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# European influences on member states' employment policies? The impact of the European Employment Strategy on German labour market policies



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**Abstract:**

The paper analyses the European Employment Strategy's impact on German policies. The Luxembourg Process contains concrete, quantitative objectives as well as relatively heterogeneous suggestions that allow rather antithetic national policies. Nevertheless, it marks a specific European path, emphasizing state-led activation strategies. Applying clear and verifiable criteria, we analyse the impact of the guidelines, the quantified objectives and the recommendations on German employment policies and find that they selectively influenced German policies, normally catalysing existing policies ('intensifier effects'), but sometimes also inducing a policy change ('steering effects'). The impact varies depending on the concreteness of the guidelines and the party composition of the government.

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**Content:**

1 Introduction .....	3
2 How does policy transfer come about? – Theoretical perspectives.....	3
3 How to measure policy transfer.....	4
4 The European Employment Strategy .....	6
4.1 The Coordination Cycle .....	6
4.2 The Employment Guidelines since 1998.....	7
4.3 The policy conception of the Guidelines.....	8
5 The impact of the EES on member states’ policies: A case study .....	9
5.1 The Guidelines and German Policies: an overview .....	9
5.2 How important are the objectives? .....	11
5.3 Do recommendations matter?.....	13
5.4 The EES’ impact on German Labour Market Performance .....	15
6 Conclusions .....	16
Bibliography.....	18

## 1 Introduction

In the early 1990s, public dissatisfaction with the lack of a strategy to fight employment on the European level surged in many member states of the European Union. Thus, with the Treaty of Amsterdam, an employment chapter was inserted in the Treaty establishing the European Community (TEC) in 1997. With the employment chapter a new process of soft coordination in employment policy, the “Luxembourg Process”, was established. The “Luxembourg Process” served as a model and is the best established example for a new EU-level coordination process called “open method of co-ordination” (OMC). The impact of this new mode of governance on member states’ policies is still open to debate, however. Even the detailed evaluation studies conducted by the European Commission (2002; for Germany cf. RWI/ISG 2002) conducted five years after passing the first Employment Guidelines could not settle the dispute. While some authors have stated that German employment policies are still determined by national factors (Wally and Blümel 2000; Schwarzer and Uterwedde 2002), others claim “impressive proofs” for clear effects of the employment chapter on national policies (RWI/ISG 2002).

The divergent findings of these studies can partly be explained by methodological problems which are due to difficulties in determining the guidelines’ influence on the reforms of the labour market (Gold et al. 2000, 289). For these methodological reasons, even the European Commission’s (2002) extensive impact evaluation study can only give limited insights despite its apparently clear findings. This article will tackle this problem by providing clear methodological criteria for the analysis of the European Employment Strategy’s (EES) impact on national policies<sup>1</sup>. Our period of observation starts in 1997, when the first employment guidelines were adopted, and ends in 2002 because the fundamental revision the EES has undergone in 2002/3 marks the endpoint of the first phase of its evolution.<sup>2</sup>

The article proceeds as follows: After a methodological discussion we will first summarize the Luxembourg Process and the guidelines and recommendations that have been in force since 1998. Afterwards, the guidelines’ impact on German labour market policies will be outlined, mainly focusing on the National Action Plans. Subsequently, the influence of quantitative objectives and the Employment Recommendations is estimated and the Luxembourg Process’ impact on the German labour market is discussed.

## 2 How does policy transfer come about? – Theoretical perspectives

The European Employment Strategy and more generally the soft coordination processes labelled “open method of coordination” have usually been interpreted in terms of “policy transfer” in the scholarly literature. As Hodson and Maher (2001, 727) have put it, “the open method is similar to policy transfer”. “Policy transfer” can be defined as a process “in which knowledge about policies, administrative arrangements, institutions and ideas in one political setting [...] is used in the development of policies, administrative arrangements, institutions and ideas in another political setting” (Dolowitz and Marsh 2000, 5). Policy transfer may come about both forced and voluntarily. Heuristically, it can be located on a continuum from processes of voluntary lesson-drawing to coercive transfer, that is, the direct imposition of certain policies (Dolowitz and Marsh 2000, 13-14). Clearly, the existence of a supranational

organization like the EU fosters policy transfer by various means of coercion. However, one cannot expect “*direct coercive transfer*” within the Luxemburg process that is located outside the realm of the European Court of Justice and has no formal sanction mechanisms.

The subset of “*indirect coercive transfer*” in contrast encloses a whole bunch of impact mechanisms applicable to the EES. The perception of falling behind one’s neighbours or competitors has been identified as a main cause for indirect coercive transfer (Dolowitz and Marsh 1996, 349). This idea is at the very heart of benchmarking systems: Benchmarks may force actors to acknowledge unpleasant facts, they may be used in naming and shaming processes, and the “technocratic rationale” (Dyson 2002, 190) of benchmarking may help gaining acceptance for painful reforms. Therefore, concrete and clear-cut benchmarks will induce the strongest effects (Sabatier 1993, 141; see also Schludi 2003, 22).

In addition, coordination processes with a moral sanction system “change the distribution of power and resources between actors in the national arena” (de la Porte and Pochet 2002a, 50). Willing governments may use European norms as arguments in national policy discourses (Scharpf 2002, 654). This in turn means that open-mindedness of the government towards the transferable policy can be a central condition for a successful transfer (Dolowitz and Marsh 1996, 354; also de la Porte and Pochet 2002c, 295). But even hesitant actors may be driven towards policy change if electoral competitors can use policy lessons as “political weapons” (Robertson 1991, 57).

Nevertheless, moral sanction systems do not only change the setting within the national arena. Policy transfer may also be driven by the desire for international acceptance. Legitimization, conformity and esteem have been identified as main motivations for responding to peer pressure on international levels and following international norms (Finnemore and Sikkink 1998, 903-904). These mechanisms can be expected to be stronger in the EU with its regular interaction processes than in other arenas.

For “*voluntary transfer*” and the search for lessons more generally, some form of dissatisfaction with the status quo is usually seen as a prerequisite (Rose 1991). However, the actor’s knowledge of feasible policy options that will always be restricted can be extended by coordination structures: A voluntary policy transfer can be promoted by review processes that help to disseminate knowledge of successful national strategies. Under certain conditions this may not only change knowledge, but also beliefs and cognitive frames and may lead to a common language in the long run.

However, the impact of coordination systems varies with the level of concreteness and bindingness of rules and targets, with the degree of actor involvement and the public attention the options under discussion receive in the national discourse. In addition, policy examples may be more or less adaptable to different institutional settings, e.g. the type of the welfare state (see de la Porte and Pochet 2002a, 54-61). Thus, whether the Luxembourg process with its “‘potential’ for learning” (Radaelli 2003: 26) has actually brought about policy transfer remains an empirical question.

### **3 How to measure policy transfer**

Influences on the policies of the member states can only be analysed based on the legal output. However, a comparison of the member states’ policies and the guidelines is problematic. The EES is based on Employment Guidelines that lay down common employment goals and targets and advise strategies and country specific

Recommendations. Although congruence of the European Employment Guidelines and the member states' policies is a *conditio sine qua non* for the existence of a policy transfer, this congruence does not suffice to conclude that a member state's policy was influenced by the guidelines (and recommendations, respectively) for two reasons: First, national policies may coincide with the EES incidentally, and similarities may "simply reflect the status quo of national policy routines" (Scharpf 2002, 654). Second, the Employment Guidelines contain only a small number of precise policy recommendations, but often allow for a broad range of measures and leave member states a considerable scope in order to make the national policies fit into the Luxembourg Process. The guidelines' openness is an answer to the heterogeneity of the employment requirements of the member states (Hodson and Maher 2001, 731; Mosher and Trubek 2003, 84). Nevertheless, from a methodological point of view the lacking precision of the guidelines leaves us with the problem that a correspondence of enacted policies with the guidelines does not suffice to prove that a policy transfer has occurred. The German National Impact Evaluation Study (RWI/ISG 2002), which found a considerable impact of the EES on German labour market policies, clearly suffers from the described methodological problems. In that study, a clear impact on national policies is assumed in every case in which the national measures are compatible with the guidelines, even in cases where the regulations are obviously influenced mainly or exclusively by other factors. For example, the analysis states a "very strong effect" (RWI/ISG 2002, 43, 141) of the EES on the law about part-time work and temporary work contracts, although this act only brings the national law in line with EC directives. In the same way, the analysis states a "limited" influence of the Luxembourg Process on the ecological and income tax reforms (RWI/ISG 2002, 58) although analyses of the decision making processes in question fail to find evidence for that proposition (Zohlnhöfer 2003). Thus the Member States' and the Commission's documents must be read carefully and "should not be considered as being entirely objective" (de la Porte and Pochet 2002b: 14).

According to David Dolowitz (1997, 24), one can only assume a policy transfer if the decision-making actors knew the exemplary policy and showed interest in it. Given the fact that all member states are bound to deal intensively with the guidelines in the form of the National Action Plans (article 128 TEC, see below), one can presume that the member states are at least aware of the guidelines. Thus, the governments' knowledge about transferable measures is always given for the EES and the respective criterion therefore is of no use here. But governments might also display their *interest* in the guidelines through referring to them when justifying a bill. An explicit reference to the guidelines through an involved actor makes an influence of the EES more plausible because it is rather infrequent that an international organization is quoted in order to justify a reform, even if the organisation supports the government's position. For example, the recommendations of the OECD have hardly been mentioned in German parliamentary documents even in cases where the government's reforms corresponded with them (Zohlnhöfer and Zutavern 2004, 136-7). Therefore, it is plausible to assume that a reference to the guidelines is only made if they actually played a role in the formulation of the law.

Yet, such a reference still does not 'prove' the influence of the Luxembourg Process. Rather, it is important to clarify when we *cannot* speak of a policy transfer caused by the Luxembourg Process, even if we find an explicit reference to the guidelines in addition to a correspondence between the guidelines and national policies (Evans and

Davies 1999, 382). This is particularly the case when the member states' policies are a reaction to enforceable European Law. The Union regulates some of the matters in question with hard secondary legislation in a way that these regulations are compatible with the goals of the Employment Guidelines. In these cases one cannot attest an influence of the guidelines and recommendations.

Furthermore, one has to consider whether a programme can be ascribed to other factors. For instance, when a certain measure is announced in an election platform and is suggested later in the guidelines, its realization may not be due to the guidelines but to the compliance with the election manifesto. The EES may nevertheless facilitate the adoption of such a reform by serving as a safeguard for policies that are preferred regardless of the guidelines (see de la Porte and Pochet 2002b: 18). Therefore, we suggest distinguishing between two possible effects of the EES on national policies: The catalyst effects just mentioned are called 'intensifier effects', while we would speak of a 'steering effect' when a change of policies is mainly initiated by the guidelines or the recommendations.<sup>3</sup>

To sum up, an influence of the guidelines on national policies will be considered as given in the cases where the policies are corresponding with the guidelines, where there is a reference to the guidelines in explanatory statements for these policies and where the policies in question cannot be ascribed to other influencing factors. We concede that these are rather restrictive criteria because in cases of widely accepted reforms governments may well be tempted to claim the credit for these reforms and thus may not mention the EES in their policy statements (Büchs 2003, 33). Therefore, we might underestimate the EES' impact. To mitigate this problem, the results reported below were cross-checked in interviews with experts from the Federal Ministries of Labour and Finance and the Chancellor's Office.

## **4 The European Employment Strategy**

### **4.1 The Coordination Cycle**

The main features of the "Luxembourg Process" are laid down in the EC treaty's employment chapter. According to Article 125 TEC, the member states "work towards developing a coordinated employment strategy" in order to reach the goal of a high employment level. For this purpose, a new process has been institutionalised which did not imply a significant transfer of sovereignty, however. The process of article 128 TEC is aimed at the harmonization of employment policies with the help of guidelines that lay down common goals and targets and formulate strategies, but leave member states a range of options for the implementation.

At the beginning of the "coordination cycle", the Commission formulates a proposal for the next year's guidelines and recommendations. Having consulted the European Parliament and the relevant committees, the Council passes the Employment Guidelines with qualified majority, selectively revising (which in the first five years of the process often meant: softening) the Commission's proposal. "If appropriate" the Council can address recommendations to individual member states, which will also be passed with a qualified majority. The Member States draw up annual reports – the "National Action Plans" (NAP) – that describe the national strategies and projects, depict the measures already taken in implementing the EES and illustrate "best practice" examples. The guidelines' implementation will be examined by the Council based on the

Commission's important preparatory work. At the end of the coordination cycle, a Joint Employment Report (JER) is drafted by the Commission and the Council, describing the measures taken by the member states to implement the guidelines and recommendations. The European Council's conclusions about the employment situation lead over to a new cycle of the coordination process.

Within the framework of the Luxembourg process, a "forced policy transfer" is neither possible nor intended not least because of the differences between countries in regard to their labour market institutions and problems. The member states have to take the guidelines "into account" (article 128,3), however, and the implementation of the guidelines and recommendations is examined on the basis of common indicators. In contrast to the "excessive deficit procedure" (article 104), there is no possibility to impose sanctions if member states do not comply with the guidelines. Rather the Luxembourg process explicitly intends to encourage "policy learning" and "lesson drawing". Thus, benchmarking plays an important role in the process which may indeed increase the pressure on the national authorities to carry out a change of policies if their employment performance turns out to be poor.

Finally, the process aims at extending the knowledge of alternative strategies, based on the guidelines and the presentation of successful national strategies in the JER. However, the illustration of these exemplary cases is kept so brief that it can hardly help to distinguish between transferable methods and the "songs of the sirens" of seductive remedies which caused desired effects in a specific national context, but would fail in another (Rose 1991, 26).<sup>4</sup>

#### 4.2 The Employment Guidelines since 1998

The first Employment Guidelines were formally adopted by the Council on 15 December 1997. Since then, they have been revised annually. Despite a midterm review in 2000 and the formulation of horizontal objectives in 2001 their main structure remained unchanged until the 2003 reform.<sup>5</sup> The guidelines, the number of which ranged from eighteen to twenty-two, were organised in four "pillars": "Improving employability", "Developing Entrepreneurship and Job Creation", "Encouraging Adaptability of Businesses and their Employees" and "Strengthening Equal Opportunities Policies for Women and Men".<sup>6</sup> New goals and priorities have only been selectively formulated, slightly broadening the main focus of the EES.

The most important target among the *horizontal objectives* was an increase of the employment rate to 70% until 2010 and an attempt to reach full employment. In addition, employment rates for women and among older persons are supposed to rise to 60% and 50% respectively. According to other horizontal objectives, member states had to focus among other things on the quality of work and lifelong learning.

The *first pillar* contained a commitment to active labour market policies. It aimed at the improvement of employability with preventive and activating strategies. "Lifelong learning" was expected to help employees to adapt to labour market requirements. The guidelines of the first pillar were quite comprehensive and often aimed at specific target groups. Most of the guidelines contained quantitative objectives. The *second pillar* was intended to improve the conditions for starting and running a business and to strengthen the incentives for job creation. Accordingly, barriers like administrative obstacles and tax burdens should be reduced or removed. The *third pillar* promoted the adaptability of businesses and their employees through modernising work organisation and labour



relations. It was seeking for “the required balance between flexibility and security”, including claims for flexible working time and working contracts and for “adequate security and higher occupational status” for employees. The *fourth pillar* aimed at the realization of equal opportunities for women and men as a horizontal objective for all employment policies (gender mainstreaming). It also included claims for diminishing income differences between women and men, reducing the gap in female and male unemployment rates and reconciling work and family life.

Since 2000, the Council has used the opportunity to direct Employment Recommendations to the member states. The recommendations combine a brief analysis of the national employment situation with country specific policy recommendations, ranging from two to six for each country. Unlike the guidelines, the recommendations address concrete problems of the member states’ employment policies, and their implementation is extensively discussed in the employment reports. The recommendations are passed with qualified majority. Thus, the member state in question formally cannot prevent the adoption of the recommendation. Although the recommendations are not supplemented by sanctions, they might influence national labour market policies considerably, since they can be seen as a public criticism of the government’s employment policy – a criticism that can be exploited by the opposition.

#### 4.3 The policy conception of the Guidelines

European employment policies have been characterised as “generally eclectic” and highly fragmented (Schmid and Roth 2001, 109). The different employment problems, the institutional variety of welfare state systems and the filtering effects of the decision making of the Luxembourg process led to a heterogeneous conglomeration of guidelines. The EES is based on different views about the causes of persisting unemployment and low employment rates, and from the beginning it recommended different cures that are not always compatible: Improving the labour market flexibility and cuts in taxes and social charges on the one hand and the state-driven extension of activating labour market policies to improve employability on the other hand were incoherently enumerated in the Employment Guidelines. The heterogeneous character of the guidelines has been aggravated by the inclusion of social and educational goals that have diffused into the guidelines within the first five years of the EES.

Despite their heterogeneity, the guidelines show a specific European way in employment and labour market policy. This path has been characterised as a modification of the “neo-liberal” project of European integration and as being compatible with “third way” policies, so prominently discussed at the end of the 1990s (Adnett 2001; Mosher and Trubek 2003). Demands for improving employability through “lifelong learning”, a tax relief for low incomes, flexibility of working times and a policy benefiting the socially excluded are cited for this interpretation.

A comparison of the EES with other employment strategies, namely the OECD Jobs Study (OECD 1994), clarifies this specific European path. In some areas the strategies are of the same tenor, e.g. concerning demands for activating labour market policies and recommendations to facilitate the formation of companies. Both urge for a liberalization of working times and reforms of the tax and other contribution systems. Apart from that, though, there are important differences. The OECD recommendations include claims for cuts in benefits and strict means testing, whereas the EES takes a different course. Suggestions for labour market deregulation are explicitly combined with claims for

“adequate security and higher occupational status”. The guidelines’ social goals, e.g. the provisions promoting equal opportunities for men and women and occupational health and safety, and the concrete educational demands do not have an equivalent in the OECD study either. The strategy underlying the Employment Guidelines has been called “recommodification” (Aust 2000, 24) – but it is a rather different concept compared with the one laid down by the OECD. In the EES, “activation” does not imply recommodification through tightening means testing and limiting benefit entitlements. The vital point is the improvement of employability through preventive measures, lifelong learning and activation, actively fostered by the state on different levels.

## **5 The impact of the EES on member states’ policies: A case study**

### **5.1 The Guidelines and German Policies: an overview**

The 1998 NAP, which was worked out by the Christian-liberal coalition, was hardly influenced by the Employment Guidelines at all.<sup>7</sup> The text mainly enumerates employment measures which fit into the guidelines to a varying degree. Moreover, it subsumes legal provisions already being in force for several years. In doing so, all important social and economic reforms of the 13<sup>th</sup> legislative period (1994-1998) are quoted. It is impossible that these measures were influenced by the Employment Guidelines above all because they had been enacted before the guidelines were passed. Proposals for future labour market reforms of major importance are not presented at all. Therefore, the European level did not play a role in the Kohl government’s employment policies.

Three reasons can be put forward for the minor significance of the EES for the 1998 NAP. First, it is plausible to assume that the Luxembourg process needed some time to get going properly; therefore, any remarkable effects would have been a surprise in the first year. Second, the coalition had passed a set of important labour market, social and economic reforms shortly before the legislative period ended in 1998. The major reform of German employment promotion enacted in March 1997 is particularly noteworthy in this regard: The NAP referred to it in eight out of nineteen sections which covered the guidelines. Even if the regulations of this reform were not influenced by the EES, a set of measures were of the same tenor as the guidelines (Zohlnhöfer 2001, 292-309). For instance, several measures aimed at preventing long-term unemployment, while other newly introduced instruments were to help the reintegration of actual long-term unemployed. In the face of this congruence of German policies with the guidelines, the government used the NAP to highlight its achievements in employment policies in the expiring legislative period, while an announcement of numerous future measures could have been interpreted as a reform logjam for which the government would have had to take responsibility.

Third, the government’s reluctance reflected its scepticism towards the whole project of an employment policy at the EU level, as it had been shown in the negotiations to the Treaty of Amsterdam where the coalition had tried to limit the scope of “Europeanization” of employment policies (Johansson 1999, 96-7). For instance, the ministers of economic affairs, finance and labour had explicitly intervened against the introduction of quantitative objectives in the guidelines before the Luxembourg Employment summit, while the SPD had threatened to vote against the new treaty if employment matters were not included to a sufficient extent.<sup>8</sup>

These differences remained visible in the electoral campaign of 1998. The SPD (1998, 73) asked for a “European Employment Pact” and for binding objectives. It demanded to lay down the objective that no adolescent person should become unemployed after finishing school. The Greens took similar positions. After the change of government in October 1998, the first government declaration indicated that German employment policies would be adjusted according to these postulations (Ostheim 2003, 352-3). Did this concern of the new government for the impulses coming from the EES result in adjustments of German employment policies? Do the Action Plans between 1999 and 2002 indicate that German labour market policies were influenced by the Employment Guidelines?

In its first NAP, the red-green government coalition highlighted several new projects that were said to implement the guidelines: The most important instrument certainly was the “Alliance for Jobs, Training and Competitiveness” that was to play a key role in the national employment strategy (NAP 1999, 7-9). A remarkable influence of the EES on this programme cannot, however, be assumed because the larger coalition partner had announced it in its election manifesto (SPD 1998, 11, 47). In addition to the “Alliance for Jobs”, the following issues have been particularly emphasised in the four Action Plans of the red-green coalition between 1999 and 2002: an increase in preventive measures, the modernization of the German dual system of vocational training, the reduction of taxes and charges, the promotion of part-time employment, especially pre-retirement part-time work (“Altersteilzeit”), the reform of parental leave, the adoption of a new gender equality act, the programme “Women and Work” and the Action Programme “Innovation and Jobs in the Information Society of the 21<sup>st</sup> Century”. Most of these programmes cannot be causally related to the Employment Guidelines. They either originate from demands that have been put forward earlier by the SPD and the Greens (reduction of taxes and charges, parental leave, gender equality act, programme “Women and Work”), or they continue efforts that had already been started under the old government – and even before the first cycle of the Luxembourg Process had begun (modernization of the dual system of vocational training, promotion of part-time employment).

The emphasis on a preventive approach to labour market policies, however, leads to a different conclusion. The reform projects of the red-green coalition that were realised in this context point to a remarkable significance of the guidelines. The “Emergency Programme for the Reduction of Youth Unemployment” for example which was adopted instantaneously after the change of government was supposed to provide new jobs or training to 100,000 young persons annually. The focus on fighting youth unemployment fits nicely with the guidelines of the EES. Furthermore, in an official government document, the 1999 government report on vocational training, the Luxembourg processes is explicitly referred to: “The emergency programme [...] is a first answer to much to high youth unemployment and to the Employment Guidelines of the European Union” (BMBF 1999, 8). Even though the “Emergency Programme” is already mentioned in the SPD’s (1998, 51) election manifesto, this is a hint that the EES might have play a role in this respect at least in terms of catalysing reforms.

The 1999 law amending the Work Promotion Act intended to focus employment promotion measures on problem groups like elderly, long-term unemployed persons and unemployed women (BT-Drs. 14/873, 10). This coincides with the main target groups of the Employment Guidelines (apart from the young people covered by the Emergency Programme focussing on youth unemployment). In addition, explicit reference to the

guidelines is repeatedly made in the explanatory statements of the law and the first two guidelines are even cited literally (BT-Drs. 14/873, 19).

The same is true for the Job-Aktiv Law of 2001 (Blancke and Schmid 2003). In analogy to the EES, improving employability is named as the main task of labour market policy (BT-Drs. 14/6944, 24), and most of the guidelines' key elements reappear in the law: Lifelong learning and strengthening of the preventive approach to labour market policies; offering an opportunity to obtain a secondary school qualification retrospectively to prevent youth unemployment; promoting the participation of older persons in working life; gender mainstreaming; the targeted promotion of women and the reintegration of house wives into the labour market. In addition, the explanatory statements explicitly refer to the guidelines six times (BT-Drs. 14/6944). As discussed in section 2.2, this repeated reference to the guidelines is quite remarkable. Given the fact that some elements of the red-green reform laws, e.g. the accentuation of a preventive approach, were not mentioned in the election platforms of the coalition partners, we conclude that these labour market reforms have indeed been influenced by the EES. Since the measures are in line with the general direction of the government's policies we would classify these effects as 'intensifier effects'.

In contrast, in other cases of correspondence between the guidelines and the measures planned or taken by the government we fail to find an explicit reference to the Employment Guidelines. For example, the laws concerning pre-retirement part-time employment (1999) and concerning the reduction of unemployment among severely disabled people (2000) conformed to the Employment Guidelines and were mentioned in detail in the NAPs. However, no European impulse is mentioned in the relevant law statements, committee reports and parliamentary debates (see e.g. BT-Drs. 14/3158, 14/3372). Hence, according to our criteria we cannot state a causal impact in these cases.

Apparently, the impact of the guidelines was larger on the policies of the red-green coalition than on the policies of its predecessor. Nevertheless, different policies of the same government are affected unequally. The variables that are responsible for this uneven impact have not yet been sufficiently specified. Possibly, some ministry divisions that are responsible for the formulation of bills are aware of the guidelines' relevant details while others are not (Schwarzer and Uterwedde 2002, 208). But this conclusion is only preliminary and deserves further research that is beyond the scope of this contribution. In the next section, we concentrate on another explanation, namely that the level of bindingness of the guidelines is an intervening factor. In this case, the quantitative objectives should play an outstanding role, and the impact of the four pillars on national policies should differ significantly since quantified objectives are mostly to be found in the first pillar.

## 5.2 How important are the objectives?

Already in 1997 Germany fulfilled the minimum requirement of the guideline which asked for a significant increase in the number of persons benefiting from active measures (that is, a ratio of 20%; NAP 1998, 14). The activation ratio increased further in the following years (NAP 2002, 33) and thus conformed to the more ambitious target ("gradually achieving the average of the three most successful Member States"). This congruence of European targets and German outcomes does not imply that the first impulse to expand active labour market policies came from the European level, though: The SPD as well as the Greens had opted for such a strategy in their election manifestos, and already the Christian-liberal coalition

had used active labour market policies extensively throughout the 1990s (Zohlnhöfer 2001, 309-10).

It can be expected, however, that German labour market policies were influenced to a greater extent by those quantitative objectives that Germany did *not* comply with in the beginning – the objectives for youth and long-term unemployment, for instance. In this regard, a set of measures of the Job-Aktiv Law has to be mentioned: First, a compulsory “profiling” has been initiated in order to estimate the risk of long-term unemployment and to take adequate individual measures. Second, a new “inclusion agreement” concluded between the unemployed person and the job centre at the very beginning of the applicant’s unemployment fixes activities that both contracting parties have to take. Third, several elements of the Job-Aktiv Law extended the legal possibilities to enable not yet long-term unemployed persons to participate in job-creation measures. With these innovations the federal government ensured that the guidelines’ objectives were fully achieved (NAP 2002, 28). Therefore, and in the face of lacking alternative explanatory factors, it stands to reason that these objectives had a marked influence on German labour market policies.

In contrast, the target of guideline 5 (introduced in 2000) stipulating that all schools should be provided with internet access until the end of 2001, did not have a causal impact on German policies, since this aim had already been formulated by the SPD (1998, 17) in its election platform. Whether there are direct effects of the target to halve the number of 18 to 24 year olds with only lower-secondary level education who are not in further education and training by 2010 (introduced in 2000) is not clear yet.

While the objectives of the first pillar have clearly influenced German labour market policies, there is no evidence that the other three pillars, where quantitative objectives were essentially absent, exerted a comparable impact. Both coalitions mostly used these parts of the NAPs to present reforms that were not directly related to the EES. This holds particularly true for the guidelines of the second pillar (“Developing Entrepreneurship”) where the NAPs address a number of important reforms, especially reforms of the tax and the social security systems, which were realised independently from the guidelines. Therefore, no impact of the EES can be claimed for the ecological tax reform – a vital project of the Green Party long before the establishment of the Luxembourg Process which was also supported by the SPD (1998, 59) in its election manifesto –, the Family Tax-Relief Package or the privatisation of public services.

An examination of the third pillar concerning adaptability results in similar findings. This is partly caused by the rather vague wording of the guidelines, some of which mainly address the social partners. Additionally, some of the central problems mentioned in the guidelines, namely disadvantages for part-time employees and tax disincentives for in-house training, did not exist in Germany. Furthermore, the drawbacks of part-time employment were combated with the directive 97/81/EC outside the Luxembourg process. In this case, possible changes of national policies can be plausibly attributed only to the impact of European “hard law”. Additionally, the German governments used the guidelines of the third pillar to describe the concept of pre-retirement part-time employment that had already been introduced before the beginning of the Luxembourg Process. Amendments undertaken by the red-green government in this matter cannot be ascribed to the guidelines either as they are not mentioned in the explanatory law statements (BT-Drs. 14/3158).

The fourth pillar did not play a major role for German policies until 2000, either. In many cases the governments only pointed to existing laws. For example, a provision in

force since 1993 stipulated that women are to participate in active labour market measures proportionally to their share in the unemployed population. This regulation was seen as “fully complied with in the case of most of the major instruments” (NAP 2000, 40), thus also conforming to the requirements of the guideline. The same applies to different measures for the advancement of women in the context of parental leave, the right for a kindergarten place for every child and long-term care insurance. Where comparable provisions did not exist, rather symbolical measures were announced like a campaign “Men and Family” or a national competition for the “Women- and Family-friendly Company”.

After the Summit of Lisbon, however, the fourth pillar gradually gained relevance for German policies. The EU not only demanded a more serious consideration of the fourth pillar and an increase of the employment rate for women, but also addressed a recommendation to the German government to extend gender-mainstreaming and the promotion of women. This recommendation was at least partly reflected in the following Action Plan, as will be seen in the next section.

### 5.3 Do recommendations matter?

Since the guidelines amalgamate different national approaches in employment policies, they must be laid down in rather non-specific terms in order to be applicable in all member states. In contrast, the Employment Recommendations address each country directly. Thus, it can be plausibly expected that the recommendations have a greater impact on the national policies, since they are likely to be seen by the general public in the respective countries as a quasi-official criticism of the respective policies.

For 2000, the Council directed five recommendations at Germany. The German government was called on (1) to combat long-term unemployment by extending preventive measures and to lay down more ambitious objectives for the reduction of long-term unemployment. Furthermore, the Council recommended (2) to use the employment potential of the service sector by undertaking “legal, tax and other measures” in order to reduce the burdens for setting up new enterprises; (3) to increase labour market participation of all groups, but especially of older employees, i.e. to reduce early retirement; (4) to reduce taxes and social security contributions in order to lower labour costs, especially “at the low end of the income scale”; and (5) to adapt the statistical system in order to provide data compatible with the common policy indicators.

The recommendations 1, 3 and 4 were readopted by the Council, though partly changed, the following year. The recommendation on improvements of the statistical system was implemented immediately; the service sector recommendation was dropped. Instead, recommendations concerning the extension of gender-mainstreaming and lifelong learning were included. These five recommendations were kept for the year 2002 with two relevant modifications: The explicit claim to strengthen preventive measures was left out in the first recommendation, and the recommendation on lifelong learning was supplemented by demands for an increase in the flexibility of work contracts and work organisation.

What implications did these recommendations have for German labour market policies? The claim for extended preventive measures did not have an immediate impact. In the Action Plan 2000, the government only referred to a set of measures that had already been announced as being projected or initiated in the 1999 NAP. The only new measure

not mentioned before is the extension of a comprehensive multi-stage pathway approach to labour market integration (“Eingliederungspfad”). De facto, however, the “Eingliederungspfad” does not contain new labour market policy approaches. Rather, it was a new buzzword for the common process of public employment services, from its initial consultations at the beginning of unemployment to the intensification of the efforts after a maximum of six months of unemployment. Therefore, it is primarily an attempt to demonstrate the already existing preventive components of the German employment services. However, the claim for a more ambitious goal for reducing long-term unemployment was taken up by the German government. As was demonstrated in the previous sections, the recommendations also influenced the formulation of the Job-Aktiv Law, so the explicit claim for a further extension of preventive measures consequently could be left out.

The government’s comments concerning the service sector recommendation only recapitulated measures that had already been suggested in 1998 and 1999. The fact that the recommendation was dropped can therefore not be traced back to new measures of the government. In contrast, the recommendation to combat early retirement might have contributed decisively to a remarkable deviation of the German pathway. For decades, controlling the supply side of the labour market had been a central strategy of labour market policies (Manow and Seils 2000). Still on 9 January 2000, the participants of the Alliance for Jobs embarked on this strategy, concluding that job-creating early retirement schemes were looked for which would not impose additional burdens on the social security systems. In contrast, a little more than a year later emphasis was placed on the need for a paradigm shift in early retirement policies. The Alliance explicitly referred to the recommendations: “Moreover, the declining activity rate of older employees in Germany has been substantially criticised at the European level during the last years.”<sup>9</sup> There existed an obvious and eminent conflict between the substance of the EES and well proven German policies concerning early retirement, and the government as well as the labour unions had by no means given up this strategy at the beginning of the legislative period. Thus, if a paradigm shift can nevertheless be observed, it is highly reasonable to assume an important impact of the criticism contained in the Employment Recommendations – clearly a ‘steering effect’ on German policies.

The recommendation concerning a reduction of taxes and social security contributions did not bring about any innovations. The NAP 2000 as well as its successors refer to measures that were undoubtedly not initiated by the Luxembourg Process or the recommendations: reforms of income and business taxation, the ecological tax reform, the family tax relief package and the pension reform. Regarding the recommendation to reduce labour costs of low-wage jobs, the NAPs refer to one model project in 2000 and to two such projects in 2001 that aimed at creating employment potentials for less qualified and long-term unemployed people. Again, they cannot have been influenced by the recommendations of the Council, since they were already agreed on in the Alliance for Jobs in December 1999 (Blancke and Schmid 2003, 219). According to our criteria, the extension of one of these pilot projects to Germany as a whole from March 2002 is also no proof for an impact of the recommendations since it has to be interpreted as a reaction to the deterioration of the German labour market situation in the winter 2001/2.

The recommendation concerning lifelong learning that was included in 2000 showed no noteworthy effects either. First of all the social partners were held responsible within the framework of the Alliance for Jobs. In addition, an action programme “Lifelong Learning” was presented which was mainly a package of the different existing

programmes and was already presented in the NAP 2000 – that is, before the recommendation had been passed by the Council. An explicit reference to the Luxembourg Process cannot be found in the documentation of the action programme.<sup>10</sup> It is remarkable that in contrast to some other member states (BMA 2001, 69), the German government did not formulate quantitative objectives for lifelong learning although this has been intended by the corresponding guidelines since 1999 and has been recommended by the Council in the following years.

The second new recommendation in 2000 encouraged Germany to link gender-mainstreaming and equal opportunity measures for women. This recommendation is reflected in the Job-Aktiv Law in 2001. This law introduced the gender-mainstreaming approach to the German employment promotion law and expanded the scope of measures for the advancement of women. This reform was annotated with an explicit reference to “corresponding approaches of the European Union” (BT-Drs. 14/6944, 26; our translation). According to one interviewed official, the term “Gender-Mainstreaming” itself has been introduced to the German discourse on labour market policies only via the Employment Guidelines – thus obviously another ‘steering effect’ of the EES. In addition, the German government even outclassed the EU objectives when defining the share of women participating in the measures of active labour market policy (BT-Drs. 14/6944, 29). Since our criteria for the existence of a policy transfer are met (the government showed interest, no other factors exerted significant influence) this case can also be interpreted as evidence for an influence of the employment guidelines.

#### 5.4 The EES’ impact on German Labour Market Performance

In a further step, it would be interesting to examine whether the EES has exerted positive effects on the overall employment situation in Germany. Theoretically, this might be the case if policies which were influenced by the Luxembourg process had a positive impact on the labour market. Empirically, however, it is next to impossible to isolate effects of particular measures on a phenomenon as complex as the labour market. This is particularly true, given the fact that only a limited number of regulations were identified as being influenced by the EES and that they could not be expected to yield massive effects on the labour market. Thus, the impact of these provisions can certainly not be read off the aggregated labour market statistics – which is good news for the EES since the adoption of some of its ideas can thus not be blamed for the worsening of the employment situation since 2002, when most of them came into effect.

Consulting more general assessments of economic policy advisory bodies like the OECD and the Council of Economic Advisers, these institutions expected positive effects from the new regulations of the Job-Aktiv Law, although not necessarily from the provisions influenced by the EES (SVR 2002, 121; SVR 2003, 9; OECD 2003, 114-6). However, these sources lack any quantitative assessments of the effects of the provisions. Although admitting that an assessment can only be preliminary, the latest JER (2004, 68) even states that “the Job-Aktiv Law has had no immediate impact” – but again, this statement does not relate directly to the provisions which are of interest here. Taking a look at more disaggregated data, the results are mixed. While early retirement seems to have decreased, the newly introduced preventive measures do not seem to have benefited more than a few 1,000 unemployed yet (BT-Drs. 15/727, 6; BT-Drs. 15/2811, 3 and 5), and it thus remains unclear whether the new regulations will exert any impact on the labour market.



What would be necessary to be able to estimate the effects of the Luxembourg Process on the labour market more precisely are in depth evaluation studies for the specific programmes influenced by the EES. These studies are generally lacking, however (SVR 2002, 127). To our knowledge, there exists only one study which assesses the effects of a specific provision of the Job-Aktiv Law which was influenced by the EES, namely the new definition of the share of women participating in the measures of active labour market policy.<sup>11</sup> In this case, the new provision seems to have had adverse effects since the share of women taking part in these measures actually fell (Beckmann 2003). In the absence of other evaluation studies, this result should not be overstated, however. Thus, it may indeed be premature to estimate the impact of the EES on the German labour market.

## 6 Conclusions

The voluminous national impact evaluation study that was published as a part of the 2002 review process has come to a conclusion that seems to be intriguingly clear: In most areas there has been an impact of the European Employment Strategy on German policies, and in many areas this impact has been strong (RWI/ISG 2002). But operationalizing “impact” by the congruence of guidelines and national policies may lead to invalid conclusions and does not allow for far reaching generalizations.

Considering these methodological problems, our case study has yielded divergent results. If Europeanization is defined as *determination* of national policies by objectives from the European level, Europeanization of the German employment policies cannot be stated. Taking into account that such a strict determination was never intended and is hardly possible within the framework of the EES, this is not at all surprising. Furthermore, it is evident that member states have resisted a far-reaching extension of benchmarking methods as suggested by the Commission several times. Likewise, the adoption of best practices from other countries that is intended by the Luxembourg Process does not play an important role, at least in the German NAPs and policies.

Nevertheless, a causal impact of the guidelines and recommendations on German employment policies can be pointed out at least in some areas. The paradigm shift concerning early retirement, for example, can clearly be interpreted as a ‘steering effect’ of the EES. While ‘steering effects’ are likely to occur only under rather restrictive circumstances (particularly in response to concrete Employment Recommendations directed at a particular country), ‘intensifier effects’ are more common, i.e., the guidelines and recommendations often have a supportive character and encourage national actors to either proceed in a certain course or to avoid another. Thus, the employment objectives function as catalysts. An interviewed official pointed to the fact that due to the guidelines some options would be judged more positively in the respective policy network: Political alternatives that were desired anyway would gain importance through the recommendations from Brussels while opponents could be convinced easier by referring to the guidelines. Such an influence of the Luxembourg Process on the national labour market discourse is manifest for instance in statements of the Benchmarking Group of the Alliance for Jobs that quoted the guidelines several times (see Fels et al. 2001). Likewise, the report of the Hartz Commission (2002), an expert commission which worked out influential reform proposals to improve the employment situation in Germany in 2002, refers repeatedly to the Employment Guidelines in a confirming way.

The impact of the guidelines is selective, and it varies greatly from one policy to the other. It is greater in issues of active labour market policies, especially in forcing on a preventive approach, and recently in gender mainstreaming as well as in early retirement strategies. It is not yet entirely clear under which circumstances the guidelines show effects. Nevertheless, the policy transfer literature provides helpful clues: In line with theoretical expectations the greater open-mindedness of the red-green government towards the European Employment Strategy could explain why the guidelines played a more important role for that government than for its predecessor. Therefore, it seems that the partisan complexion of government is important for the occurrence of policy transfer. Moreover, in agreement with theoretical expectations, the more concrete the objectives are, the stronger the impact tends to be. It is not merely by accident that stronger indications of an influence can be found where the Luxembourg Process set quantitative objectives (preventive labour market policy) or concrete recommendations (early retirement, gender-mainstreaming). The impact of the recommendation also fits the assertion of 'best practice' as political weapons in the electoral competition.

The new guidelines that have finally been adopted in July 2003 raise expectations that the EES' impact might be growing in the future. In the revision of the EES, the main focus has been on "streamlining" the process. It has not only been synchronised with the economic policy process, but it has also been restructured and orientated towards a three year perspective. In this period, emphasis is supposed to be put on the guidelines' implementation instead of the introduction of new guidelines and recommendations. The pillar structure of the guidelines and the horizontal objectives have been abolished. The number of the guidelines has been reduced to ten, and the overall complexity has been lessened, although inconsistencies still exist. Furthermore, several new quantified targets have been added to the guidelines (though the Commission had proposed more far-reaching quantifications), and use can be made of additional benchmarks and indicators that have been developed in the last years.

The several mechanisms that are supposed to directly or indirectly promote policy learning, which have figured prominently in the EES from its beginning, have basically remained unchanged: Thus, the knowledge of transferable strategies, fostered through good practices and peer review, will presumably not be increased by the modifications. On the other hand, the EES has at least gradually become more effective because new quantitative targets have been introduced. Even though most of these have been laid down for the European Union average, not for single member states, the performance as laggards and leaders and the member states' compliance with the guidelines will be more clearly visible under the new EES. In addition, the streamlining has ameliorated comprehensibility to some extent. One can thus expect that these modifications will foster "indirect coercive transfer". Bearing in mind our results that have identified a clear impact on German policies for quantitative guidelines and recommendations, it is plausible to assume that the new quantified targets will increase the impact of the EES on national policies in the future.

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<sup>1</sup> The European Employment Strategy includes the original Luxemburg Process laid down in the TEC as well as the policies laid down in the Guidelines and Recommendations.

<sup>2</sup> The results presented here are corroborated when the period of observation is extended until 2006 (cf. Zohlnhöfer and Ostheim 2007).

<sup>3</sup> We thank Gerda Falkner who called our attention to this differentiation.

<sup>4</sup> A more precise analysis of the transferability of good practices can be found in “peer reviews“, which intend to examine “the transferability of a policy presented by a ‘host country’ by several interested ‘peer countries’” (JER 1999, 88). However, the peer review processes will not be discussed here (for an overview see Bisopoulos 2003).

<sup>5</sup> In the remainder of this chapter we limit our analysis to the first five years of the coordination process. The 2003 reform abolished the pillar structure and reduced the number of the guidelines (see conclusion).

<sup>6</sup> Citations henceforth refer to the 2002 guidelines. All guidelines can be found at <[http://ec.europa.eu/employment\\_social/employment\\_strategy/guidelines\\_en.htm](http://ec.europa.eu/employment_social/employment_strategy/guidelines_en.htm)>.

<sup>7</sup> The National Action Plans can be found at <[http://ec.europa.eu/employment\\_social/employment\\_strategy/national\\_en.htm](http://ec.europa.eu/employment_social/employment_strategy/national_en.htm)>. Page numbers refer to the English versions of the texts.

<sup>8</sup> It is impossible to discriminate between these possible reasons for the Kohl governments’ reluctance for methodological reasons: All three explanations fit the data, while we lack another test case. We would, for instance, need another change of government to find out whether the bourgeois parties were indeed refusing to take the guidelines into account or whether they just did not have enough time to implement them. However, the Action Plan 2002 which was also passed shortly after a major labour market reform (the “Job-Aktiv Law”) and shortly before a parliamentary election, indeed lends support for the hypothesis that the specific timing of the 1998 action plan might be at least part of the explanation: In 2002, the red-green government failed to announce new projects, too, while in nine out of eighteen NAP sections that covered the different guidelines reference was made to the Job-Aktiv Law.

<sup>9</sup> <[http://www.bundesregierung.de/emagazine\\_entw,-56633/Gemeinsame-Erklaerung-des-Buen.htm#4](http://www.bundesregierung.de/emagazine_entw,-56633/Gemeinsame-Erklaerung-des-Buen.htm#4)> (our translation).

<sup>10</sup> See <<http://www.bmbf.de/presse01/Pmprog.pdf>>.

<sup>11</sup> The study by Rudolph and Müntnich (2001) presents an evaluation of a model project on “profiling”. The results are ambiguous concerning the preventive aspects. However, in many respects the model project investigated differed from the provisions of the Job-Aktiv Law.