governance can effectively operate and achieve their objectives. Thus, the general orientation of the Integrated Project has become less one that focuses in on ‘new modes of governance’ as such, but rather a very broad study of the ways in which the EU (at multiple levels) is responding to challenges to governance by innovating across governing modes (both ‘old’ and ‘new’) and putting in place new kinds of policy process and network and with what effect. We therefore reject a simplistic conflation of new modes of governance with soft law instruments such as the OMC. And in various of the NEWGOV projects – and eventually in the aggregated research outcomes – the NEWGOV consortium looks also and in some places rather substantively at ‘new’ versions of ‘old’ forms of governance, and at a variety of forms of experimentation and evolution in those more traditional governing modes.

The work undertaken so far in [cluster 1 – \*Emergence, Evolution & Evaluation\*](#) – reflects a two-fold approach. The cluster combines the concern for the definition, categorization, and theoretical reflection of new modes of governance and their implications with empirical research on policy areas and their peculiar features. The cluster’s two track approach is meant to consist of mutually enriching and inspiring components, opening ways for better identifying the basic trends within the EU system at the turn of the century. After an initial phase of deliberation among the partners on basic issues regarding the analysis of new modes of governance, the cluster’s projects have delivered a number of academic contributions focused on the main questions in the cluster. The hypotheses formulated by each project and partner seek to take up key issues of relevance for the cluster and to deepen our understanding of the complex processes in play in EU governance.

In terms of the architecture of the IP as set out in the Consortium's scientific document, the main concerns of the cluster lie with the emergence and evolution of new modes of governance. The definition of new modes of governance remains something of a puzzle.

Different perspectives have been applied in the contributions:

- a focus on the basic rationale lying behind the creation of new modes of governance, identifying the basic 'problem' or 'incentive' for engaging in these modes;
- a more detailed description of the constellation of factors in a given situation, which facilitated the decision to introduce a certain governance mode;
- an actor-based approach which specifically tries to define the particular role of a certain institution or member state in helping to bring about modes of governance;
- and a process-based approach identifying the dynamics which trigger the creation of new modes of governance e.g. through mixtures of existing modes of governance.

A recurrent factor accounting for the emergence of new modes of governance is seen in dilemma situations, crises or 'impasses' of the EU decision-making process, inhibiting more binding forms of steering, and reflecting the consensus-based character of the EU system as such. In particular the failure of the more traditional modes of governance is regarded as a driving force. The absence of willingness on the part of the member states to transfer policies, competencies or regulatory power to the EU level, while trying to avoid paralysis in decision-making or regulatory gaps, seems to support the search for new modes of governance. The emergence of new modes of governance as the result of hybridisation or convergence of existing modes of governance is underlined.

As for evolution, the analysis is being linked to an assessment of the basic features and peculiarities of the development of new modes. A dynamic process of 'proliferation' and 'variation' of certain models like the OMC is observed, while there are also possibilities for cross-sector dynamics in the sense of spill-over processes. Policy interconnectedness has been found to be a key condition for the emergence and evolution of coordination processes in core emerging areas of EU policy competence. Work conducted so far is teaching us to be cautious about using labels like 'new' modes of governance. Thus while some features of the evolution of governing reveal an increasing use of 'soft' modes of governance, there are also tendencies towards the growing use of 'old modes' – i.e., binding instruments and a stronger role of EU institutions – in certain fields. Interestingly, the assessment of modes of governance becomes rather pessimistic the closer one approaches concrete policy areas and the respective policy-making processes. Is there a gap between the conceptual and theoretical level and the empirical level of approaching new modes of governance? A general problem lies in the level of abstraction and of generalisation which we are able to apply when speaking of modes of governance. Are there trends which can be empirically proved and which describe the emergence and evolution of modes of governance across policy areas? The answer to that question will only be given once the analysis has been completed and a comparative approach has been applied. Some specific problems to be assessed lie in the role and implications of soft governance, both under empirical and normative perspective. Is there a trend towards softer forms of governance? If so, does it strengthen or undermine the democratic accountability and legitimacy of the Union? Are we able to link specific institutional settings and conditions to certain modes of communication, and in which way are new modes of governance also related to such forms?

As for the work undertaken so far by *cluster 2 – Delegation, Hierarchy and Accountability* – the focus is on how new modes of governance in highly complex policy areas operate in practice and what is their impact in terms of policy effectiveness, legitimacy and structural change at the na-

tional and European level? Most of the individual projects of the cluster are trying to account for the effectiveness, some of them for the legitimacy, of the new modes. As in the case of NEWGOV consortium as a whole, this cluster covers a wide range of different policy processes such as consultation procedures, policy instruments, regulatory networks, voluntary commitments or private dispute resolution. Policy areas where those new modes are studied include energy, environment, financial markets, foodstuff regulation, health and safety regulation, regional policy, telecommunications, and social policy. In substance, all projects address the issue of regulation in some way, notably focusing on the role of Community and national legislation and the establishment and functioning of national regulatory authorities (NRAs). With respect to the policy fields covered, there are elements of sectoral analysis, intra-sectoral comparison and cross-sector comparison. Furthermore, governance is perceived as a multi-level phenomenon in all projects, with some systematically comparing across levels, others starting from a cross-level concept of governance with particular emphasis on the international level, and still others examining governance from a cross-country perspective.

When analysing and theoretically conceptualising new modes, the projects in the cluster focus on different aspects: the relationship between new and old modes and particularly the impact of hierarchy is one theme. Provisional evidence from empirical case studies has pointed to three different scenarios: self-regulation being replaced by hierarchy; policy solutions oscillating between old and new modes; and hierarchy being replaced by self-regulation. The relationship between old and new is therefore not one-directional and the conditions under which linking new modes to hierarchy enhances political capacity and effectiveness have to be sought in detailed analysis. Furthermore, the effectiveness of new modes is also approached from the angle of diffusion and learning theories. Here, provisional evidence pointed to a rather limited impact. Legitimacy is another focus within the cluster, raising the question as to how far new modes can contribute to democratising governance. In contradiction with normative discourses, there is evidence that changes in the institutional framework and new modes of governance have not necessarily led to more participatory procedures. Hence normative theories about civil society participation need to be reconsidered. Besides effectiveness and legitimacy, a third approach to new modes analyses the preconditions for policy change. Based on a specific concept, so-called ‘public policy instruments’ (PPIs), change is tackled in terms of the instruments of policy making and implementation themselves, but also their political and legitimacy dimensions.

A common theoretical denominator of the majority of the projects within this cluster is principal agent theory, seeking to identify the scope conditions of this approach and to identify complementing theories. The overall objective of the cluster as a whole is to provide answers to questions about the causes, modes and outcomes of delegation:

- How do new regulatory bodies impact on the balance of power between European bodies?
- How do instruments of governance evolve over time?
- How do national governments use EU-level networks for their own purposes?
- What motivates delegation of adjudication to private actors?
- Does the shadow of hierarchy make new modes of governance more effective?

Alternative approaches of individual projects include PPI analysis and democratic legitimisation theories. Despite some divergence amongst the individual projects, the overall emphasis at the collective level is on *effectiveness*. Yet the issue of legitimisation can be integrated into the wider framework of the NEWGOV Integrated Project.

As for *cluster 3 – Effectiveness, Capacity & Legitimacy* – the primary focus is on the 3<sup>rd</sup> ‘E’ of the consortium’s scientific framework – Evaluation. New modes of governance are treated as an independent variable and their impact is evaluated with regard to policy results (i.e., do NMG

make the adoption of and approximation to the *acquis* in weak states more effective and legitimate?) and domestic structures (i.e., do NMG make the adaptation of domestic institutions to the *acquis* in weak states more effective and legitimate?). However, a second focus is placed on the 1<sup>st</sup> E – Emergence. Some projects in the cluster also treat NMG as a dependent variable seeking to explain their emergence at the EU and domestic levels (i.e., do old modes of governance, which are wanting of effectiveness and/or legitimacy foster the emergence of NMG?)

In deliberations on establishing the work of the cluster in the first twelve months, rather than using a narrow definition of NMG that could exclude important and interesting governance arrangements, the cluster members felt that they should, first, identify the possible dimensions along which governance arrangements can be classified and, in a second step, make clear on which dimensions individual projects decide to focus and why they consider these particular dimensions as relevant. In line with the general concerns of the NEWGOV IP, there is also a focus on innovative adaptations of older modes of governance and innovative combinations of new and old modes, as in the association of soft law and hard law instruments. After having identified the relevant dimensions along which to classify governance arrangements, one can discuss in a third step the extent to which the governance arrangements identified can be treated as ‘new’. Moreover, the distinction between new and old should be seen as a continuum rather than a dichotomy. This ‘three-step approach’ would allow the cluster to keep the definition of NMG open, to trace changes within governance arrangements, to avoid selection bias on the dependent variable, and to account for the nestedness of governance arrangements. It has also been stressed that what is ‘new’ is often country or policy specific. Thus, while public-private partnerships in policy-implementation are not new in old member states, for transition countries just turning away from authoritarian rule this can indeed be an innovation. The same would be true for a policy, such as external security.

Two possible dimensions, along which governance arrangements can be classified, were identified – *voluntarism*: hierarchical vs. non-hierarchical coordination; and *inclusion*: public vs. private actors involved in policy making. There was general agreement in the cluster that NMG are non-hierarchical. It was less clear, however, what hierarchy entails. Drawing on Max Weber, hierarchy can be defined as a relationship of domination and subordination, in which the ruler can expect the ruled to obey their command (legitimacy) – otherwise they can resort to the use of force. Such a definition allows one to distinguish hierarchy from power (which lacks the legitimacy aspect). One could argue, of course, that according to this definition the relationship of the EU with its member states is always non-hierarchical. It is true that the EU has no coercive power. However, the supremacy and direct effect of EU law allow the EU to resort to the coercive powers of its member states to enforce its legally binding rules. In case of member state non-compliance, citizens can resort to domestic courts to have EU law enforced. Moreover, asymmetrical power relations can come close to coercion. For instance, if a country is heavily dependent on the EU, the costs of negative conditionality can become prohibitive. However, there is a principal difference between hierarchy and conditionality: as weak as they may be, countries have still a choice whether they want to comply with EU requirements. As a result, a relationship is non-hierarchical if a political decision cannot be taken and/or implemented against the will of any of the actors involved.

Regarding the actors involved, the question emerged as to whether governance arrangements that exclusively involve public actors should qualify as NMG. Intergovernmental cooperation is less problematic since most would agree that this belongs to the realm of (very) old modes of governance. But what about regulatory agencies? A general agreement emerged that European agencies can be qualified as NMG since they usually do not possess regulatory powers and, therefore,

have to rely on non-hierarchical coordination, e.g. through the involvement of private actors and the provision/diffusion of knowledge and information (in regulatory networks). Regarding causality, the reasons of why NMG should have an impact on policy results and domestic structures, and why NMG should emerge in the first place, are under specified in almost all projects. There is a general need to specify how NMG are to matter/emerge in order to avoid the selection of cases in which ‘there is no there there’, i.e. in which we should not be surprised if NMG have not emerged/made a difference. For instance, there should be theoretical reasons why and how we would expect NMG to strengthen state capacity, and cases should be chosen accordingly. The specification of causal mechanisms is also under-developed in the NEWGOV framework paper.

Under which conditions should NMG matter/emerge? The discussion in the initial cluster three workshop identified three potential scope conditions/intervening variables. The first was the role of the state: state capacity (strong states may produce a long shadow of hierarchy, which in turn provides major incentives for private actors to participate in governance arrangements by threatening imposition of state policy and/or by ensuring deterring free-riding. The state can also play the role of an initiator/mediator. Weak states, in turn, often lack sufficient resources to produce effective policy outcomes. State failure increases the demand/need for NMG to compensate for lack/deficient state policy. If the two assumptions hold, this may result in an important dilemma for NMG – the weaker the state, the higher the demand/need for NMG but the less effective and legitimate are NMG. The second was the role of the market and competitive pressures. Like the shadow of hierarchy, competition may provide important incentives for private actors to participate in governance arrangements. And third, the role of society via social capital. NMG are supposed to empower social actors by giving them a voice in the formulation and implementation of policies. At the same time, there are good reasons to assume that a strong civil society (trust) is an important precondition for NMG to emerge/be effective. This, again, could result in a dilemma, raised elsewhere in the IP, between the need for new modes to enhance the capacity for governance in conditions of poor and ineffective governance, and the absence of the conditions in those circumstances that would allow for the emergence of new modes in the first place.

As for *cluster 4 – Learning, Experimental Governance & Participation* – the principal focus is on areas of regulation where EU involvement is new and where at the national level existing modes of governance have been called into question – either because they are or appear to be ineffective, or because they are challenged by (mostly international, sometimes domestic) developments. This is the case of economic and monetary government, tax policy and corporate governance. Thus, renewal at the national and European level is called for, with (1) improved interaction (and experimentation – and possibly ‘policy learning’ – about where and how best to create governance capabilities) between levels and between policy arenas; and (2) experimentation and evolution of modes of governance, at the societal level, both within specific policy clusters (pacts and partnerships) and locally. Here the question is how these (different) modes of governance emerge and evolve, to what extent this takes the form of experimentation, and how we should understand complex and evolving outcomes, with a specific focus on the hybridisation of governance forms.

The core theme uniting the projects is the redefinition of modes of governance, though this differs according to the two levels of focus that divides the projects. The first level is governance as traditionally understood by political scientists, i.e., as a system of steering (e.g. monetary policy and macro-economic policy) or ‘government-plus’ (e.g. the involvement of interest groups via new forms or participation in the EU’s multi-level system). The second level regards ‘governance’ as a system of economic or socio-economic organisation. Many of the cluster’s projects are

concerned with the search for new forms of socio-economic organization, as well as political frameworks to ‘house’ them in national and local political economies.

Nevertheless, there is considerable diversity in the cluster, and the subjects of our projects range from the role of pacts and partnerships at the national level in forging new institutional approaches to the resolution of distributive conflict, the role of local level partnerships in enhancing industrial restructuring, innovation in the governance and economic policy co-ordination across the multiple levels of EMU, and exploration of the transformation of national governing modes in the emerging and fast-evolving new capitalist economies of Central and Eastern Europe, and analysis of how the complex and embedded systems of corporate governance in the EU perform under rapidly changing economic conditions and how they are transforming in response to endogenous and external pressures for change and reform, a study of tax competition and regulation at the national, supranational and international levels, a study of the emergence of new hybrid, recombinant modes of local economic governance and organization at the local level in response to technological change, competitive pressures and entrepreneurial initiative and an analysis of the process of democratisation within new modes of governance and the participation of interests groups, with a particular focus on social dialogue and business associations.

Because of that diversity, the aim of this cluster is not in its early stages to elaborate a common research agenda for all of its projects. The first cluster conference confirmed that it would be unwise at this stage either to engage in the search for definitional clarity for the innovations that we are seeking to analyse, or to seek a common methodological approach. It is our intention, however, to elaborate a ‘meta-analysis’ of the political economy of new modes of governance in the second year as the first results of our projects’ research begin to come in.

## Scientific Deliverables during the first year

(for direct download click on those marked with ‘\*’; other deliverables are not publicly available)

### Cluster 1: Emergence, Evolution and Evaluation

#### Project 1 and Cluster 1: The Evolution and Impact of Governing Modes

*Report of Cluster One Workshop, 10 December 2004, Brussels*  
*Wolfgang Wessels*

The meeting of Cluster One in Brussels on 10 December 2004 was designed as a kick off event for initiating the academic research under the NEWGOV project. Participants from all projects involved were present in order to discuss the work programme whose scientific objective is threefold:

- mapping, measuring and classifying modes of governance,
- explaining the emergence of new modes of governance and
- assessing their evolution.

At the meeting, the participants devoted most of their time to the task of mapping and categorizing new modes of governance, which is regarded as a key pre-condition for further research. It was agreed that the categories offered by the NEWGOV proposal needed some refinement and a more stringent cut, while a constructive discussion was held over the possible options for reaching this goal. A number of elements were gathered which serve to provide a differentiated and at the same time stringent approach towards defining and categorizing modes of governance in the EU.

*State of the Art Report*

*Various; coordinated by Udo Diedrichs and Wolfgang Wessels*

The State of the Art Report consists of a number reports on the policy areas covered within Cluster 1 of the NEWGOV consortium. According to the overall objective of the Cluster, which lies in the investigation on the emergence, evolution and evaluation of new modes of governance, the focus of the reports does not lie in a overall description of the academic debate on the different policy areas and fields of interest as such – some of that might be included – but rather on the reflection of the basic patterns, conditions and tools for decision-making and implementation, as well as their dynamic development over the years. The state of the art report does not represent a book-keeping exercise which tries to simply portrait the academic debates, but will provide the reader with a more subtle and sensitive understanding of the basic scientific problems related to EU governance, and also help him/her to better understand the problems targeted within the Cluster. It is considered and conceived as a work in progress, which will be updated regularly, and thus will also reflect the progress achieved within the Cluster in approaching and explaining new modes of governance.

*Cluster Glossary on Modes of Governance*

*Udo Diedrichs, Wolfgang Wessels*

This deliverable contains a set of key terms which are relevant for dealing with new modes of governance in the EU, but also offers a broader picture. In those cases where the terms are based upon scientific literature in the narrow sense, the sources are indicated. In the case the definition has been obtained from other, more general sources (internet search systems, encyclopaedia, lexical sources, or the cluster partners’ own definition), there is no explicit source indicated. In a next step, the project-specific deliverables will be presented, which offer a number of terms that are relevant for the different areas of research within the cluster.

*First Set of Indicators/Variables for Classifying Governing Modes**Udo Diedrichs, Wolfgang Wessels*

The first set of indicators/variables offers a number of empirical categories, by which EU governance may be classified and built into typologies. The choice is mainly cut to the needs of empirical investigation and tries not to foreclose the definition of old and new modes of governance. Instead, a number of tools are offered which are considered as useful for the systematic empirical analysis of EU governance. This list will be further refined and systematically deepened in the wake of future research and academic discussions within cluster 1.

*Project Open Interim Meeting to Discuss Progress and Next Steps**Udo Diedrichs and Wolfgang Wessels*

The Cluster One Project Open Interim Meeting to discuss progress and next steps took place during the Consortium Conference in Florence, 30 and 31 May, 2005. All partners presented their contributions and projects, and discussed the key issues of their research in methodological and empirical terms. A considerable effort was devoted to the definition of modes of governance, to the collection of data on the legislative output in different policy areas and to their categorization. Furthermore, a number of problems like the impact of soft law and the conditions for specific modes of communication were intensively debated. Altogether, a broad comparative perspective was applied through the establishment of links and references across the single projects.

*Scientific Guidelines / Checklist for Working Papers on the Emergence of Governing Modes**Udo Diedrichs, Wolfgang Wessels*

The guidelines for the working papers on the emergence of governing modes provide a toolbox for each partner within the project that may be used and applied according to the specific needs and requirements of the subject matter under investigation. It is intended to offer some lines of orientation for each partner in order to ensure that a sufficient degree of coherence is reached among the different working papers. As a result of the discussions and academic exchange in the project, the main lines of investigation are traced, key questions are presented, and guiding hypotheses are offered for assessing the research results.

*Overview Paper on Classification and Mapping of Governing Modes\***Udo Diedrichs*

Dealing with new modes of governance in the EU requires a reflection both on the concept of governance as such, and on the exact understanding of ‘novelty’. Different dimensions of governance can be distinguished, each of them highlighting particular features of the EU system. It is also necessary to be aware of the fact that old and new modes of governance can only be successfully approached in a dynamic time analysis which is also policy-specific. What might be ‘new’ in one policy area, is not necessarily so in another. This paper tries to systematically collect different conceptions of governance, their peculiar perspectives, and draws conclusions for empirical research on modes of EU governance in a variety of dimensions.

Project 2: The Open Method of Co-ordination*Classifying and Mapping OMC in different policy areas\***Brigid Laffan and Colin Shaw*

This analysis provides a systematic map of open method of coordination (OMC) processes across sixteen policy areas. The proliferation and variety of OMC’s appears as key features of its development as a new mode of governance and several hypotheses accounting for these patterns are systematically mapped and examined. Using content analysis of the documentary output of the main EU level institutional actors, a diachronic examination of OMC process with the context of the Lisbon strategy shows how selective political energies are shared among OMC’s and



how these energies can be seen to wax and wane over time. We conclude with a discussion of the main findings and examine potential crossovers with partners within the cluster and wider project.

#### Project 4: Legal Perspectives on Democracy and New Modes of Governance

##### *Democracy and New Modes of Governance in Europe – Some Basic Reflections\**

*Stefan Griller and Elisabeth Rumler-Korinek*

Today's democratic systems are undergoing dramatic transformations. National governments face increasing restrictions in political agenda setting and determining important policy choices. Important decision-making powers are transferred to supranational and international bodies. The focus is often on the problem-solving capacity of such steps. Efficiency replaces democratic mechanisms to a certain extent; ideal democracy is often rejected as unrealistic. At the same time, the intensity of state interventions in economic and societal affairs is under scrutiny and subject to criticism, in addition to the effects of globalisation. In this paper the authors argue that the basic conceptions of democracy are still important and perhaps especially important in a time of transformation. However, the classical approach based on the idea of political steering through representative assemblies and the hierarchical control of administrations by political leaders faces difficulties in a complex and globalised world.

In a second step, the paper analyses the political system of the EU, arguing that the remoteness of European decision making from European citizens is the core of the European democratic deficit and that accountability structures are fragmented. Enhancing parliamentarism at EU level by making the EP a fully fledged co-legislator together with the Council would be an important step to reduce the so-called democratic deficit. Additional measures like strengthening the deliberative components of EU lawmaking are desirable, and specific solutions have to be found for 'new modes of governance'. It would be important to scrutinise in detail new developments in the fields of privatising public tasks, co-operation strategies between public bodies and private actors, transferring powers to private actors, mechanisms of auto-regulation, and the use of soft law.

#### **Cluster 2: Delegation, Hierarchy and Accountability**

*Cluster 2 Workshop: Delegation, Hierarchy and Accountability, Florence, 30 – 31 May 2005*

*Adrienne Héritier, Sandra Eckert*

The first cluster workshop of cluster two on 'delegation, hierarchy and accountability' took place during the NEWGOV Consortium Conference in Florence, 30 and 31 May, 2005. In the course of the general discussion and the presentation of individual projects, the major themes of research and the common theoretical ground have been identified. In terms of practical conclusions, the Cluster participants agreed on dates for both, another working session and a practitioners' workshop.

#### Project 5: New Modes of Governance in the Shadow of Hierarchy

*Draft Theoretical Chapter*

*Adrienne Héritier*

This first part of our first deliverable (D01a) presents the main theoretical considerations and some preliminary hypotheses which will guide our empirical work. Based on political transaction cost theory, principal-agent theory and political science policy analysis, claims are developed regarding the political institutional capacity as well as the instrumental policy effectiveness of the new modes of governance in different policy areas. It states that, for assessing the political efficiency of new modes, it will be necessary to examine whether the mechanisms advocated by

these theories come to bear if new modes are applied. This, it is further argued, will depend on the particular policy problem dealt with. In conclusion, we present our two main hypotheses: First, we identify those policy problems (distributive, coordinative and network goods' problems, diverse highly complex/ uncertain or discrete problems) where the new modes of governance have more political efficiency compared to those where this is not the case (redistributive, PD problems and institutionally deeply entrenched policies). Second, we argue that linking new modes of governance with 'hierarchy' in the latter case may secure greater political efficiency.

*State of the Art Review on the OMC, Voluntary Accords and Regulatory Networks*  
*Adrienne Héritier*

This second part of our first deliverable (D01b) presents a state of the art review on the three types of new modes of governance we intend to look at in our project, namely the open method of co-ordination, voluntary accords and regulatory networks. For each of them, we give an overview of the theoretic discussion and then examine its relevance for our research. The main theoretic reference points for our analysis are political transaction cost theory, principal-agent theory and political science policy analysis. To inform our considerations empirically, we include a first sketch of our three case studies, i.e. the OMC on public services, voluntary accords on PVC hazardous waste and regulatory networks on energy. These cases represent very different problems for European policy coordination, with different paths of solution chosen each time. For all of them, their procedural functioning is still developing and therefore subject to considerable change. Referring to the 'Four E's' identified in the common scientific statement of the Integrated Project, we focus on the execution and evaluation of new steering methods, but our research will also give insights into their short-term evolution and, in the case of the very recent development of the OMC on public services, even into the emergence of new modes of governance.

*Report on the 1st Round of Empirical Research*  
*Adrienne Héritier and Sandra Eckert*

This second phase of our research was exploratory in nature. For each of the policy fields under investigation, we have conducted a first round of empirical research. This has helped us confront our theoretical assumptions and hypotheses with empirical insights and refine our hypotheses and generate new hypotheses. In the following report, we summarise and analyse the exploratory interviews. We are now in position to draw a provisional picture of the cases to be studied and to develop the empirical means to investigate them. As a result, we present a case-specific questionnaire and guiding principles for the second round of empirical research.

The empirical output has helped us in accumulating knowledge on the three empirical cases and in reviewing our research agenda. In general, the practitioners' feed-back to our research was positive and the response rate to interview requests was very good. We have made considerable progress with our research on the Internal Electricity Market (IEM) and Services of General Interest (SGIs). We have also gained some first empirical insights into the functioning of the voluntary commitment on PVC environmental issues.

Project 6: After Delegation: Regulatory Agencies & Network Governance  
*The growth of network governance and regulation in Europe*  
*David Coen and Mark Thatcher*

Although the creation of national regulatory authorities is on the rise across the European Union, the liberalisation of markets has not created uniformed regulatory solutions. National governments and the European Commission, recognising the need for harmonized interpretations and implementation of EC regulations, have fostered the creation of formal and informal networks of national regulatory authorities. While the legal basis of these networks varies, the rationale for

their creation is to establish forums for information sharing and potential regulatory learning. The results of such networks have varied from limited convergence in rail policy to the development of soft laws and implementation norms in Banking and Telecommunications. This paper explores the origins and organisation of two of the most proactive European networks of regulators; the European Regulators Group in Telecommunication and the Committee of European Securities Regulators. Significantly, the paper shows that these new networks have evolved beyond their initial delegations in terms of their regulatory competencies and ambitions.

*After delegation: Regulatory Agencies and Network Governance – Issues, Actors and Approach*  
David Coen and Mark Thatcher

Regulation has grown both at the EU level and at the national level. Recently the EU has sought to coordinate member state regulatory implementation. In particular, it has established networks of national regulatory authorities, notably in public utility sectors. These authorities are often national independent regulatory agencies (IRAs), to which governments have delegated powers. We study how these IRAs have behaved after delegation within European networks, focusing in particular on two sectors: telecommunications and securities regulation. European networks of national regulators are worth studying as they offer new tools of ‘execution’ in terms of policy-making and decision making, deliberation and representation. Moreover, they allow us to consider the ‘emergence’ of delegation to non-majoritarian governance. Finally, trans-European networks relate to the emergences of cross-national systems of governance, and also to the ‘evolution’ of IRAs after formal delegation. Studying networks of national regulatory authorities thus allows us to tackle central questions of changes in the nature of regulation from hierarchical regulation to coordinated regulation, and to look at IRAs operate within them after delegation.

#### Project 7: Governance and the EU Securities Sector

##### *Governance and the EU Securities Sector\**

*Frédéric Varone, Christian de Visscher, Carl-Fredrik Bergström, Josefin Almer*

This report provides with a first indication of the institutional reforms in the securities sector since the so-called Lamfalussy report (section B). It sets out further how the research design has been elaborated in order to compare the Lamfalussy regulatory approach to other institutional arrangements regarding comitology and to evaluate the wider implications of this approach for European governance (sections C and D). And finally, it describes the specific work programme and allocation of tasks for the coming months (section E).

##### *Working Documents: Governance and the EU Securities Sector*

*Frédéric Varone, Christian de Visscher, Carl-Fredrik Bergström, Josefin Almer*

The two working documents describe the theoretical framework underlying the project (part I) and present the EU Banking sector (part II). In the first part the principal-agent theory is described in general terms and applied to the EU securities sector. In a very simplified way, one could argue that the European Parliament and the Council of Ministers (as principal) delegate regulatory powers to the Commission (as agent). Furthermore, the Commission (as principal) also delegates some power to the European Securities Committee (ESC) and to the Committee of European Securities Regulators (CESR), as these committees are responsible for defining technical implementing measures. These principal-agent relationships are (potentially) problematic. In the second part a short description is given of the development of EU Banking law in the 1990s, in particular with regard to delegation and comitology. One preliminary conclusion may be drawn from the development in the field of banking law. If the Constitutional Treaty does not enter into force the European Parliament may demand a reform of comitology that would give the Parliament a call-back right in order to give its continuing approval of the Lamfalussy structure.

### Project 9: Choice and Combination of Policy Instruments

*Book – ‘Gouverner par les instruments’\**

*Patrick de Galès*

The book was completed in the autumn of 2004: ‘Gouverner par les instruments’, edited by Pierre Lascoumes and Patrick Le Galès was published in French at Presses de Sciences Po in January 2005. The book includes the first set of deliverables, that is chapters published by the FNSP team, the state of the art paper, the analytical framework and nine case studies.

### *Conference on Public Policy Instruments\**

*Patrick de Galès*

The conference took place in December 2004 in Paris. Based upon the FNSP-Oxford group and enlarged by other colleagues, in particular leading scholars from Europe and from the NEWGOV cluster and leading US scholar in the field (in total about 100 participants), the aim was to present the results of the first phase of the research and to discuss similar work going on in this field. The results were used to work on three special issues of journals. The conference was co-funded by the French Political Science Association, FNSP and the FNSP/Oxford research group.

### Project 10: Private Dispute Resolution: Legitimate & Accountable?

*Resolving Transnational Disputes: Commercial Arbitration and Linkages Between Multiple Providers of Governance Services*

*Dirk Lehmkuhl*

While scholars of international relations scholars generally assume that the state, as a multifaceted and multipurpose organisation, provides all aspects of governance, this chapter is written in accord with the view that particular governance services can be – and have routinely been – provided by different formal organizations and informal arrangements at all levels of social aggregation. This view rests on the assumption that governance is best understood if it is broken down into its constituent service activities, comprising three broad realms: norm creation, implementation of rules and the adjudication of conflicts. As governance entails the provision of a wide range of services and service providers, in a first step the paper sets out to account for the institutional features displayed by a specific type of governance arrangement. The governance arrangement is described with respect to its public status, delegation and inclusiveness. In a second step, the account focuses on the dynamics between different providers of governance services. Rather than conceiving a specific governance dimension as static, attention is given to the dynamics that derive from complex constellation of linkages between different actors and organizations involved. With an interest in capturing potentially complementary and competing dynamics, the analysis pays attention in changes in the three dimensions of institutional variation over time.

### Project 11: The Role of Civil Society in Democratising European & Global Governance

*Mapping new modes of civil society participation in the EU*

*Stijn Smismans*

This first project report provides an analysis of new modes of civil society participation in European governance, using two policy sectors of risk regulation, namely Community occupational health and safety policy and food safety policy, in particular GMO policy.

The introduction explains the relation between from this first work package report and the other work packages of the CISONANCE project, and justifies why civil society participation in the EU has not been dealt with in general terms but has been related to two case studies of risk regulation based on an important number of interviews with the key actors in these fields in Brussels. The first section of the project report provides a detailed analysis of civil society participation in Community occupational health and safety regulation, contrasting participation under the ‘old’

Community Method with participation in the variety of new modes of governance that have characterised OH&S policy since the 1990s.

The second section deals with participation in Community food safety policy, and in particular with GMO policy. It sets out the regulatory and institutional framework in this field and defines the interests at stake. It provides also a first comparison between participation in the sector of OH&S policy and GMO policy, an issue that will be worked out further in later stages of the CI-SONANCE project.

### *New Modes of Civil Society Participation in the WTO\**

*Jens Steffek and Ulrike Ehling*

This report reviews new modes of civil society participation in the World Trade Organization (WTO). The first section of this paper analyses the general framework for cooperation between governmental and non-governmental actors as it developed since the foundation of the WTO in 1994. It presents various types of consultation and outreach activities that the WTO has organized in recent years to respond to the calls for more public participation in world trade governance. After this general overview we focus on the trade-related aspects of the regulation of genetically modified organisms (GMOs). This case study is designed to assess the practice of civil society consultation in one specific – and highly contested – policy field. The conclusions that we draw from the general overview and the case study are ambivalent. On the one hand, the number of consultative mechanisms in the WTO has increased remarkably over time, as has the transparency of the policy-making process. On the other hand, we observe that these new mechanisms remain detached from the intergovernmental negotiation processes. Therefore, civil society actors have only a very limited chance to impact the formulation of policy proposals, and in fact, many of them do not even aspire to do so. They rather see their role in making the general public more aware of (and more sensitive to) the manifold consequences that WTO policies have on peoples' lives all over the world.

### **Cluster 3: Effectiveness, Capacity and Legitimacy**

*Cluster 3 Workshop: Effectiveness, Capacity and Legitimacy, Florence, 30 – 31 May 2005*

*Tanja Börzel*

The first cluster workshop of cluster three on 'Effectiveness, Capacity and Legitimacy' took place during the NEWGOV Consortium Conference in Florence, 30 and 31 May, 2005. The aim of the meeting was to present the individual projects to the other cluster members and discuss conceptual, theoretical, and methodological issues that are of common concern. Of particular interest was the role of state capacity and the extent to which it is an important scope condition for the emergence and effectiveness of new modes of governance.

### Project 12: Coping with Accession: New Forms of Governance and European Enlargement

*Conceptualizing New Modes of Governance in EU Enlargement\**

*Tanja A. Börzel, Sonja Guttenbrunner, and Simone Seper*

This paper seeks to conceptualise the role of new modes of governance in the accession of Central and Eastern European countries to the EU. More specifically, it will tackle the question to what extent new modes of governance can facilitate the adoption of and adaptation to EU Law as major a prerequisite for membership. The paper proceeds in four steps. The first part develops a governance typology that shall help to identify different modes of governance in the accession process. In the second part, criteria are defined to study the effectiveness of governance modes in facilitating the adoption of and adaptation to the *acquis communautaire*. The third part reviews the research on enlargement for insights on conditions for the effective implementation of EU

policies in accession countries. The literature has found little evidence on the role of new modes of governance in the accession process. This raises an interesting puzzle. Since the EU cannot resort to hierarchical steering yet, and the accession countries themselves have only limited capacities for hierarchical steering in the adoption of and adaptation to the *acquis communautaire*, new modes of governance should have been likely to emerge. The paper concludes with some considerations on how the puzzle could be solved.

### Project 13: The Domestic Impact of European Law

#### *The Domestic Impact of European Law – Conceptual Issues [Draft]\**

*Susanne K. Schmidt, Michael Blauburger, Wendelmoet van den Nouland*

The basic premise of this paper is that Europeanization is more than transposition and implementation. The effects of European Union membership in the member states are felt also in more indirect ways, for instance in the unintended consequences of European legislative acts. These indirect effects are likely to be particularly strong in the new member states, which have had to adopt the full *acquis communautaire* in a very short time and have not been allowed to adapt any of the provisions of European law to their specific circumstances (except for a small number of transitional periods). Conceptualising European law as a set of constraints on domestic policy options, this paper analyses the nature of these constraints and the types of conflicts between the new member states and the European Commission which may result from the presence of these constraints. The paper then suggests how these conflicts may be resolved, by using the interaction-oriented analytical framework of actor-centred institutionalism (ACI).

#### *EU State Aid Control after Enlargement – Dissertation Outline*

*Michael Blauburger*

Research on Europeanization and on Eastern Enlargement has very much focused on the transposition and implementation of European secondary law. A complementary perspective is taken in the project at hand: The domestic impact of European law is studied from a perspective of domestic policy-makers who have to act in the context and under the constraints of European primary law. What happens when member states conflict with Community law in domestic economic policy-making? How do member states and European institutions manage to solve conflicts flexibly while assuring the integrity and unity of European law? Finally, what role do New Modes of Governance (NMG) play in these conflicts at the domestic and European level?

In order to address these questions, the field of EU state aid control seems a particularly promising object of study. State aid decisions of the European Commission or the ECJ often heavily impact upon the options available to national policy-makers. Articles 87-89 EC and the soft law character of large parts of EU state aid legislation leave the Commission with considerable leeway for interpretation. The Commission thus faces the dilemma of how to treat individual cases flexibly without generally exposing itself to high political pressures from the member states. By focusing on the new member states, this study shall contribute to an understanding of how European law operates in a new context and of how this feeds back to the overall functioning of European state aid control in an enlarged EU-25.

#### *Mutual Recognition in the Enlarged European Single Market – Dissertation Outline*

*Wendelmoet van den Nouland*

The principle of mutual recognition is one of the most important but little studied New Modes of Governance (NMG) in the EU. When states recognise each other's substantive regulatory standards and conformity assessment procedures, they effectively allow other states to determine the quality of the goods and services consumed by their citizens. Thus, mutual recognition entails a horizontal transfer of sovereignty. Upon accession to the EU, the new member states have entered the single market and thereby the mutual recognition jurisprudence also applies to them.

However, the enlarged single market is much more heterogeneously regulated than the market of the EU-15, possibly making it more difficult for states to accept a horizontal transfer of sovereignty. This project aims to discover how the principle of mutual recognition of goods and services functions in the enlarged Union, given that the conditions of its application have changed. Especially, the project will focus on the domestic consequences in the new member states of having the responsibility to regulate and control in the interest of foreign consumers. Very little is known about how mutual recognition works at the member state level, and this project will contribute to the Europeanization literature by analysing the implications of this part of European primary law in selected Central and East European countries.

#### Project 14: Smoothing Eastern Enlargement: Independent Regulatory Agencies and Non-Hierarchical Steering

##### *Conceptualising the Role of Independent Regulatory Agencies and Non-Hierarchical Steering in Pre-accession Negotiations\**

*Charalampos Koutalakis*

On 1 May 2004, the European Union (EU) faced its most challenging enlargement ever when ten new countries joined. In recent years, most enlargement research focused on theorizing the process of eastern enlargement while the application of so-called new modes of governance in the accession process has been neglected. This contribution aims at narrowing this research gap. In light of the enormous economic, political and administrative challenges posed by the EU's eastern enlargement, we raise the question as to which extent the European Commission has applied new modes of governance to facilitate the adoption of and adaptation to EU policies in future member states already in the pre-accession phase, and what role – if at all – such new modes of governance played.

The aim of this paper is to explore theoretically-driven hypotheses from existing literature on new modes of governance and independent regulatory agencies and identify the main factors that explain variations across different policy areas and member states. To explore our research questions we proceed as follows: First, we recapitulate the work about delegation to specialized agencies and non-hierarchical steering modes as specific facets of new modes of governance. Second, we review the literature on enlargement with the aim at identifying the challenges of environmental and pharmaceutical legal harmonization in the CEECs. Third, we assess the validity of hypotheses found in the literature in the light of our preliminary empirical findings regarding the role of new modes of governance in the pre-accession process negotiations. Finally, we draw some preliminary conclusions about the role of new modes of governance for 'smoothing' enlargements and we identify areas of further research concerning the extent to which new modes of governance have been employed as mechanisms of conflict resolution.

##### *Regulatory Effects of Participatory Environmental Networks – The case of the 'Seville Process'\**

*Charalampos Koutalakis*

The aim of this paper is twofold. First, it seeks to identify theoretically driven hypotheses related to the factors (independent variables) that explain the conditions under which 'new forms of governance', with emphasis on regulatory agencies and networks, are able to render accession 'smoother'. Second, it provides a preliminary account of the validity of our hypotheses through an exploratory case study that focuses on a case of delegation of regulatory competencies to a participatory network in the area of environmental policies. The case of the IPPC Seville process is perhaps the only example of delegation of regulatory competencies in the area of environmental policies. Our exploratory case study reveals a number of institutional properties that render comparisons with the case of regulatory networks in pharmaceutical sectors (PERF) very promising. The paper seeks to identify the institutional properties of the IPPC regulatory network and to assess its regulatory outcomes. Finally, we draw some preliminary conclusions about the

role of new modes of governance for ‘smoothing’ enlargements and we identify areas of further research concerning the extent to which new modes of governance have been employed as mechanisms of conflict resolution.

### Project 15: Evolving Regional Governance Regimes: Challenges for Institution Building in the CEE Countries

*Governing sub-national/regional institutional change: Evolution of regional (sub-national) development regimes\**

*Laszlo Bruszt*

The new Central European member countries of the EU face a double governance challenge: the first is to find new modes of socio-economic governance that could make sub-national economic development sustainable and more inclusive, the second governance challenge they face is to find the mode of governing sub-national policy making and implementation that could effectively monitor and support experimentation with newer forms of socio-economic governance. The paper outlines a conceptual framework for the discussion of diverse modes of governing regional development and contrasts the evolution of the regional developmental regimes in the Czech Republic, Hungary and Poland prior to the introduction of the rules and procedures of the EU’s regional policy making and implementation regime – the oldest of the ‘new forms of governance’ within the EU.

*The Evolution of Regional Developmental Regimes in CEE – Hungary\**

*Zoltán Pogátsa*

The aim of the paper is to provide a description and an analysis of the evolution of the Hungarian developmental governance regime throughout the 1990s. Part I discusses the outcomes of state reform with a focus on the question what roles were assigned and what rooms were given to subnational actors to pursue developmental goals. This part also offers an analysis of the evolution of regionalism in Hungary after the regime change. Part II offers a description of the way developmental decisions were made in Hungary throughout the 1990’s focusing on two fields: 1. privatization, economic restructuring and development, and, 2. labour market services and solving problems of social dislocations.

*The Evolution of Regional Developmental Regimes in CEE – Poland\**

*P. Swianiewicz, R. Woodward, W. Dziemianowicz, M. Kaniewska, W. Pander, K. Szmigiel*

Part I (Poland – The Development of Subnational Governments 1990-1998, written by Pawel Swianiewicz), presents Polish decentralization reforms in the period in which elected local self-government was limited to municipal (*gmina*) tier (1990-1998). However at the end of each section we briefly sketch the further development of analysed processes (i.e. after 1998). It gives an opportunity to show the amount of changes which have been observed during last six years and gives a very rudimentary picture of the present stage.

Part II (Partnership-based development institutions supporting regional development: Developments in the 1990s, written by R. Woodward, W. Dziemianowicz, M. Kaniewska, W. Pander, K. Szmigiel), examines the development of the central government’s regional development policy and the actors responsible for it during the 1990s. This provides the context for a discussion of institutions which developed at both the regional and central level for dealing with problems related to regional development on the basis of partnership between the public, private, and non-profit sectors. This discussion is found in the second part of the paper. In the third part it discusses the role of foreign assistance programs in the regional policy area in the 1990s. In the fourth part it concludes with some reflections on the subject of differentiation not only between regions but within them.



*The Evolution of Regional Developmental Regimes in CEE – The Czech Republic\***M. Illner, Z. Vajdová, T. Kostelecký, D. Čermák, J. Vobecká, J. Blazek*

The aim of the paper is to provide a description and an analysis of the evolution of the Czech regional developmental governance regime throughout the 1990s.

Part I discusses the outcomes of state reform with a focus on the question what roles were assigned and what rooms were given to subnational actors to pursue developmental goals. This part of the paper offers an analysis of the coming about of self-governing regions and separate regions of cohesion in the Czech Republic. Part II provides a description of the role played by central governments and subnational governments in the development and implementation of economic policies during the 1990's in the Czech Republic. Part III provides a descriptive analysis of development of local government financing in the Czech Republic since the collapse of communism in 1989. The paper analyses arguments used for justification of particular reforms as well as examines impacts for different categories of municipalities.

*Governing sub-national/regional institutional change: the implementation of the EU regional development policies in the CEE accession countries**Laszlo Bruszt and collaborators*

The report provides a description and analysis of the way the EU developmental policies were introduced in the Czech Republic, Hungary and Poland in the period of 2000-2004. The focus is on the interplay between diverse pre-existing regional developmental institutions and the unitary policies of the Commission. The governance of the regional developmental policies in these countries diverged prior to the implementation of the EU's regional developmental policies. The introduction of these policies has just further increasing pre-existing centralizing tendencies in Hungary, increased conflicts about competencies of the different types of state and non-state actors in Poland and despite the strong centralizing impetus coming from Brussels, did not considerably weaken regional actors in the Czech Republic.

Project 16: Inside-Out: New Modes of Governance in Relations with Non-Member States*The External Dimension of New Modes of Governance with Associated Neighbouring States**Sandra Lavenex, Dirk Lehmkuhl and Nicole Wichmann*

This first deliverable conceptualises the role of new modes of governance in relations with neighbouring countries in the context of the existing literature on EU association politics. It reviews the institutional framework of external governance in EU neighbourhood policies and reflects on the potential for NMG to emerge in these relations. It is argued that the extension of NMG to third countries in the context of the deepening forms of association towards Western (Switzerland, Norway), Eastern (Ukraine, Moldova) and Southern (Morocco, Tunisia) non-member states would – insofar as it takes place – constitute a novel quality of association which can be described as a form of flexible integration of non-member states.

*Background paper: Theorising the inside-out dimension of New Modes of Governance**Sandra Lavenex*

In our first deliverable (Lavenex, Lehmkuhl, Wichmann 2005) we made the case that in an altered geopolitical context characterized by new interdependencies, the internal differentiation of the European Union through the introduction of New Modes of Governance (NMG) opened the way for external differentiation through a new form of flexible integration of third countries beyond or below full membership. In this paper, we draft a (preliminary) theoretical framework that shall allow us to analyse these processes. We will make the case for a revival of a functional approach to (pan-) European integration, since it appears to be the best suited to grasp the transformative dynamics that are at work in Europe today – and to point at their potential limits. By comparing the ambitious project of association developed towards the 'new' Eastern European

and ‘old’ Southern Mediterranean neighbours (the European Neighbourhood Policy ENP) with related forms of cooperation with Western neighbours (Norway and Switzerland), we want to scrutinize the potential of NMG for flexible integration in asymmetric settings, and herewith also draw some more general insights in the chances and limits of functionalism beyond the EU ‘proper’. By combining new approaches to the measure of ‘political salience’ with the background conditions for integration (governance capacity), we seek to present a cross-national and cross-sectoral comparative framework for analysing the conditions under which NMG can lead to integrative outcomes in neighbour-hood relations.

#### Project 17: Democratisation, Capture of the State and New Forms of Governance in CEE countries

##### *Report of the Opening Seminar*

*Lena Kolarska-Bobińska, Jacek Kucharczyk, Tomasz Grzegorz Grosse*

The Opening Seminar of the Project Democratisation, Capture of the State and New Forms of Governance in CEE countries was dedicated to work on the most important issues related to the project, especially in the light of upcoming research in the four new European Union member states on the social dialogue. A version of social dialogue research hypothesis has been worked out, as well as the social dialogue institutions to be examined during the research. The meeting served as an excellent opportunity for the Polish researchers to meet in person with the researchers coming from the Baltic States. A common understanding of the issues has been worked out and this is crucial since the Baltic researchers will work independently in their countries with only remote supervision of the project leaders.

##### *Inception Report: Democratisation, Capture of the State and New Forms of Governance in CEE countries*

*Tomasz Grzegorz Grosse*

The present report constitutes an introduction to the project undertaken by the Institute of Public Affairs in Warsaw on the new modes of governance in selected countries of Central and Eastern Europe (CEE). The first part of the report describes new modes of governance in EU Member States with special consideration given to the following features of the discussed methods: the abandonment of traditional, hierarchical state administration, decentralization and marketization of public tasks governance, democratisation of the administration’s functioning, increasing networking of intra-national and international relations between the administrations. The second part of the report examines the key factors conducive to the change in modes of governance in the administrations of CEE countries, which are: the socialist tradition and the influence of political transformation and European integration. Subsequent parts of the report present basic research objectives and hypotheses. The report concludes with the proposal of basic research areas, stages and methodology.

##### *Working paper 1 – social and civic dialogue in Poland*

*Lena Kolarska-Bobińska, Jacek Kucharczyk, Tomasz Grzegorz Grosse*

The most important challenges facing the SLD/UP/PSL coalition government in 2001-2005 were the very high unemployment rate reaching 20% and the critical condition of public finances. The Trilateral Commission (TC), which had been reactivated under a new legislation in November 2001, could play a significant part in increasing the legitimacy and effectiveness of reforms in these two areas. As a formalized institution of public dialogue – a forum for talks between interest groups and the government within a legislated procedure – it could also channel to a certain extent the less formal individual lobbying and contribute to a greater transparency of governance in Poland. In addition to its more acceptable institutional and legal framework, TC’s role also seemed to be promoted by factors such as the positive attitude of the government, which had de-

cided to actively collaborate within the framework of a public-dialogue institution, and a greater consideration to participating in TC work given by trade union organizations and employers. Respondent statements collected in the study indicate that these organizations have slowly begun to recognize the value of the Trilateral Commission: the prestige of its membership, the proximity to the decision-makers, the possibility of influencing legislation earlier than at the parliamentary stage and the interest paid to TC by the media. An example proving the TC appeal can be found in the decision of one particular business organization to give up its formula of an elite lobby club (under which it had functioned throughout the 1990s) in favour of a formal transformation into an employer organization, and its subsequent (successful) attempt to enter the Trilateral Commission. Interest group leaders appreciated the fact that, for the first time since 1989, the TC chairman was at once the economy minister and deputy prime-minister responsible for the entire government social and economic policy. For employer organizations, TC became an interesting forum for lobbying and debating the government, possibly even more so than for talking with the trade unions. And after the trade unions had partially withdrawn from party and parliamentary politics, they also turned more of their attention to TC as a forum where they could influence policy.

*Working paper 2 – social and civic dialogue in Lithuania*

*Lena Kolarska-Bobińska, Jacek Kucharczyk, Tomasz Grzegorz Grosse*

The report presents the results of the research on the institution of social dialogue – the Tripartite Council – in Lithuania. The research was conducted in summer 2005. The research was focused on the functioning of the Tripartite Council and the role of the social partners within this institution. The role and influence of the government in the Tripartite Council was of particular interest. In order to get the deeper insight into functioning of the Council and the roles of the social partners within it, two issues were selected as the particular examples of the work of the Tripartite Council: (1) discussions over the Labour Code draft in conducted in 1995-2002; and (2) the debates on the increasing of the minimal monthly wage in May 2005.

#### **Cluster 4: Learning, Experimental Governance and Participation**

##### Project 18a: Distributive Politics, Learning and Reform: Emergence and Evolution of National Social Pacts

*Workshop ‘Emergence and Evolution of Social Pacts: A Tentative Framework for Comparative Analysis’*

*Sabina Avdagic, Martin Rhodes, Jelle Visser*

The first workshop bringing together all participants in the project was held at the European University Institute on 15th January 2005. The workshop had two basic aims. First of all, it was organised around the discussion of a common theoretical and methodological framework to guide the work done by project partners on their respective national cases. The basis for the discussion was the paper on ‘The Emergence and Evolution of Social Pacts: A Tentative Framework for Comparative Analysis’ by the project directors. The second main objective of the workshop was to discuss and debate the theoretical propositions and hypotheses and questions guiding the project and to develop jointly a general schedule, timetable for the delivery of research outcomes and other issues related to participants’ involvement in the project. Finally, a new meeting-workshop was scheduled for June 2005.

*Creation of Project Team**Martin Rhodes*

The Project on ‘Distributive Politics: Experimentation, Learning and Reform’ studies the sources (emergence) and dynamics (evolution) of learning and innovation in socio-economic governance, focusing on social pacts, partnership and concertation. The questions addressed in this project are studied through the comparative study of social pacts and concertation practices in seven European countries: Ireland, Italy, Netherlands, Poland, Portugal, Slovenia, and Spain. For this reason, the project will include a number of country-specialist partners in charge of conducting research on these national cases and producing country reports.

*The Emergence and Evolution of Social Pacts: A Provisional Framework for Comparative Analysis\***Sabina Avdagic, Martin Rhodes, Jelle Visser*

This paper provides the scientific framework for the project on Distributive Politics, Learning and Reform directed by Martin Rhodes, Sabina Avdagic and Jelle Visser. In Part I, we establish our own definition and conceptualisation of social pacts. On the basis of two dimensions, we distinguish between four types of pacts with different scope and depth: shadow pacts, headline pacts, coordinated wage setting, and embedded pacts akin to neocorporatist concertation. Since social pacts represent rules that are supposed to guide interaction between socio-economic actors, they qualify as institutions of socio-economic governance. Part II is concerned with the question of institutional formation, i.e. how such social pacts come into existence. To analyse this question, we outline some standard functionalist accounts of institutional emergence, and critically examine them in relation to recent experiences with social pacts. As an alternative, we propose a bargaining model that is to be evaluated on the basis of our empirical material. Part III is concerned with the question of institutional development, i.e. what determines whether the continuation and institutionalisation of social pacts or, conversely, their de-institutionalisation and demise. Based on the taxonomy of social pacts presented in Part I, we first set out to define two alternative evolutionary paths for social pacts (institutionalisation and de-institutionalisation), and to identify three types of trajectory along which social pacts develop (repetition vs. abandonment; integration vs. disintegration; and expansion vs. reduction). The subsequent section then outlines four alternative mechanisms that may potentially drive the institutionalisation or de-institutionalisation of pacts. Grounded in the four major approaches for analysing institutions, i.e. the functionalist, utilitarian, normative, and power-distributional perspectives, this section proposes four groups of hypotheses to be evaluated against each other in our empirical material.

Project 19a: New Approaches to Economic Governance in the EU*Report on Workshop ‘The framework of economic governance in the EU’\***Waltraud Schelkle*

The workshop was organised within the framework of the project ‘New Approaches to Economic Governance in the EU (ECONPOL)’ and was attended by a number of high-level experts from the Commission, academia and think tanks. The discussion largely concentrated on the conceptual framework of the project.

Project 19b: New Approaches to Economic Governance in the EU: The Politics of Central Bank Accountability in the Age of Globalization*Inventory of accountability concepts and practices**Nicolas Jabko*

This inventory of accountability concepts and practices is the first step toward a comparative study of central bank accountability in the European Union, the United States, and Japan. Its

main finding is that most of the scholarship on the question of central bank accountability addresses this topic indirectly, in conjunction with the question of central bank independence. Accountability concepts and practices are thus generally envisioned as co-dependent with central bank independence. This deliverable offers (1) a broad literature review, (2) a more detailed assessment of relevant books and articles, focusing on the relationship between accountability and independence, and (3) an up-to-date bibliography.

*The politics of central banking in the United States and in the European Union\**

*Nicolas Jabko*

As a result of their established status and the sheer weight of the US and EU economies, the US Federal Reserve and the European Central Bank are the two most powerful central banks in the world today. Not only do they both play virtually the same role in their respective economic areas, but their internal governance structures look strikingly similar and they are independent from elected political bodies. It is therefore very tempting to analyse American- and European-style central banking as the functional expression of modern economic rationality in the world's two biggest and most advanced economies.

Based on a comparison of money and central banks in the European Union and the United States of America, this chapter calls into question this idealized vision of central banking as a self-contained universe with its own functional logic. It argues that similarities between the two frameworks can actually be read as the outcomes of similar political dynamics and concerns, rather than of an overwhelming economic rationality. In addition, certain key differences remain that can be interpreted as the products of enduring institutional differences between the US and the EU. Whatever the future may hold for the Fed and for the ECB, a comparative analysis of the US and EU frameworks of monetary governance as they stand today can thus serve to reveal political dynamics.

Project 20: 'Varieties of Capitalism' and Economic Governance in CE Europe

*Background Document: Post-war European Political Economy and the Role of the State*

*Abby Innes*

The research project investigates emerging models of capitalism in Central Europe. However, given the strong statist traditions of Central European political economy, one of the first issues to clarify is that of how the role of the state in the economy has changed in transition. This background document provides the hinterland to the first strand of the research, namely, that of the continuing capacity of the state to act as a coordinator in the political economy. The main point of this document is to highlight the a-historicity of the economics of post-communist transition insofar as it operates with an entirely negative conception of the state's role in the political economy, and thus ignores the historical fact that an activist state was central to the consolidation of European capitalist democracy in the twentieth century.

*List of Planned Interviews*

*Abigail Innes and Robert Hancké*

This project investigates the developing political economy of Central Europe in two key respects: in the first place, it seeks to map the changing role of the state in the economy, and the difficulties of developing any new form of social contract between state and society given the constant pressures for state retrenchment and austerity. The second strand of the research investigates the emergence of economic institutions beyond the state, and seeks to clarify and categorise the emerging models of capitalism.

Between April and September 2005, 36 interviews have been planned in Hungary, the Czech Republic and Poland (of which 24 have been carried out in the summer of 2005). The empirical results will feed into the production of the interim country reports (D05).

### Project 21: Towards New Corporate Governance Regimes in Europe

#### *Corporate Governance Convergence: Evidence From Takeover Regulation Reforms in Europe\**

*Marc Goergen, Marina Martynova, and Luc Renneboog*

Deliverable: 21D01

This paper contributes to the research on corporate governance by predicting the effects of European takeover regulation. In particular, we investigate whether the recent reforms of takeover regulation in Europe are leading to a harmonization of the national legislations. With the help of 150 corporate governance lawyers from 30 European countries, we collected the main changes in takeover regulation. We assess whether a process of convergence towards the Anglo-(American) corporate governance system has been started and we find that this is the case. We make predictions as to the consequences of the reforms for the ownership and control. However, we find that, while in some countries the adoption of a unified takeover code may result in dispersed ownership; in others it may further consolidate the blockholder-based system.

Published in: Oxford Review of Economic Policy

### Project 22: Changing Governance Architecture of International Taxation – TAXGOV

#### *Chronology: Major Events in International and European Tax Governance since 1998\**

*Claudio M. Radaelli and Ulrike S. Kraemer*

Chronology of the major events in international and European tax governance since 1998.

#### *Exploratory workshop on Soft Law, New Policy Instruments, and Modes of Governance in the European Union\**

*Claudio M. Radaelli*

The exploratory workshop (28 January 2005, University of Exeter) gathered some 20 participants engaged in theoretical and empirical research on soft law and new policy instruments in the European Union. The workshop discussed the following intellectual themes: classification of formal and informal governance; interaction between new and old governance; emergence of new governance; quality of new policy instruments; effectiveness of soft law and new governance in general; and type of social theory better suited to understand new governance.

One of the main conclusions of the meeting is that the term ‘soft law’ has limited intellectual mileage, both for lawyers and political scientists. Governance should be studied along a continuum from extremely formal to very informal. The ideal-types of governance which have been identified by the literature should be situated along the continuum.

#### *Interviews Report*

*Claudio M. Radaelli and Ulrike S. Kraemer*

One of the methodological tools in the project is elite interviews. This report presents the methodological issues faced, how it was dealt with them, and the main results. The team used semi-structured elite interviews – a common methodology in public policy analysis and, more generally, political science. In total, 24 people have been interviewed so far in months 7-10 of the project. The semi-structured interviews were based on different questionnaires developed around a template. The questionnaires consisted of items such as questions about the emergence, efficiency, and legitimacy of classic and experimental governance in EU and OECD tax policy, the implementation of the savings directive, the transfer pricing forum, working groups on a common consolidated tax base and home state taxation pilot projects. Results concern the role of discourse and more generally ideational politics in EU taxation; the decline of political interest in the code of conduct in business taxation; and the cognitive, discursive, and most importantly political separation between initiatives revolving around the tax package and initiatives addressing the tax problems of multinationals.

Project 23: Learning and Local Innovation System*'State of knowledge' and briefing document for research team*

Colin Crouch

The paper 'The governance of *emersione*: Preparing the approach', has been prepared by the project leader Colin Crouch (University of Warwick and European University Institute), for the participants in the project on the governance of local economic development in the regions around Łódź and Naples.

The project is interested in the ways in which organizations and individuals concerned with a local economy, and who are dissatisfied with its performance, seek to change its institutions. In the cases on which the project focuses these changes take a very specific form. In local economies in areas with weak institutions, poor quality equipment and machinery, poor connections with major markets, and possibly low skills at various levels of personnel, and suffering deficiencies in design, marketing, management, and the supply of production workers, firms have found competitive advantage by locating in the shadow economy. By evading taxation and various forms of regulation they are able to produce goods and services cheaply and get them quickly to market. However, at a certain point the constraints of location in this kind of economy outweigh its advantages. The firms and other local actors then seek (1) a means of emerging from the shadow economy (in Italian the process of *emersione*) and (2) new forms of competitive advantage. The latter is particularly important, since if they simply leave the shadow economy they have no competitive advantages at all.

As a first step in the project's research agenda, the report locates the governance of shadow economies within the general range of forms of economic governance and systems of collective goods provision, and elaborates the concept of *emersione* within this context.

*L'industria di tessile ed abbigliamento in Campagna e Łódź: i contesti*

Andrea Valzani and Monika Ewa Kamińska

The purpose of the wider project of which these deliverables are a part is to account for some points of successful economic development in regions generally characterised by poor economic performance and ineffective local governance and government. The wider regions concerned are that around Naples in Campagna, in southern Italy, and around Łódź in central Poland. Both regions have had a traditional specialism in textiles and clothing, sectors which have been in general decline in existing industrial societies following globalisation. The purpose of the present papers is to establish the context of the regions, their governance, the recent history of the sector, and to identify the cases of apparent success within the general decline. Some early indications of what might constitute more effective governance in the successful cases are described, and some clear differences between the Italian and the Polish cases appear. A fuller elaboration of these aspects will be presented in the final deliverables for this project.

Project 24: Democratisation/Participation of Civil Society in New Modes of Governance*The European Way. History, Form and Substance\**

W.T. Eijsbouts

The article examines the impact of the EU Constitution upon allegiance of civil groups. It emphasises that Europe is not tearing, but rather teasing individuals from their traditional allegiances. Author finds that the Union's rallying cry has been not protection but opportunity, not police but prosperity. By itself this has been unconvincing to the majority of even those who profited from it, only securing allegiances of a practical and sectoral nature: of farmers, industrialists, commercial people, tourists, etc. It is congruent with this that the Union never tried to impose itself too heavily on what not unduly is called its *clientèle*, neither imposing its own taxes nor other hard duties. It left this to the Member States and tried to please the Europeans by granting and enforcing rights mainly as against their own governments, much less as against each

other. This was at the cost of popular involvement. No obligation and no taxation, so no representation either, to turn around the old adage. This explains that this soft method has not been conducive to European citizenship in the political sense.

In place of this, legal commitments, involving human and social rights and even citizenship, are gradually being built on the basis of partial and sectoral rights. What these rights are doing, however, is to transcend the sectoral level, to become general or public. In this way they are a certain step towards the creation of a public (shared, common, general) European sphere or interest.

(Published in *European Constitutional Law Review*, 1: 5-11, 2005)

### *Civil and the Social Dialogue in European Governance\**

*Daniela Obradovic*

This article is intended to highlight the distinction between the concepts of the social and civil dialogue in the European Union and to evaluate the impact thereof upon its governance. At present, it hardly can be concluded that the involvement of interest groups in different policy processes in the Union through the civil and social dialogue dramatically increases efficiency of EU governance. The effective implementation of policies cannot be always guaranteed by involving civil actors. Indeed, this study demonstrates that there are considerable limitations on the part of the social partners and civil interest groups to contribute decisively towards efficient conduct of EU policies.

This deliverable will be published in the *Yearbook on European Law*, 2005, Oxford University Press.

### *Participation of Civil Society in New Modes of Governance – The Case of the New EU Member States. Part 1: The State of Civil Society\**

*Heiko Pleines, David Lane, Michał Federowicz, Zdenka Mansfeldová, Małgorzata Anna Czerniak*

This working paper presents the first results produced by a research group examining the impact of the 2004 EU enlargement on governance structures involving the participation of civil society organisations. It is devoted to the state of civil society in the new EU member countries with a socialist past, focusing on the capability of civil society organisations in these countries to participate in old and especially new modes of governance at the national as well as at the EU level. As participation in EU-organised or EU-designed modes of governance is of special importance for the project, the empirical analysis is based on the EU definition of civil society, to make sure that the group of actors covered by the project and by EU regulation is identical.

The theoretical and analytical consequences of these civil society definitions, when applied to post-socialist cases, are discussed by David Lane in his contribution on civil society and the imprint of state socialism. At the same time Lane gives an overview of the specific legacies influencing the development of civil society in post-socialist states. Michał Federowicz then presents a theoretical framework to describe the transformation process going on in post-socialist societies. The following contribution by Heiko Pleines moves on to analyse the role of civil society organisations in policy-making. He takes the examples of Poland and the Czech Republic and contrasts them with Russia in order to show differences within the group of post-socialist cases. In her case study of Czech civil society actors in the social dialogue Zdenka Mansfeldová then offers a closer examination of the role of civil society groups from new EU member states in new modes of governance.

A selected bibliography, compiled by Małgorzata Czerniak, finally gives an overview of recent research on the topic.



## Task Forces

### Democracy Task Force

#### *The Seven Habits of Highly Legitimate New Modes of Governance\**

*Andreas Follesdal*

How might 'New Modes of Governance' in the European Union be made more legitimate? The following reflections suggest seven ways to enhance the legitimacy of 'New Modes of Governance' and hence the legitimacy of the EU. The remarks explore the contested concept of 'legitimacy' and its implications. Among the important issues that must be addressed with regard to NMG are, first, whether they are meant to replace democratic arrangements, or instead be subject to democratic control and if so how; and, second how, if at all, they are regulated by human rights constraints, and how such constraints will be visible and trustworthy.

Section 1 presents an overview of the wide-ranging discussions of the legitimacy deficit of the EU, with an eye to extrapolate some insights to NMG. Section 2 sketches a unifying account of normative legitimacy that draws on the 'assurance game' literature. Long-term support for the EU requires not only present compliance and support, but also long term trust in the general compliance of others – both citizens and officials – and shared acceptance of the legality and normative legitimacy of the regime. Suggestions for enhancing legitimacy of the EU – and of NMG – may best be assessed in light of how they jointly can contribute to such trustworthiness. Section 3 points to seven areas where NMG should be modified or supplemented to further enhance trust and trustworthiness in the EU, and hence its legitimacy. Democratic arrangements are discussed for illustration.

The paper was presented at the NEWGOV Consortium Conference in Florence, May 2005 and will feed into the working paper 'The Legitimacy Deficits of the European Union'.

#### *The Legitimacy Deficits of the European Union*

*Andreas Follesdal*

Until the Maastricht Treaty, European governments had long pursued European integration on the working assumption of a 'permissive consensus' by the public. The popular and legal challenges to the Maastricht Treaty questioned the legitimacy of further integration.

Normative political theory have responded to this legitimacy crisis by means of normative reasoning addressing concepts, arguments and theories regarding the substantive normative standards for the European political order, institutions and policies. After a brief overview of the reception of the Treaty on European Union in Section 1, Section 2 explores the different views found in this literature regarding symptoms, diagnosis and medication. Section 3 provides a taxonomy of conceptions and objects of legitimacy and mechanisms of legitimation. Section 4 presents a perspective that seeks to accommodate many though not all of these various contributions. It distinguishes between the legitimacy of a political order, and when citizens have a political obligation to comply and obey it. A normative duty to obey political commands requires firstly, that the commands, rulers and regime are normatively legitimate, and secondly, that citizens also have reason to trust in the future compliance of other citizens and authorities with such commands and regimes. To merit obedience, institutions must thus address the assurance problems faced by 'conditional compliers' under complex structures of interdependence. This need for trust and trustworthiness helps explain why the perceived normative legitimacy deficit may affect present compliance and long term popular support for the European Union, and why the various empirical concepts of legitimacy and mechanisms of legitimation are relevant also from the normative point of view.

This article will appear in the Journal of Political Philosophy.

Legal Issues Task Force ‘Which governance structures for European private law?’*Background Paper – Final research project outline\***Fabrizio Cafaggi*

This project on regulatory strategies and governance in European private law is part of a wider integrated research on New Modes of Governance. The wider research brings to bear an interdisciplinary, comparative perspective on the study of contemporary transformations of instruments, methods, modes and systems of governance in Europe. New modes of governance include a wide range of different policy processes such as open methods of coordination, voluntary accords, standard setting, regulatory networks, regulatory agencies, regulation through information, bench-marking, peer-review, mimicking, policy competition, and informal agreements. They also cover new mixes of policy process involving public and private actors. This is where the project on regulatory strategies and governance in European private law fits in and hopes to contribute to a wider reflection on new modes of governance.

Legal Issues Task Force ‘New Modes of Governance and the relevance for EU law’*Informal reports on new governance mechanisms and on the legal values implicated**Various; coordinated by Gráinne de Búrca*

This document contains three separate parts. (a) The first part summarizes the results of the law taskforce meeting held at NYU in April 2005, and represents the working agenda of the taskforce for the period May 2005-May 2006. This part identifies a set of basic questions for members of the group to address in individual and collective research over the next year, and practical next steps to follow in pursuing the research. (b) The second part contains two general tables in which we have made a first attempt at classifying different kinds of governance, using a stylised contrast between ‘old’ and ‘new’ models of governance, and breaking these down into more specific characteristics, instruments, measures and into different stages of the decision-making process. (c) The third part contains eight ‘sectoral’ tables which apply the template of the two general tables to the eight subject domains which the law taskforce is currently studying: anti-discrimination, employment, EMU, environment, health, Justice & home affairs, occupational health and safety, and social inclusion.

## Dissemination Activities

The ‘Plan for Using and Disseminating Knowledge’ of the NEWGOV Project mainly includes the dissemination of knowledge by effective communication means. Naturally, this social science project neither intends to produce exploitable results which have the potential for industrial or commercial application, nor can the scientific written output be defined as a product or service in the strict sense.

As a result, our strategy mainly focuses on the effective dissemination of the generated knowledge. We rely on a two-tier strategy which includes (a) activities coordinated and implemented on the Consortium level, and (b) activities which are implemented by the individual partners and projects.

### *1. Dissemination of knowledge on the Consortium Level*

#### *1.1 Website*

The Consortium web-site [www.eu-newgov.org](http://www.eu-newgov.org) is the primary tool for disseminating the results of the research conducted by the Consortium and for diffusing them to all relevant scientific and practitioner communities. The website exclusively dedicated to the NEWGOV project was launched on 1 February, 2005. A first project website was already available on the server of the Robert Schuman Centre in September 2004. After a starting period, the website has now 2.100 visits per month on average.

The public section of the website contains topical information concerning the project. In particular, it contains publications, reports, articles and working papers of the Consortium. Links to other information sources relating to the project’s research fields are provided, as well as regularly updated information on events organised in the framework of NEWGOV. The section ‘Research’ in the public area is dedicated to the work of the clusters and projects. With links to the web-server’s database, visitors can immediately access the outline of a project or cluster, deliverables and other documents, and the researchers involved in the project/cluster. Publicly available deliverables as well as other project outputs can be downloaded from the website. This offer is widely used with the number of downloads increasing steadily.

#### *1.2 Working Papers*

The working papers of the Project are published in the peer-reviewed working paper series EUROGOV, the joint series of the CONNEX and NEWGOV networks. This series is a tool for sharing knowledge across the Consortium itself, but also a crucial means of spreading this knowledge much more widely to the rest of the European and international scientific communities.

NEWGOV working papers are submitted via the scientific director and the relevant cluster leader. Once the internal NEWGOV refereeing process has been concluded, the proposed paper will also be subject to the EUROGOV peer-review process. Papers already accepted by a journal are not publishable in the EUROGOV paper series. EUROGOV is managed by the CONNEX Network. The NEWGOV project is represented in the Editorial Board of EUROGOV by Gerda Falkner, researcher within project 1, and Loukas Tsoukalis, economic adviser to the Steering Committee.

The first NEWGOV paper was published in early September 2005, some papers are currently being reviewed, and other papers have been announced by NEWGOV researchers for the coming months. Around 50 plus Working Papers from the NEWGOV side are foreseen to be published during the duration of the project. The website of the Working Papers series is: [www.connex-network.org/eurogov](http://www.connex-network.org/eurogov).

### *1.3 Active Relaying to Scientific Community*

Relaying the results of the research to the scientific community and strengthening the integration of the research carried out on the cluster and project level are the main tasks for the Consortium level. In order to reach these objectives, a number of Consortium-level workshops will be organised, each of them focussing on specific analytical themes and / or empirical topics. The workshops will bring together researchers from across the Consortium with access for scholars from the wider circle of associated institutions.

Furthermore, in order to link researchers from across the Consortium and to achieve a better cross-fertilisation of research, an annual Consortium wide conference is organised which includes both plenary debates and cluster workshops. The first Consortium Conference was organised in Florence in May 2005 and was attended by more than 80 researchers from within the Consortium. It consisted of joint workshops for all four thematic clusters, and included an opening and a closing plenary for the discussion of the ‘integrative’ aspects of the scientific work.

A first workshop is planned in month 21 on ‘Law in New Governance’. Members of the Law Task Forces will participate as well as other members of the NEWGOV Consortium and the CONNEX Network. The Workshop will be open to any other interested member of the academic community. A second workshop is foreseen for month 26, focusing on ‘Governance and Economic Theory.’

After the successful first [Consortium Conference in month 9](#), a second Consortium-wide conference is planned for month 22, bringing together researchers from all projects and Task Forces. The conference will be a perfect opportunity to discuss the scientific objectives of the Integrated Project, and to advance research in the clusters and task forces. We envisage using the same format as in the first conference; thus, the conference will be opened by a half-day panel discussion on a topic relevant for the whole Consortium, followed by one-day cluster workshops. The conference will conclude with plenary debates and reports from the clusters.

### *1.4 Dissemination to practitioners*

Dissemination for practitioners is a key aim of the Consortium. NEWGOV committed itself to organising a series of forums to bring together a mixed group of academics and practitioners from different sources and to discuss with practitioners research outputs from the Consortium as a whole. The objective was thereby to complement more focused meetings organised by individual project teams and/or clusters. In addition to these activities, the Consortium management team will ensure that the EUI activates its links with EU institutions and the network of EU agencies to ensure that the results of the research are widely diffused to them. The issues and briefing papers series will be especially important as a means of communication in this regard, as will ease of access to material posted on our web-site. In this sense, therefore, this project will also be piloting an additional mechanism for developing the European Research Area.

The Steering Committee agreed that the Practitioner Forum series should start in year 2 only, as soon as first results of the Consortium’s empirical work are available. A first Practitioner Forum

will be organised in collaboration with project 19a on Economic Governance, to take place in month 19. The next Practitioner Forum is planned for month 22. The topic will be decided by the Steering Committee, based on a proposal from cluster 1.

### 1.5 Dissemination by means of the External Newsletter, Issues and Briefing Papers, Book Series

In addition to the written output in forms of deliverables, journal articles, EUROGOV papers, etc., three other instruments for disseminating the results of the research conducted by the Consortium and for diffusing these to all relevant scientific and practitioner communities are being provided on the Consortium Level.

First, a research result-oriented newsletter, produced approximately every six month. It will be sent to members of the broader academic and policy making communities and will provide information concerning work in different parts of the Consortium.

Second, short and accessible Issues and Briefing Papers will be produced to aid the dissemination of research results to a broader academic and especially practitioner community beyond the Consortium. These will be related also to specific and topical events that may arise during the course of the Integrated Project and Consortium members can respond to and deploy their particular expertise. Briefing papers could also be short executive type summaries of Working Papers or topical pieces written by NEWGOV partners. The first Briefing Papers are planned in month 19.

Third, the Consortium plans to work with a publisher to produce a high quality book series that will record in fully worked and elaborated form the range of the knowledge created, its empirical content, its analytical innovations, and its implications for subsequent scientific enquiry. A two-track approach is currently planned whereby a cherry-picking 'flagship' volume could be produced and a series of edited volumes and monographs established with another publishing house.

## 2. Dissemination of knowledge by project partners

The following list also includes those publications ‘in print’ and ‘under review’, and upcoming participation in conferences etc.

- Almer J. & Rotkirch M. (2004), *European Governance. An Overview of the Commission's Agenda for Reform*, SIEPS, Stockholm
- Avdagic, Sabina, Jelle Visser and Martin Rhodes, ‘The Emergence and Evolution of Social Pacts: A Provisional Framework for Comparative Analysis’, *Society for the Advancement of Socio-Economics*, Budapest, 1 July 2005.
- Avdagic, Sabina, Martin Rhodes and Jelle Visser, ‘The Emergence and Evolution of Social Pacts: A Provisional Framework for Comparative Analysis’, *European Governance Papers (EUROGOV) No. N-05-01*, September 19, 2005
- Begg, Iain (2004) ‘Is the open method of co-ordination robust enough for an effective European strategy to promote employment?’ paper prepared for a conference on *Gouvernance et expertise de l'emploi en Europe* organised by the French Ministry of Labour and Centre d'études de l'emploi, presented on December 14th 2004
- Begg, Iain (2004) ‘The Economic Dimension of the Constitutional Treaty’ paper prepared for the annual conference of the Korean Society for Contemporary European Studies. Presented in Seoul, 26th November 2004
- Begg, Iain (2004), Presentation at the Institut für Europäische Politik, Berlin, 23rd September 2004 on ‘Economic dimensions of the Constitutional Treaty: Not a lot to say about not a lot’.
- Begg, Iain (2004), Presentation on ‘Ways forward: the search for more effective policy’ conference organised by the Association Europe Société on *Le dialogue social sectoriel européen : quelle contribution a la réussite de la stratégie de lisbonne ? quelles pistes pour l'avenir?*.
- Begg, Iain (2005) ‘Do we need a Lisbon strategy’ *Intereconomics* 40, No.2, pp 56-60 [Forum on ‘How to Get the Lisbon Strategy Back on Track’].
- Begg, Iain (2005), Connex workshop on economic governance, Sciences-Po, Paris, 11th May
- Begg, Iain (2005), Connex workshop on the open method of co-ordination, University of Sussex, July 8th.
- Begg, Iain (2005), ‘Economic policy and institutional transparency: the ECB’ presented at workshop at Trolleholm, Sweden 4th March 2005.
- Begg, Iain (2005), ESRC Workshop on the Lisbon Strategy, LSE, 3rd June.
- Begg, Iain (2005), ETUC/SALTSA workshop on the Stability and Growth Pact and the new members, Brussels, 21st March.
- Begg, Iain (2005), Real convergence and EMU enlargement: The Time Dimension of Fit with the Euro Area, workshop at the British Academy, London, February 7th.
- Begg, Iain (2006) ‘Real convergence and EMU enlargement: The Time Dimension of Fit with the Euro Area,’ forthcoming in Dyson, K. ed. ‘Enlarging the Euro’ Oxford: OUP
- Begg, Iain (2006) ‘Economic policy and institutional transparency: the ECB’ forthcoming in ‘Corporate and institutional transparency for economic growth in Europe’ edited by L. Oxelheim and J. Forssbaeck, and to be published by Elsevier
- Bellamy, Richard, ‘Constitution Making as Normal Politics’, at conference on International Perspectives on Human Rights, JURA GENTIUM, Centre for Philosophy of International Law and Global Politics, Dipartimento di Teoria e Storia del Diritto, Università di Firenze, 10/09/04

- Bellamy, Richard, 'Constitution Making as Normal Politics', Centre de Recherche Sens, Ethique et Société (CERSES), Institut de Recherche sur les Sociétés Contemporaines (IRESCO), Paris, 29/11/04
- Bellamy, Richard, 'Constitution Making as Normal Politics', European Law Centre, University of New South Wales, 7/04/05
- Bellamy, Richard, 'Democracy and Constitutions : Does the One Need the Other ?', IVR World Congress, Granada, 28/05/05
- Bellamy, Richard, 'Democracy and Constitutions: Does the One Need the Other?', School of Public Policy, UCL, 15/12/04
- Bellamy, Richard, 'Still in Deficit: Rights, Regulation and Democracy in the EU', Conference on 'Shifting Boundaries of Sovereignty', National Europe Centre, ANU, 22/03/05
- Bellamy, Richard, 'The Challenge of European Union', in John Dryzek, Anne Phillips and Bonnie Honig (eds) *The Oxford Handbook of Political Theory*, (Oxford: OUP, forthcoming)
- Bellamy, Richard, 'Which Constitution for What Kind of Europe?', CIDEL Conference, Birkbeck College, University of London, 12/11/04
- Bellamy, Richard, 25/02/05 'Democracy and Constitutions: Does the One Need the Other?', Social and Political Theory Seminar, ANU
- Bellamy, Richard, 'Between Past and Future: The Democratic Limits of the EU', in R Bellamy, D Castiglione and J Shaw (eds), *Making European Citizens: Strategies of Civic Inclusion in Pan-European Civil Society* (Palgrave, forthcoming)
- Bellamy, Richard, Jean Monnet Lecture: 'Between Past and Future: The Democratic Limits of EU', CERC, University of Melbourne, 16/03/05
- Bellamy, Richard, Public Lecture: 'Between Past and Future: The Democratic Limits of EU', the Institute for the Study of Europe, Columbia University (with the collaboration of the Active Citizenship Foundation) 18/11/04
- Bellamy, Richard, 'The Value of Citizenship: Belonging, Rights and Participation' in M Aziz and S Millns (eds), *Values in the Constitution of Europe*, Dartmouth, forthcoming
- Bellamy, Richard, 'Which Constitution for What Kind of Europe? Three Models of European Constitutionalism' in Francis Cheneval, (Hg.) *Legitimationsgrundlagen der Europäischen Union*, (Münster/Hamburg/London: LIT, forthcoming)
- Blauberger, Michael, Noulard, Wendelmoet van den, Schmidt, Susanne K., 'Jenseits von Implementierung und Compliance – Die Europäisierung der Mitgliedstaaten', under review for publication in a special issue of *Politische Vierteljahresschrift (PVS)* on 'Die Europäische Union: Governance und Policy-Making', to appear in 2007.
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- Börzel, Tanja (2006), *Conceptualizing New Modes of Governance in EU Enlargement*; forthcoming in Gunnar Folke Schuppert (ed.), *Europeanization of Governance – The Challenge of Accession*, Nomos-Verlag: Baden-Baden (Schriften zur Governance-Forschung).
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- Bruszt, Laszlo (2005), Presentation of a paper on the 'Evolution of Regional Developmental Regimes in the CEE countries' at the SASE conference, 30/06/05.
- Burroni, Luigi, Crouch, Colin, and Maarten Keune (2006): 'The incredible lightness of kaleidoscopic governance: The advantages of institutional weakness?' (under review).

- Castiglione, Dario, (Co-Author) *The future of democracy in Europe – trends, analyses, and reforms* (CoE Publications, Strasbourg 2004)
- Castiglione, Dario, (in preparation), Organisation of a panel on ‘Changing ideas of representation and accountability’ at the 3rd ECPR Conference, September 2005
- Castiglione, Dario, ‘A community of Strangers?’, paper for a panel on ‘The EU – A Political Community?’, as part of the Symposium on ‘Sovereignty – Law – Morals. State Power in the Era of Open Statehood’, Freie Universität, Berlin, April 2005
- Castiglione, Dario, ‘Delegation, insulation and democratic politics’, in Proceedings of the CoE Barcelona Conference on ‘The future of democracy in Europe’, (forthcoming, 2005)
- Castiglione, Dario, ‘Did Europe need a Constitution? Between Facts and Theories’, EPS Review, Forthcoming
- Castiglione, Dario, ‘The Transformation of Democratic Representation’ (with Mark E. Warren), *Democracy and Society* 2:1 (2004), 20-22.
- Castiglione, Dario, paper presented for the Workshop on ‘Democratic institutions and political parties – governance and decision making’ at the CoE Barcelona Conference on ‘The future of democracy in Europe’, 17-19 November 2004
- Castiglione, Dario, MPSA Paper on ‘Rethinking Representation: Seven Theoretical Issues’ (together with Mark Warren), Chicago, April 2005
- Castiglione, Dario, ‘Representation re-examined: A theoretical agenda’, Seminar at the New School University, New York, April 2005
- Castiglione, Dario, ‘The democratic legitimacy of non-democratic institutions in contemporary societies’, University of Columbia, September 2004
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