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EU and Member State Implementation of the UN Agenda 2030 and Sustainable Development Goals

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Abstract

The United Nations Agenda 2030 and the 17 Sustainable Development Goals are not 'legally binding' but the topics relate to EU internal legal rules and defined powers. The main question addressed in this paper is therefore the following: How do legally defined powers affect EU and Member State coordination in implementation of the UN Agenda 2030 and the SDGs? Treaty provisions as well as case law of the Court of Justice of the EU theoretically enable a greater role for the European Commission in both the internal and external dimension of its sustainable development policies. However, these legally defined coordination powers are not specifically invoked in the European Commission's implementation strategy. Instead, the broad concept of sustainable development combined with a 'new' universal, transformative UN agenda seems counterintuitive to the legalistic, top-down tendency within the European Commission in which legally defined powers often mark the boundaries instead of the possibilities. The most influential explanation of coordination seems to be (absence of) political will to implement the UN Agenda, currently halted by internal discussions on the EU's future and ignorance of EU leaders.

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Introduction

"Our intention is to make the implementation of the SDGs a team effort" (First Vice-President Timmermans, European Commission, 10 May 2016)[1]

With the new universal United Nations Agenda 2030 for Sustainable Development the EU and its Member States are asked to evaluate their 'internal' and 'external' dimensions and work towards reaching 17 Sustainable Development Goals (SDGs) by 2030 at the latest.[2] The EU is 'fully committed to be a frontrunner in implementing the SDGs according to its recent Communication 'next steps for a sustainable European future'.[3] As indicated by the European Commission itself "ultimately, sustainable development is an issue of governance".[4] This highlights the importance of evaluating implementation and governance of the Agenda 2030 by both the EU and Member States, as implementation is a 'shared responsibility'.[5]

Research on the 'governance' of sustainable development policies by the Union has tended to focus on concepts such as (in)coherence and by means of evaluating negotiation structures, e.g. the EU in international climate change (UNFCCC) negotiations.[6] As such, the implementation of international agreements is often less examined. Moreover, the issue of implementation is often not viewed from a political-legal combined perspective. This is problematic as the delicate (political) discussions about the (legal) division of competences is one of the often quoted difficulties hindering effective coherent implementation. Authors specially focus on either the issue of 'creeping competences' by the Commissioner instead the absence of a logical and effective single coordination point the European Commission could provide.[7] Notwithstanding the fact that it is extremely difficult to change the division of competences it is nevertheless essential to elaborate on its effects in (empirical) practice.

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[1] European Commission (2016) Statement - Remarks by First Vice-President Timmermans – European Parliament Plenary Debate 10 May 2016 – Follow-up and State of Play of the Agenda 2030 and Sustainable Development Goals. Accessed via https://ec.europa.eu/commission/commissioners/2014-2019/timmermans/announcements/remarks-first-vice-president-timmermans-european-parliament-plenary-debate-10-may-2016-follow-and_en. At 14 August 2017.

[2] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from <https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017.

[3] European Commission (2016) 'Next steps for a sustainable European future: European action for sustainability', COM(2016) 739 final, Strasbourg, 22.11.2016.

[4] *Ibid*, p. 14.

[5] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 11 and 24. This 'shared responsibility' also addresses "sub national governments and public administrations at all levels, the private sector and investors, social partners, scientific community and civil society organisations (CSOs)" (ibid, para 24).

[6] Oberthür, S. and Groen, L. (2015) 'The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework'. *JCMS: Journal of common market studies,* Vol. 53, No. 6, pp. 1319-1335. Niemann, A. and Bretherton, C. (2013) 'EU external policy at the crossroads: the challenge of actorness and effectiveness'. *International Relations*, Vol. 27, No. 3, pp. 261-275 and Vogler, J. (1999) 'The European Union as an actor in international environmental politics'. *Environmental Politics*, Vol. 8. No. 3, pp. 24-48.

[7] Pollack, M. A. (2000) 'The end of creeping competence? EU policy-making since Maastricht'. *JCMS: Journal of common market studies*, Vol. 38, No. 3, pp. 519-538. Cf Laatikainen, K. and Smith, K. (eds) (2006) *The European Union at the United*

There have been few investigations as regards the political effects of legally-defined powers, let alone for sustainable development policies and the implementation of international agreements. As a result, little is known about the *political* effects of the mixed competences, and the relationship between legally-defined powers and EU and Member State coordination on sustainable development policies is under-theorised. The purpose of this paper is to examine the influence of the legally-defined powers and see this in interaction with (other) intervening variables. The objective is to see how the legally-defined powers interact with other issues often seen in the literature, and operationalised as 'intervening variables'.

For the operationalisation of the concept of the 'division of competences, i.e. legally defined powers' this paper takes a broader approach than only reviewing the catalogue of legal competences in art 2-6 TFEU by reviewing the legal basis in other parts of the Treaties in parallel.[8] In addition to the 'fixed' competences in the Treaty, the EU's and Member State competences can evolve in a more indirect way, namely on the basis of interpretations in the case law of the Court of Justice. Moreover, regulations and directives, could be viewed as legally defining powers with internal and external effects. To make the picture complete the status of the EU in a UN legal context (Statutes and documents) is used as a legally defined power.   As has been held above the idea of this study is to contribute to the political science debate. The following concepts are most important and related to the debates within the discipline: supranational-intergovernmental dichotomy, the EU's position in the international constellation of power, socialisation and preference heterogeneity. The concept of 'supranational-intergovernmental dichotomy' comes from the main debate in the literature on European integration that dictates that integration is driven either by supranational institutions or by national governments.[9] The EU's position in the international constellation of power is operationalised through an overview of the negotiation of the Agenda 2030 and by checking the EU performance on SDG targets. Preferences of Member State and EU actors, instead of being fixed, can converge over time through social interaction processes.[10] In that way Member States' representatives involved in deciding on or negotiating an EU position adapt a European orientation attributed to the 'socialisation' in EU practices. [11] Preference heterogeneity means the absence of aligning interests. Whether there is substantive convergence or divergence, i.e. preference homogeneity or heterogeneity is the

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Nations: Intersecting Multilateralisms (Basingstoke: Palgrave) for a more extensive overview of ' single voice' coordination by the European Commission..

[8] Cf Benz, A. (2010) 'The EU's competences: The 'vertical' perspective on the multilevel system'. Living Reviews in European Governance – LERG, p. 5 in which he states that 'The division of competences (i.e. legally defined powers)' between the EU and its member states has been one of the most important issues in the discussion on the institutional reform and in the processes of Treaty amendment'. These broadening to 'legally defined powers' give more leeway for operationalization

[9] Branch, A. P., and Ohrgaard, J. C. (1999) 'Trapped in the supranational-intergovernmental dichotomy: a response to Stone Sweet and Sandholtz'. *Journal of European Public Policy*, Vol. 6, No. 1, pp. 123-143.

[10] Groenleer, M. L. and Van Schaik, L. G. (2007) 'United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol'. *JCMS: Journal of common market studies*, Vol. 45, No. 5, p. 975.

[11] Van Schaik, L.G. (2013) *EU Effectiveness and Unity in Multilateral Negotiations: More Than the Sum of Its Parts?* (Basingstoke: Palgrave Macmillan), p. 75.

way in which this concept is operationalised. These four concepts will be analysed in interaction with the 'division of competences, i.e. legally defined powers, to contribute to the scholarly debate. Moreover, other explanations as such often raised in the semi-structured interviews are shared. All variables are visualised in Figure 1.
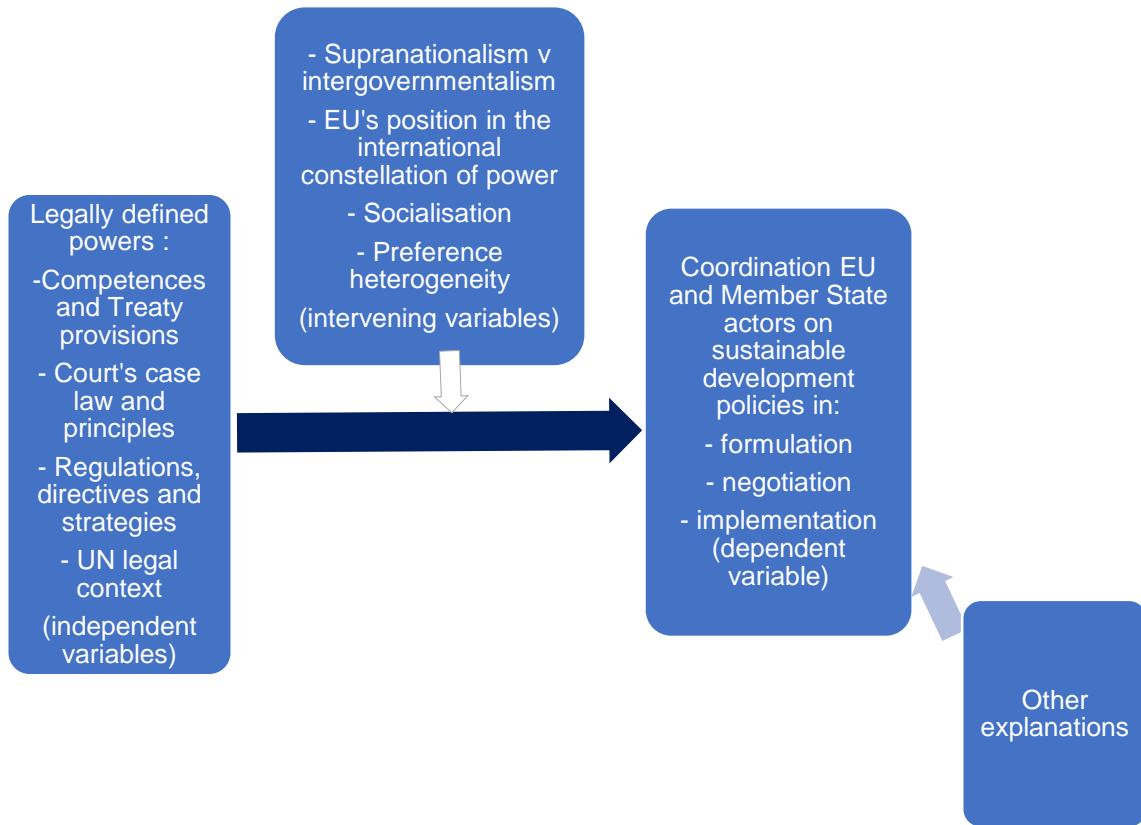

Figure 1 Variables and expectations of relations

This study makes use of a systematic process tracing approach reviewing Treaty articles, policy documents, the UN legal context and cases before the Court of Justice of the European Union, as well as academic literature. The qualitative part of this study relies primarily on sixteen semi-structured interviews with EU and Member State officials, (former) ministers, Members of (European/national) Parliaments, Civil Society Organisations and experts (see Table 1). The findings are brought together through triangulation. The process tracing approach leads to an overall assessment of the potential influence of legally-defined powers, interaction with/autonomy from other intervening variables and other explanations for this specific case.

Category	No of interviews
EU official	9
Member State official	3
Other societal stakeholder	4

Table 1 No of semi-structured interviews

The main question addressed in this paper has been the following: *How does the division of competences, i.e. legally-defined powers, affect EU and Member State coordination in the implementation of the UN Agenda 2030 and the SDGs?* The plan of this paper is as follows. The next section describes the negotiation of the UN2030 Agenda and the Sustainable Development Goals more extensively and from an EU perspective. The section continues with the implementation plans within the EU and Member States on SDG implementation. In the following section the effects of the broad legally-defined powers are discussed, including the (broad) division of competences, the relevant Court's case law and the UN (soft) legal context. The next section assesses the effect of more intervening variables as such raised in the semi-structured interviews, and compares these with what the legal division of competences would prescribe. 'Other explanations' identified in the interviews are equally being discussed in the fourth section. In the final section (discussion), it is evaluated whether the EU and its Member States are indeed legally enabled or restrained by the legally-defined powers or whether 'political' issues play a more prominent role. However exploratory, this study may offer some insights to develop a larger interdisciplinary 'assessment framework' on sustainable development issues, especially the implementation of international sustainability agreements.[12]

UN Agenda 2030, Sustainable Development Goals and EU implementation

The United Nations document 'Transforming our world: the 2030 Agenda for Sustainable Development' was adopted at the UN Sustainable Development Summit on 25 September 2015.[13] The EU and its Member States have played an active role during the negotiation phase of the Agenda and its 17 Sustainable Development Goals (SDG), which lasted roughly from 2012 (Rio+20) to 2015. After the agenda's adoption, the EU and its Member States started implementation. The timeframe begins with the process of negotiation (2012) to the implementation phase (from September 2015 until July 2017), with a focus on the implementation phase. This section will describe the process of negotiation and implementation of the UN Agenda 2030 with a specific focus on the EU institutions and the Member States.

Negotiating the Agenda 2030

During the negotiation of the Agenda 2030, the formal lead within the European Commission was with DG ENV (environment) and DG DEVCO (development). This was a

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[12] For negotiation cf. Kamphof, R. and Wessel, R.A. (2018, forthcoming),' Analysing Shared Competences in EU External Action: The Case for a Politico-Legal Framework', *Europe and the World: a Law Review*, Vol. 1, No. 2. Oberthür, S. and Groen, L. (2015) 'The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework'. *JCMS: Journal of common market studies,* Vol. 53, No. 6, pp. 1319-1335 and Kleistra, Y. and van Willigen, N. (2014). 'Evaluating the Impact of EU Diplomacy: Pitfalls and Challenges.' In Koops, J.A. and Macaj, G. (eds) *The European Union as a Diplomatic Actor* (Basingstoke: Palgrave Macmillan), pp. 52-69.

[13] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from <https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017.

logical combination in the sense that the 'post-2015' process leading to the Agenda 2030 combines previously separated routes in the United Nations, namely the Rio+20 process on the environment, and the Millennium Development Goals.[14] The process in the Open Working Group has been open, inclusive and participatory, but demanding in its coordination. Colombia proposed a new form of negotiations in 2012 in which there were only seventy seats and countries should cooperate in 'troikas'. As a result, the EU Member States were divided in troikas with countries outside the European Union. For example, France and Germany worked together with Switzerland, while the United Kingdom formed a team with The Netherlands and Australia. This process was set up to avoid regional bloc negotiations that kept some other UN processes deadlocked.

The EU Member States coordinated their position in a Joint working group of the Council combining three groups: the Working Party on International Environment Issues (WPIEI), the Working Party on Development Cooperation (CODEV) and the United Nations Working Party (CONUN).[15] The European External Action Service has assisted this joint working group and the European Commission has been part of these negotiations. During the negotiation phase three Communications were adopted. Firstly, the Communication 'a decent life for all' (2013), integrating poverty eradication and sustainable development.[16] This Communication was followed by a 2014 communication outlining the EU and Member States' vision of what a 'post-2015' agenda could look like. The EU proposed a 'universal' and 'transformative' agenda and indicated potential targets and priority areas.[17] The third and latest Communication was released in February 2015, backed by Council conclusions in December 2014. This Communication was not only about the Sustainable Development Goals but also in parallel prepared the related Financing for Development conference in Addis Ababa in July 2015.[18]

The interviews sketched a picture of overall EU unity despite the difficult coordination process.[19] Especially in the latest months of the negotiations, Vice President Timmermans, responsible for sustainable development, kept a close eye on the negotiations. Despite that, the actual lead within the Commission remained with DG ENV and DG DEVCO.[20] As regards the Member States, on some topics one or two 'outliers' could use their 'troika' coordination structure to work more autonomously. However, the internal process of working together in

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[14] Griggs, D., Stafford-Smith, M., Gaffney, O., Rockström, J., Öhman, M. C., Shyamsundar, P., ... and Noble, I. (2013) 'Policy: Sustainable development goals for people and planet'. *Nature*, Vol. 495, No. 7441, pp. 305-307. Interview EU official, 31-5-2017, Interview EU official, 13-6-2017.

[15] Coreper decided on 30 November 2017 to set up a specific Working Party on the 2030 Agenda for Sustainable Development which will report to Coreper II and the General Affairs Council. The specific Agenda 2030 working party has been installed after the analysis conducted for this paper and has not been part of the study.

[16] European Commission (2013) 'A decent life for all: Ending poverty and giving the world a sustainable future', COM(2013) 92 final, 27.2.2013.

[17] European Commission (2014) 'a decent life for all: from vision to collective action', COM(2014) 335 final, Brussels, 2.6.2014.

[18] European Commission (2015) 'A Global Partnership for Poverty Eradication and Sustainable Development after 2015', COM(2015) 44 final, Brussels, 5.2.2015.

[19] Interview EU official, 31-5-2017, Interview EU official, 13-6-2017.

[20] Interview EU official, 31-5-2017, Interview EU official, 7-6-2017.

a joint working group and delivering annual Communications has led to a joint effort.[21] Moreover, the EU position as outlined in the Communications has had a large influence on the result of the Agenda 2030. The 'integrated' notion of poverty eradication and sustainable development features prominently in the Agenda, as well as notions such as 'transformation' and 'universality'. While the EU has not been fully supportive of the amount of goals, (17 goals is considered to be 'too many' by a number of interviewees), the EU supported a comprehensive agenda from the start. The EU has been less positive about the 'soft' monitoring and review mechanism of the High Level Political Forum.

The Agenda 2030 and 17 Sustainable Development Goals

The new United Nations Agenda 2030 for Sustainable Development was adopted on 25 September 2015 and transforms the global development agenda from a North-South agenda to a universal Global Agenda. The Sustainable Development Goals (SDGs) aim to eradicate poverty, fix climate change, and reduce inequality. The 17 SDGs (see Table 2) are interrelated and require action both in the EU and its Member States as well as in developing countries. Compared to their predecessors, the Millennium Development Goals (MDGs, 2001-2015), the '2030 agenda' (2016-2030) is a 'universal' agenda for various actors worldwide and devotes attention to global public goods such as energy access, resilient infrastructure, sustainable use of oceans, and inclusive economic growth.[22] Sustainability and security are given a prominent place alongside the traditional poverty reduction targets that were already part of the MDGs. Moreover, both the Global South and the Global North are expected to contribute. Given the fairly ambitious agenda, with 17 'goals' and 169 'targets', both the implementation and the financing of the SDGs will be complex, both for developed and developing countries.[23] The ambition level of the SDGs and targets for 2030 are so high that even in a highly developed country like Sweden over 75 percent of the 'non-development cooperation' targets require at least some work.[24]

Leaders from all parts of European society have shown support for the new agenda. The prominent delegation to the UN Sustainable Development Summit in September 2015 included the First Vice-President of the European Commission and many Heads of State. The 'SDG advocates' include prominent Europeans like HM Queen Mathilde (Belgium), Mr Paul Polman (CEO Unilever) and Her Royal Highness Crown Princess Victoria of Sweden. In the UN 2030 Agenda for sustainable development it is acknowledged that regional frameworks

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[21] Interview EU official, 13-6-2017.

[22] United Nations (2014). The road to dignity by 2030: Ending poverty, transforming all lives and protecting the planet. *Synthesis Report of the Secretary-General On the Post-2015 Agenda.* New York, NY: United Nations. Retrieved from http://sustainabledevelopment.un.org/content/documents/5527SR_advance%20unedited_final.pdf

[23] Kamphof, R., Spitz, G. and Boonstoppel, E. (2015). Financing development now and in the future: Implications for the Netherlands and beyond. Amsterdam: Kaleidos Research/Stichting NCDO. Retrieved from http://kaleidosresearch.nl/download/2015/07/2015-Financing-forDevelopment-report.pdf

[24] Weitz, N., Persson, Å., Nilsson, M. and Tenggren, S. (2015) 'Sustainable Development Goals for Sweden: Insights on Setting a National Agenda'. Stockholm Environment Institute Working Paper no 2015-10.

such as the EU 'can facilitate the effective translation of sustainable development policies into concrete actions at national level' (para 21), but that each country has 'primary responsibility for its own economic and social development' (para 41). Remarkably, the EU did not have an implementation strategy at the moment the Agenda 2030 was adopted.

Implementing the Agenda 2030 in the EU and Member States

Almost fourteen months after the adoption of the UN Agenda 2030, the European Commission presented its implementation strategy in the Communication 'next steps for a Sustainable European future' on 22 November 2016.[25] This Communication was published together with the renewed European Consensus on Development.[26] In the meantime, the European External Action Service presented the Global Strategy in June 2016, which touches upon the issues of the UN Agenda 2030 and the Sustainable Development Goals, but only in parts.[27]

In its Communication on the implementation of the Agenda, the European Commission shares its commitments on the goals and targets. The Commission foresees two 'working streams'. The first working stream is to evaluate the current situation and identify concerns linked to sustainability aiming to embed the SDGs into European policy framework and Commission priorities. A second working stream is planned to think beyond the 2020 perspective and prepare a 'long term implementation of SDGs'.[28] As such, the first working stream relates to the ten priorities of the current College of Commissioners chaired by President Juncker (2014-2019)[29] and many other strategies and frameworks that have 2020 as a deadline, e.g. the Europe2020 Strategy[30] and the Multiannual Financial Framework 2014-2020[31].

Interestingly, the coordination of the Agenda 2030 is in the hands of the Secretariat-General and there is close coordination with (the Team of) the Vice President of the European Commission, Mr Frans Timmermans. The team responsible for EU coordination in the Secretariat-General has had previous experience on economic issues, including the European Semester. There is an informal structure including 20 Commissioners that had six

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[25] European Commission (2016) 'Next steps for a sustainable European future: European action for sustainability', COM(2016) 739 final, Strasbourg, 22.11.2016.

[26] This has now also been adopted by the Council, 8 June 2017. See https://ec.europa.eu/europeaid/new-european-consensus-development-our-world-our-dignity-our-future_en.

[27] European External Action Service (2016) 'Shared Vision, Common Action: A Stronger Europe, A Global Strategy for the European Union's Foreign And Security Policy', June 2016, accessed http://www.eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf.

[28] European Commission (2016) 'Next steps for a sustainable European future: European action for sustainability', COM(2016) 739 final, Strasbourg, 22.11.2016, p. 3.

[29] European Commission (2015) 'Ten priorities for Europe: A new start for Europe: an EU agenda for jobs, growth, fairness and democratic change'

[30] European Commission (2010) 'EUROPE 2020: A strategy for smart, sustainable and inclusive growth', COM(2010) 2020, Brussels, 3.3.2010.

[31] 'Multiannual Financial Framework', website European Commission, retrieved from http://ec.europa.eu/budget/mff/index_en.cfm, accessed 22 August 2017.

informal meetings on the political implications of the Agenda 2030. The coordination involves not only DG ENV and DG DEVCO, which have been involved in the negotiation of the Agenda, but also other DGs such as DG Trade, DG GROW and DG SANTE.[32]

Without a specific EU implementation strategy and action plan, at least before November 2016, the EU Member States started implementation by themselves. This has proven to be a 'mixed record' with some forerunners like Sweden, Finland and Germany and some Member States that have not even started the implementation. Nevertheless, by July 2017 fourteen EU Member States presented their action plans to the UN High Level Political Forum on Sustainable Development.[33] Some Member States have a similar 'central' structure as the European Commission, meaning they have a coordination at Prime Ministers' office level. Other Member States have the coordination within their ministries of Foreign Affairs, Development Cooperation or Environment.[34] The Member States have been critically following the coordination of the Commission and missed a 'gap analysis' in the Communication.[35]

The Presidencies have not been very active in encouraging collective implementation of the Agenda 2030.[36] Remarkably, the Heads of State in the European Council did not refer to the Agenda 2030 in their Conclusions until 22 June 2017, almost two years after the former's adoption.[37] The European Parliament have been quiet on the agenda despite a critical report by the ENVI rapporteur (Seb Dance).[38] Traditionally, the Agenda is primarily discussed in committees such as DEVE (development) and ENVI (environment). A more combined structure is currently absent. In the Council, the joint working group of WPIEI, CONUN and CODEV is still active.

The division of competences, legal issues and EU implementation

The UN Agenda 2030 and the 17 SDGs are not considered as 'legally binding'. Nevertheless, in an 'ever closer union' the EU and its Member States share competences on nearly every issue of European political life. How does this division of competences affect the implementation of the Agenda 2030 in the EU and its Member States? This section deals

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[32] Interview EU official, 30-5-2017, Interview EU official, 12-6-2017.

[33] 4 in 2016, 10 in 2017. https://sustainabledevelopment.un.org/hlpf.

[34] Kamphof, R. and Spitz, G. repr Kaleidos Research (2016) Ready to change? European actors and their challenges and opportunities of the 2030 Agenda, in Partos, FMS, Woord en Daad (2016, eds) Ready for Change: global goals at home and abroad, Ready for Change, May 2016, retrieved from https://www.partos.nl/fileadmin/files/Documents/Partos_RFC_Publication_May_2016.pdf.

[35] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19 and 40.

[36] Interview EU official, 2-5-2017, Interview EU official, 12-6-2017, Interview

[37] European Council Conclusions on the Paris Agreement on Climate Change, 22 June 2017, http://www.consilium.europa.eu/press-releases-pdf/2017/6/47244661588_en.pdf.

[38] European Parliament (2017) 'Draft report on EU action for sustainability (2017/2009(INI)) Committee on the Environment, Public Health and Food Safety, Rapporteur: Seb Dance', 2017/2009(INI), 15.3.2017.

with the legal issues within the EU, but starts with the 'soft' targets of the United Nations Agenda 2030 in a UN legal context.

UN legal documents and Statutes: soft targets

The UN 2030 Agenda for Sustainable Development is not a 'legally binding' document. The countries that have adopted the Agenda are expected to take ownership and establish a national framework for achieving the 17 Goals. Therefore, as the UN itself puts it, "implementation and success will rely on countries' own sustainable development policies, plans and programmes".[39] Regional frameworks such as the EU 'can facilitate the effective translation of sustainable development policies into concrete actions at national level'.[40] Nevertheless, the primary responsibility of implementation seems to lie with Member States, as the UN system still is an intergovernmental process.

The Sustainable Development Goals are not only 'soft' in the sense of non-legally binding. The monitoring and review mechanisms are also 'soft', with a UN High Level Political Forum on Sustainable Development where countries can present their plans. This HLPF has many similarities with the earlier UN 'Commission on Sustainable Development' (CSD) in the Rio framework. CSD was established in 1993 as a functional commission under the UN Economic and Social Council after the UN Earth summit in 1992 in Rio de Janeiro. This CSD was relatively weak; the implementation 'had been unsatisfying',[41] and has for example not 'enhanced, brokered, catalysed or 'orchestrated' collaborative partnerships'.[42] Despite this experience, the HLPF is more or less functioning in the same manner. The EU and Member States argued for a more effective and stringent review mechanism in the negotiation phase, but lost this battle.

Despite its soft legal character, the SDG is the result of an inclusive global process in which many actors and citizens were consulted, especially as compared to the Millennium Development Goals.[43] It is a structured, universal and almost all-encompassing global framework. While the UN speaks of 'national ownership' and 'not legally binding' targets, it may be that the SDG targets are indeed perceived as stronger when implemented in the EU framework, given the EU's commitments to sustainable development in the Treaty, the

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[39] United Nations website http://www.un.org/sustainabledevelopment/development-agenda/

[40] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from <https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017, para 21.

[41] Bäckstrand, K and Kylsäter, M. (2014) 'Old wine in new bottles? The legitimation and delegitimation of UN public–private partnerships for sustainable development from the Johannesburg Summit to the Rio+ 20 Summit'. *Globalizations*, Vol. 11, No. 3, p. 338.

[42] Ibid, p. 337.

[43] Brolan, C. E., Lee, S., Kim, D. and Hill, P. S. (2014) 'Back to the future: what would the post-2015 global development goals look like if we replicated methods used to construct the Millennium Development Goals?'. *Globalization and health*, Vol. 10, No. 1, 19, p. 7.

division of competences and the Court of Justice's extensive case law. The remainder of the section will deal with the 'EU part' instead of the 'UN part' of the legal arguments.

SDGs and EU competences (Lisbon Treaty)

The UN Agenda 2030 is a broad framework encompassing many policy areas. Given the 'universal' notion of the Agenda the EU and its Member States are expected to deliver its promises both in developing countries as well as 'at home'. The EU has the ambition of 'effective multilateralism'.[44] Moreover, in Art 21(1) of the Treaty on European Union there is an explicit reference to the UN system: "The Union (..) shall promote multilateral solutions to common problems, in particular in the framework of the United Nations". Therefore, it is vital to check whether and how the SDGs connect to the catalogue of competences of the EU as such clearly indicated and categorised in the Lisbon Treaty.

Table 2 gives an overview, compiled by the author, of all 17 SDGs, the main policy areas to which these are connected, what this means for EU competence on this specific policy area and where more information is to be found in the Treaties. As is shown it seems correct to bring the level of coordination to a 'higher' level in the Secretariat-General and in the Prime Ministers' offices in (some) EU Member States. The Agenda covers an extremely broad range of policy areas, and competences differ per SDG from 'no competence' (SDG 11: sustainable cities and communities) to 'CFSP-type competence' (SDG 16: peace, justice and strong institutions) to 'supportive competence' (e.g. SDG3 Good Health and well-being)', 'shared competence' (e.g. SDG15 life on land) and 'exclusive competence' (e.g. SDG14 life below water). An EU implementation strategy needs to reflect these differences in competences and of course needs a credible 'arbiter' in coordination.

Sustainable Development Goal	Main policy area	EU competence?	Treaty provision
1. *No poverty*	Development cooperation and humanitarian aid	Shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs').	Art 4(4) TFEU. See also Art 3(5) TEU, Art 21(2)(d) TEU, Art 208(1) TFEU
2. *Zero hunger*	Agriculture	Shared competence	Art 4(2) TFEU. See also Art 38-44 TFEU.
3. *Good health and well-being*	Protection and improvement of human health	Supportive competence	Art 6(a) TFEU. (See also Art 4(2)(k) TFEU and 168 TFEU.
4. *Quality education*	Education	Supportive competence	Art 6(e) TFEU. See also Art 165-166 TFEU.
5. *Gender equality*	Social policy	Shared competence	Art 4(2)(b) TFEU.

[44] Drieskens, E. and Van Schaik, L.G. (2014) *The EU and Effective Multilateralism: internal and external reform practices* (Routledge).

			See also Art 5 TFEU, Art 8 TFEU, Art 151-161 TFEU.
6. Clean water and sanitation	Environment	Shared competence	Art 4(2)(e) TFEU. See also Art 191-193 TFEU.
7. Affordable and clean energy	Energy	Shared competence	Art 4(2)(i) TFEU, see also Art 194 TFEU, Art 122(1) TFEU.
8. Decent work and economic growth	Employment	Coordination	Art 5(2) TFEU. See also Art 145-150 TFEU, Art 151-161 TFEU.
9. Industry, innovation and infrastructure	Trans-European Networks, Technological Development and Industry	Shared competence (but the exercise of EU competence for technological development 'in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.) and Supportive competence	Art 4(2)h TFEU and Art 4(3) TFEU and Art 6(b) TFEU. See also Art 173 TFEU, Art 179-190 TFEU
10. Reduced inequalities	Development cooperation	Shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs')	Art 4(4) TFEU, See also Art 8 TFEU, art 208 TFEU.
11. Sustainable cities and communities	Urban policy	No EU competence (the Union shall respect regional and local self-government)	Art 4(2) TEU.
12. Responsible consumption and production	Competition and Internal Market	Exclusive competence and Shared competence	Art 3(1)b TFEU and Art 4(2)(a) TFEU. See also Art 32 TFEU and Art 101 TFEU.
13. Climate action	Environment	Shared competence	Art 191(1) TFEU (no explicit indication 'climate change' in Art 4 TFEU)
14. Life below water	The conservation of marine biological	Exclusive competence and Shared Competence	Art 3(1)(d) TFEU and Art 4(2)(d) TFEU. See also Art 38 TFEU.

	resources & common fisheries policy		
15. *Life on land*	Environment	Shared competence	Art 4(2)(e) TFEU. See also Art 191-193 TFEU.
16. *Peace, justice and strong institutions*	Common Foreign and Security Policy	CFSP-type competence See e.g. Art 275 TFEU: The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to the common foreign and security policy	See also Art 2(4) TFEU, Art 218(6) TFEU, Art 17(1) TEU, Art 18(2) TEU, Art 21-46 TEU.
17. *Partnerships for the goals*	Multi-stakeholder cooperation and development cooperation	No specific EU competence and shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs')	Art 4(4) TFEU, See also Art 8 TFEU, art 208 TFEU.

Table 2 Sustainable Development Goals and EU competences[45]

This is however not the full legal story. An important principle besides the conferral of powers (Art 7 TFEU, Art 5(2 TEU) is the principle of subsidiarity, which governs the 'use' of competences (Art 5(1) TEU). However, based on the interviews there is almost a 'reversed subsidiarity' reflex as the Member States do not necessarily agree with exclusive EU competence but do feel that the EU is the best coordinator given its extensive policy and legislative framework.[46] This does not necessarily flow from the division of competences: many feel that 'shared competence' green policy areas such as environment and climate would benefit from this reversed subsidiarity, but that other shared competences including social areas, transport and agriculture, would not.[47] This is an important finding, especially given the legalistic, bureaucratic 'culture' within the EU institutions, in particular the Commission, where there is a more top-down idea of competences as described by the Treaty, which defines the boundaries of one's work within the Commission. A broad concept such as sustainable development combined with a 'new' universal agenda and Treaty-based action makes it however very difficult to coordinate this from the European Commission. This might be a legal reason that restrains the Commission from acting more extensively on the SDGs.

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[45] Systematic compilation by the author. The main policy area has been assigned based on the text in the UN Agenda 2030 for Sustainable Development and compared with the policy areas as indicated in the Treaty (Art 2-6 TFEU). The treaty provision(s) are based on the competences as well as substantive provisions.
[46] Interview EU official, 12-6-2017, Interview MS official, 4-5-2017, Interview EU official, 13-6-2017.
[47] *Ibid.*

Regulations and directives

As the SDGs themselves are soft, i.e. not 'legally binding', some point to the status of more stringent EU regulations and directives that might contribute to reaching the targets of the UN Agenda.[48] Nevertheless, the Commission more commonly acts to 'motivate' the EU Member States to contribute to the SDGs rather than to threaten them with infringement procedures.[49] The legalistic top-down culture might make it difficult to start a systemic transformation from the Commission.[50]

Court of Justice: ERTA (parallelism) and the Singapore Agreement

The adjudicator on the use of competences in the EU is the Court of Justice of the European Union. The Court's case law underlines that the division of competences is not clear-cut and that the Treaty may not always provide *a priori* answers. As an example, a landmark case (ERTA) established that there are external effects of an internal use of competences by the EU:[51] Member States may be barred from entering into international agreements or international negotiations by themselves as some elements may fall within the (*de facto* exclusive) competences of the Union.[52] This important case might have an effect on the SDG implementation of the UN Agenda 2030. As the European Commission puts it, the adoption of the Agenda 2030 and the SDGs 'represent[s] a change of paradigm of the international policies on development cooperation'.[53] The EU has committed to implement the SDGs both in its *internal* and *external* policies. Therefore, given the logic of the Court's reasoning in ERTA and follow-up case law, this might mean that internal and external policies are more and more aligned. Today, as indicated especially by EU external relations lawyers, the external relations codification of the Lisbon Treaty is 'rather unsatisfactory'.[54] Authors have even expressed the opinion that the Lisbon Treaty has 'failed in external competences' as there is a need to resort to decades of pre-Lisbon case law of the Court of Justice to establish whether Member States are 'pre-empted' by the European Commission to act externally, meaning that the traditional international competences of EU Member States are restrained because of EU policies or initiatives.[55] The internal and external dimension of the SDGs might merit a new paper on the 'parallelism' of EU competences. The interviews point to the

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[48] Interview other societal stakeholder, 29-5-2017. Interview other societal stakeholder, 8-6-2017.

[49] Interview EU official, 30-5-2017, Interview MS official, 4-5-2017.

[50] Interview MS official, 4-5-2017, Interview MS official, 10-5-2017. Interview EU official, 2-5-2017.

[51] See Case 22/70, Commission v. Council, [1971] ECR 263 (ERTA)

[52] Kamphof, R. and Wessel, R.A. (2018, forthcoming),' Analysing Shared Competences in EU External Action: The Case for a Politico-Legal Framework', *Europe and the World: a Law Review*, Vol. 1, No. 2.

[53] Website European Commission, https://ec.europa.eu/europeaid/policies/sustainable-development-goals_en; Accessed 24 November 2017.

[54] Van Vooren, B. and Wessel, R. A. (2014) *EU external relations law: text, cases and materials* (Cambridge: Cambridge University Press), p. 110 and Hillion, C. and Wessel, R. A. (2009) 'Competence Distribution in EU External Relations after ECOWAS: Clarification or Continued Fuzziness?'. *Common Market Law Review*, Vol. 46, No. 2, p. 586.

[55] Klamert, M. (2011) 'New conferral or old confusion? The perils of making implied competences explicit and the example of the external competence for environmental policy'. CLEER Working Paper, No. 6.

inconsistency of perceptions, with some of the opinion that the 'internal' competences are much stronger, while others point to the decisiveness of external action, which is not mirrored by internal action.[56] The Court's case law combined with the Agenda 2030 gives ample room of manoeuvre to 'parallelise' these dimensions in SDG implementation.

The controversies reflected in the recent and pending cases on the scope of the EU's external competences relate more and more to 'sustainable development' issues. Opinion 2/15 on the EU-Singapore Free Trade Agreement (related to the scope of Foreign Direct Investment) covers a specific part on 'the commitments concerning sustainable development' in this trade agreement. As trade is normally covered within exclusive competence, the Court was asked to reflect on these broader 'new generation' EU trade and investment agreement including environmental and social issues.[57] The Court comes to the far-reaching conclusion that (the free trade agreement) provisions on labour rights and environmental protection fall under EU exclusive competence within the Common Commercial Policy as these provisions affect trade sufficiently. Therefore, the 'objective of sustainable development forms an integral part of the EU's trade policy'.[58] This ruling could influence the discussion on SDG competences in the future.[59] However, as EU Trade Commissioner Malmström reflected on another trade agreement:

> "From a strict legal standpoint, the Commission considers this agreement to fall under exclusive EU competence. However, the political situation in the Council is clear, and we understand the need for proposing it as a 'mixed' agreement, in order to allow for a speedy signature."[60]

The next section will therefore focus on the 'political issues' that might have an effect on EU implementation of the SDGs.

Political issues and EU implementation

This section analyses the political-institutional turf battles based on the dominant supranational versus intergovernmental approach in political analyses. The section continues with the EU's position in the international constellation of power, which is often the focus in empirical analyses on the EU's actorness and effectiveness. Moreover, many political theories point to the notion of homogeneity/heterogeneity of policy preferences as well as

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[56] Interview MS official, 4-5-2017, Interview other societal stakeholder, 29-5-2017. Interview EU official, 31-5-2017. Interview EU official, 7-6-2017. Interview other societal stakeholder (1) and (2), 7-6-2017.

[57] Cf. Kleimann, D. and Kübek, G. (2016) 'The Signing, Provisional Application, and Conclusion of Trade and Investment Agreements in the EU. The Case of CETA and Opinion 2/15 (November 2016)'. Robert Schuman Centre for Advanced Studies Research Paper No. RSCAS 2016/58. Available at SSRN: https://ssrn.com/abstract=2869873.

[58] Court of Justice of the European Union (2017) 'The free trade agreement with Singapore cannot, in its current form, be concluded by the EU alone', press release no 52/17, Luxembourg, 16 May 2017, accessed via https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf, Para 147.

[59] Interviews EU officials, 12-6-2017.

[60] European Commission - Press release 'European Commission proposes signature and conclusion of EU-Canada trade deal', Strasbourg, 5 July 2016; http://europa.eu/rapid/press-release_IP-16-2371_en.htm.

'socialisation' affecting cooperation between the EU institutions and Member States[61]. Therefore, these 'political issues/factors' are analysed for the specific case study of EU and Member State implementation of the Agenda 2030. Thereafter, this section reflects on other explanations such as the involvement of 'other societal stakeholders' and the 'political will' in the EU institutions and Member States.

Supranational-intergovernmental

Many political theories adopt either a supranational or an intergovernmental account of EU-Member State relations.[62] As Nugent (2017: 436) suggests, intergovernmentalism refers to arrangements 'whereby nation states, in situations and conditions they can control, cooperate with one another on matters of common interest'.[63] The Member States are free (not) to cooperate and able to set the limits of cooperation, e.g. through a veto. At the other end of the continuum, supranationalism refers to governance arrangements in which states decide to delegate responsibility for decision-making to a body that stands above (*supra*) the nation state. In this way, states lose some control, albeit as a result of agreement. This approach is visible in EU-Member State implementation literature in which non-implementation of directives is framed as either 'inability of states to comply' or 'state reluctance to conform'.[64]

When analysing the current phase of EU implementation of the Agenda 2030 by means of supranationalism and intergovernmentalism one could identify the logical intra-institutional 'turf battle' that takes place between the Council and the European Commission. For example, the Council conclusions of 20 June 2017 are critical about the Commission Communication entitled 'next steps for a sustainable European future'. The Council urges the Commission "to elaborate, (by mid-2018), an implementation strategy outlining timelines, objectives and concrete measures to reflect the 2030 Agenda in all relevant EU internal and external policies".[65] However, this critical stance has nothing to do with the presupposed 'supranational' direction of EU implementation. Instead, the Commission is criticised for its lack of ambition, the absence of a 'gap analysis' and more long-term coordination beyond 2020. Therefore, this implementation debate could not be considered a traditional supranational versus intergovernmental debate. Nevertheless, although many Member States would like to see the 'abstract' coordination of the Agenda 2030 at EU level,

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[61] Groenleer, M. L. and Van Schaik, L. G. (2007) 'United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol'. *JCMS: Journal of common market studies*, Vol. 45, No. 5, pp. 969-998.

[62] Billiet, S. (2009) 'Principal–agent analysis and the study of the EU: What about the EC's external relations?'. *Comparative European Politics*, Vol. 7, No. 4, p. 436. Cf. Tsebelis, G., & Garrett, G. (2001). The institutional foundations of intergovernmentalism and supranationalism in the European Union. *International organization*, 55(2), pp. 357-390.

[63] Nugent, N. (2017) *The government and politics of the European Union* (Springer), p. 436.

[64] Mbaye, H. A. (2001) 'Why national states comply with supranational law: Explaining implementation infringements in the European Union, 1972-1993'. *European Union Politics*, Vol. 2, No. 3, p. 259.

[65] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19.

some interviewees warn that the more 'concrete' implementation at Member State level would then make it more difficult, , especially when the UN targets are not 'legally binding'.[66]

While this *inter-institutional* debate is rather the reverse of what one would expect, one could see important *internal* debates within the European Commission. By coordinating the EU implementation of the 2030 Agenda at the level of the Secretariat-General and the First Vice-President of the European Commission one could speak of a 'coup d'état' within the Commission. As has been identified earlier in this paper the broad substance of the SDGs makes implementation coordination at 'SecGen' level a logical conclusion. Nevertheless, this has not been an automatic conclusion as the 14-month public silence after the adoption of the Agenda perhaps reveals.

The EU's position in the international constellation of power

The EU and its Member States proved to be active and effective in the negotiation phase of the Agenda 2030, leading to a comprehensive multilateral agenda in which many of the EU's wishes were recognised. It is in this light at least remarkable that the European Commission has waited for fourteen months to issue an implementation strategy. This delay might be connected with the EU's position in the international constellation of power, as the EU and its Member States are already 'forerunners' when it comes to realising many of the 17 SDGs and targets. Furthermore, in many other third states the implementation strategies are also lagging behind.[67]

Preference heterogeneity

As indicated by the existing literature, preference heterogeneity – in the sense of (the absence of) aligning interests – and 'socialisation' are considered primary drivers of EU and Member State political behaviour.[68] As regards preference heterogeneity, it is difficult to analyse the substantive convergence between the EU and the Member States on the 'broad' concept of sustainable development. This has primarily to do with the changing (perception of the) concept of sustainable development as is visible in the SDGs. While there is still no 'universal' definition of sustainable development besides the 1987 Brundtland definition,[69] the practical elaboration of the concept is broader than only a couple of years ago. Interviewees point to the 'environmental' notion of the concept that was present in e.g. 2010.[70] The idea that sustainable development encompasses 'three dimensions'

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[66] Interview EU official, 8-6-2017, Interview MS official, 4-5-2017, Interview EU official, 12-6-2017.

[67] Interview EU official, 8-6-2017. Interview EU official, 13-6-2017.

[68] Cf. Groenleer, M. L. and Van Schaik, L. G. (2007) 'United We Stand? The European Union's International Actorness in the Cases of the International Criminal Court and the Kyoto Protocol'. *JCMS: Journal of common market studies*, Vol. 45, No. 5, pp. 969-998.

[69]'ensure that development meets the needs of the present generation without compromising the ability of future generations to meet their own needs'

[70] Interview other societal stakeholder, 7-6-2017. Interview EU official, 12-6-2017. Interview EU official, 7-6-2017.

(environmental, social, economic) and even 'security' and 'human rights' dimensions is now more influential with the SDGs. That leaves the 'preference homogeneity/heterogeneity' question difficult to answer. Interviewees point to the overall EU substantive convergence on environmental and climate issues, at least within the UN. However, there are more worries on topics such as 'human rights' where e.g. Poland and Hungary have recently tarnished the overall record of accomplishment of the EU. Furthermore, the idea that economic growth should stay 'within planetary boundaries' is sometimes debated. Therefore, one could speak of general substantive convergence on the concept of sustainable development in the EU, but with some significant uncertainties. This 'heterogeneity' is more and more visible between ministries/DGs of the European Commission, instead of only between individual Member States or between the European Commission and Member States. For example, finance ministries prove to be difficult partners in the new sustainable development paradigm.[71]

Socialisation

EU socialisation means that EU Member States' representatives involved in deciding on and negotiating the EU position in international institutions primarily adopt a European orientation.[72] This has been an influential finding explaining the cooperation of EU and Member State actors assembled in 'Team EU' in UNFCCC climate change negotiations, where they are also used to meet in EU settings beforehand. This finding cannot be extrapolated that easily to the EU negotiation and implementation of the UN Agenda 2030. Firstly, the EU and Member State negotiators were especially from DG ENV and DG DEVCO and national development, foreign affairs and environment ministries. In the 'implementation' phase (also) other actors lead in the coordination and 'internal' EU and Member State action is needed. During this implementation phase the Council still makes use of the same joint working group (WPIEI, CONUN and CODEV) as in the negotiations but there are many differences in e.g. the European Commission, where the Secretariat-General is in the lead. Therefore, at this phase of the implementation 'adaptation' or 'adjustment' seems to be a better description than 'socialisation'.

Other explanations: societal stakeholders, DGs and 'political will'

The previous sections have already demonstrated that there are many actors involved in the EU implementation of the Agenda 2030 and its Sustainable Development Goals. This includes the Secretariat-General of the European Commission, most – if not all – of the Directorates-General, the Council and its joint Working Group (WPIEI, CONUN, CODEV), actors in EU Member States, the Council Presidency, the EEAS, the European Council, the

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[71] Interview EU official, 2-5-2017. Interview other societal stakeholder, 29-5-2017. Interview other societal stakeholder, 7-6-2017. Interview EU official, 7-6-2017. Interview MS official, 13-6-2017.

[72] Van Schaik, L.G. (2013) *EU Effectiveness and Unity in Multilateral Negotiations: More Than the Sum of Its Parts?* (Basingstoke: Palgrave Macmillan), p. 75.

European Parliament and other societal actors such as the private sector, civil society organisations and cities and regions. The UN Agenda 2030 itself underlines that these challenges need to be addressed in a 'Global Partnership', as well as in effective public-private partnerships with a wide variety of stakeholders.[73][74] The agenda has been negotiated with considerable input from civil society actors including civil society organisations, the private sector and municipal authorities.

The European Commission is taking this multi-stakeholder implementation more seriously. Normally, other societal actors are officially 'only' consulted in the drafting phase of legislation and policies. However the Commission, and specifically Vice President Timmermans, started something new with the EU implementation of the Agenda 2030 by introducing a 'high level' multi-stakeholder platform chaired by VP Timmermans.[75] This multi-stakeholder platform is set up to create a 'dynamic space' that should help 'to develop cooperation and coordination between the Commission and stakeholders on matters relating to the implementation of Sustainable Development Goals at Union level and should help to bring about an exchange of experience and good practice in the field of the Sustainable Development Goals'.[76] Thirty persons will be selected for this stakeholder platform. Moreover, other EU institutions such as the European Economic and Social Committee and the Committee of the Regions play a role in involving other societal actors. While there is growing public and academic recognition of the role of the private sector in delivering SDG implementation and in global governance,[77] many multinational corporations still have the individual Member State as their 'entry point'.

With soft targets (see section 3), many interviewees point to the necessity of 'political will' when implementing the Agenda.[78] As indicated, the adoption of the Agenda 2030 in 2015 at the UN headquarters in New York was attended by many European Heads of State and Commissioners, e.g. the First Vice President Frans Timmermans. Moreover, in some Member States, such as Sweden and Germany, coordination for the implementation of the SDGs takes place at the highest level, and there is an informal meeting of around 20 Commissioners on implementation of the Agenda 2030. Notwithstanding this fact, the

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[73] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from <https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017, para 39.

[74] SDG Target 17.17: Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships.

[75] See European Commission (2017) 'Commission Decision on setting up the multi-stakeholder platform on the implementation of the Sustainable Development Goals in the EU', C (2017) 2941 final, Brussels, 22.5.2017.

[76] Interview EU official, 30-5-2017. Interview EU official, 7-6-2017.

[77] See e.g. Bull, B., Bøås, M. and McNeill, D. (2004) 'Private sector influence in the multilateral system: A changing structure of world governance?'. *Global Governance*, Vol. 10, No. 4, pp. 481-498. White, C. L. (2015) 'Exploring the role of private-sector corporations in public diplomacy'. *Public Relations Inquiry*, Vol. 4, No. 3, pp. 305-321. Andrade, J. C. S. and de Oliveira, J. A. P. (2015) 'The role of the private sector in global climate and energy governance'. *Journal of Business Ethics*, Vol. 130, No. 2, pp. 375-387.

[78] Interview EU official, 12-6-2017. Interview EU official, 2-5-2017. Interview EU official, 7-6-2017. Interview other societal stakeholder, 7-6-2017. Interview other societal stakeholder, 8-6-2017. Interview EU official, 13-6-2017. Interview EU official (2), 13-6-2017. Interview EU official (3), 13-6-2017. Interview MS official, 4-5-2017.

implementation phase itself cannot be considered as long-term political leadership. Symptomatic in this regard is the absence of a reference to the Agenda 2030 in European Council conclusions until June 2017.[79] Furthermore, the 'second working stream' of the Communication 'next steps for a sustainable European future' leaves many implementation questions unanswered until the next Commission (2019-2024) takes office. In that sense, the adoption of the 2030 Agenda did not change the ten 'Juncker priorities' that were already present before 2015. Next to this, many other external and internal challenges like terrorism, 'Brexit' and migration more pressingly occupy the European Union and its Member States. In more long-term documents such as the scenarios on the Future of Europe (until 2025), there is no explicit reference to implementation of the UN Agenda 2030 and the SDGs, despite the fact that the 'leading role' of the EU in the adoption (and negotiation) of the Agenda is highlighted.[80]

Discussion

The main question addressed in this paper has been the following: *How does the division of competences, i.e. legally-defined powers, affect EU and Member State coordination in implementation of the UN Agenda 2030 and the SDGs?* The division of legal competences between the EU and Member States has been raised as one of the priority – indeed, existential – issues for the EU. The political elites and analysts often narrow this discussion down to either pushing back the 'creeping' competences[81] of the EU or instead supporting the 'effective' supranational coordination of the European Commission especially in external relations.[82] The United Nations Agenda 2030 for sustainable development and the 17 Sustainable Development Goals are not 'legally binding' but the topics relate to the competences divided between the EU and Member States. On the basis of a literature review and sixteen semi-structured interviews with EU and Member State actors and other societal stakeholders from March to June 2017 the influence of the legally-defined powers is evaluated against (other) more 'political' influences. These are operationalised in 'intervening variables', which are: intergovernmentalism versus supranationalism, the EU's position in the international constellation of power, preference heterogeneity and socialisation. Other related explanations were found in the interviews: most notably the (absence of) political will and involvement of other societal stakeholders.

It was Ministries and DGs of environment and development that primarily conducted the EU and Member State negotiation of the Agenda 2030 (2012-2015). The coordination of implementation, especially at EU level, is nevertheless very much centralised at the level of

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[79] Note that this reference in the European Council Conclusions 22 June 2017 is present under the title 'Paris Agreement', see http://www.consilium.europa.eu/press-releases-pdf/2017/6/47244661588_en.pdf.

[80] European Commission (2017) 'White Paper on the Future of Europe: reflections and scenarios for the EU27 by 2025', p. 8.

[81] Pollack, M. A. (2000) 'The end of creeping competence? EU policy-making since Maastricht'. *JCMS: Journal of common market studies*, Vol. 38, No. 3, pp. 519-538.

[82] Macaj, G. and Nicolaïdis, K. (2014) 'Beyond 'one voice'? Global Europe's engagement with its own diversity'. *Journal of European Public Policy*, Vol. *21*, No.7, pp. 1067-1083.

the Secretariat-General and (in some Member States) at Prime Ministers' office level. With 17 Sustainable Development Goals touching on a broad range of topics encompassing the internal and external dimensions of EU and Member State policies, this seems to be the best-placed coordination structure since these central bodies have a good overview of the the division of competences at EU and Member State level. However, this division of competences and the legally-defined coordination powers are not so much used in implementation strategies like the European Commission Communication 'next steps for a sustainable European future'. Instead, even from the Member States, the level of ambition and coordination by the Commission is criticised.[83] The catalogue of competences in the Treaties, as well as case law of the Court of Justice of the EU such as ERTA and the Opinion 2/15 on the Singapore Agreement, enable a larger role for the European Commission in both the internal and external dimension of its sustainable development policies. Notwithstanding these legal arguments, this stronger EU coordination role is not taken up due to more political reasons including 'national ownership' of the Agenda 2030 at UN level, soft, non-legally binding targets at UN level, the existence of already ambitious sustainability policies at EU level and the absence of EU targets beyond 2020. The legalistic, 'Treaty-based' culture of top-down competences seems to partly explain the hesitation of the EU in taking a larger coordination role in the implementation of the transformative UN Agenda 2030 and its 17 Sustainable Development Goals.

The political reasons seem therefore more influential in deciding the fate of EU implementation of the Agenda 2030 and the 17 SDGs. Nevertheless, the classic 'intergovernmentalism versus supranationalism' argumentation is almost reversed, with the Council opting for more EU coordination. The EU's position in the international constellation of power seems rather detached from other countries and regional blocs. Moreover, the argument of 'socialisation' does not seem to be applicable to the implementation phase given the many 'new' actors, including other societal actors. As regards preference heterogeneity there seems to be much substantive convergence on the 'narrow' environmental concept of sustainable development, but more divergence on the broader notion of sustainable development, which has broadened to include topics such as 'human rights' and transformation of the economic growth paradigm. These discussions seem however to be taking place more between different ministries/DGs than between (EU and) Member States. The most influential political argument enabling or restraining implementation seems therefore to be the (absence of) political will.[84] Two 'political will' developments seem to restrain effective coordination processes. First, the 'second working stream' of the Communication 'next steps for a Sustainable European future' postpones

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[83] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19.
[84] Interview EU official, 12-6-2017. Interview EU official, 2-5-2017. Interview EU official, 7-6-2017. Interview other societal stakeholder, 7-6-2017. Interview other societal stakeholder, 8-6-2017. Interview EU official, 13-6-2017. Interview EU official (2), 13-6-2017. Interview EU official (3), 13-6-2017. Interview MS official, 4-5-2017.

many long-term implementation actions until the next College of Commissioners takes office (2019-2024). As a result, the current Juncker Commission is free to focus on its own Ten Priorities and internal discussions such as on migration, security and Brexit. Secondly, at Heads of State level there was no explicit reference to the implementation of the Agenda 2030 in European Council conclusions until June 2017. This is hindering effective coordination processes. Therefore, while the legally-defined powers could enable EU and Member State actors in implementing the Agenda 2030 and SDGs the actual coordination is currently hindered by political will in particular. The effect of the variables and explanations is visualised below in Figure 2.
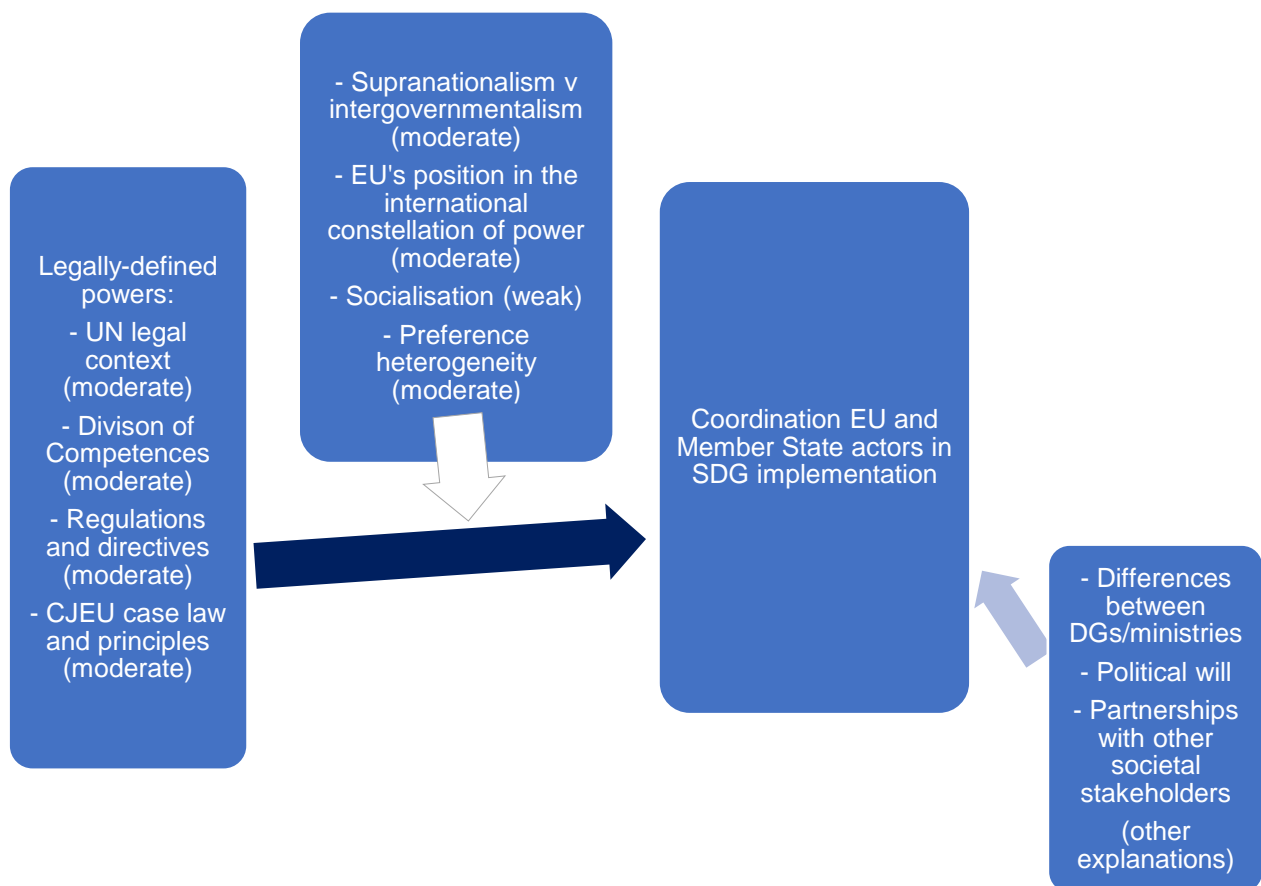

Legally-defined powers:
- UN legal context (moderate)
- Divison of Competences (moderate)
- Regulations and directives (moderate)
- CJEU case law and principles (moderate)

- Supranationalism v intergovernmentalism (moderate)
- EU's position in the international constellation of power (moderate)
- Socialisation (weak)
- Preference heterogeneity (moderate)

Coordination EU and Member State actors in SDG implementation

- Differences between DGs/ministries
- Political will
- Partnerships with other societal stakeholders
(other explanations)

Figure 2 Variables and effects on coordination of EU and Member State actors in SDG implementation

Further research

The results can only be valued as 'plausibility probes', providing interesting avenues for future research, but it is acknowledged that they need further testing in time to become

more robust.[85] While research on the effects of the Treaty-based division of competences in practice may be the most obvious candidate, further research could in particular review the role of the Court in EU external relations and the effects of case law on political practice.[86] The Court is still one of the more overlooked actors; its role and the effect of its judgments on the role of actors in areas such as environmental policy or foreign and security policy is hardly acknowledged in political analyses.[87]

Furthermore, the interviews point to a couple of other topics related to the division of competence and EU implementation of the Agenda 2030 that can be worked out in more detail. This includes the concept of policy coherence for sustainable development,[88] data and reporting,[89] a comparison with other regional blocs like ASEAN and MERCOSUR,[90] private sector involvement,[91] UN system transformation with the SDGs[92] and the connection with the scenarios on the Future of Europe[93] and the 'Brexit'. Overall, this analysis is to be understood as a plea to combine existing and new political and legal insights to better understand the effects of legal choices on political practice (and *vice versa*). The present contribution has provided a number of reasons to further this new avenue of research.

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[85] George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press).

[86] Cf. Hillion, C. and Wessel, R. A. (2009) 'Competence Distribution in EU External Relations after ECOWAS: Clarification or Continued Fuzziness?'. *Common Market Law Review*, Vol. 46, No. 2, pp. 551-586.

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[89] Interview EU official, 13-6-2017.

[90] Interview EU official, 7-6-2017.

[91] Cf. Kamphof, R. and Melissen, J. (2018, forthcoming) SDGs, Foreign Ministries and the Art of Partnering with the Private Sector. *Global Policy* Vol. 9, No. 2, pp.

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