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A Case of Policy Dismantling?: A Comparative Study of the Evolution of the EU's Nature Conservation and Air Quality Policies

Bluemcke, Ricarda

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A CASE OF POLICY DISMANTLING?: A
COMPARATIVE STUDY OF THE EVOLUTION OF THE
EU'S NATURE CONSERVATION AND AIR QUALITY
POLICIES



Ricarda Bluemcke
s2637464

r.blumcke@umail.leidenuniv.nl

Master Thesis European Union Studies

Supervisor: Thijs Etty

Second Reader: Dr. Brian Shaev

Leiden University

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1. Introduction

In the 1990s, the EU caught up with and even overtook the US in terms of environmental standards, with the number of EU environmental legislation growing to over 400 (Gravey and Jordan 2020, 349-50). However, while EU environmental legislation has grown exponentially since its inception, it has also been accompanied by repeated calls for roll-backs spanning several decades from the early 1990s to the Better Regulation agenda of the Juncker Commission (see for example Gravey 2016, Burns, Eckersley and Tobin 2020). While previous studies have shown that the expansion of EU environmental policy has slowed down (see for example Pollack 2000; Deters 2019), studies have now also begun to look into whether or not this trend has gone further, i.e. whether we can speak of ‘policy dismantling’ of existing legislation (e.g. Gravey and Jordan 2016, Steinebach and Knill 2017, Gravey and Moore 2018). Policy dismantling has been defined by Bauer et al. (2012) as “a change of a direct, indirect, hidden or symbolic nature that either diminishes the number of policies in a particular area, reduces the number of policy instruments used and/or lowers their intensity” (Bauer et al. 2012, 35). Only fairly recently have studies focused on the EU level for the analysis of policy dismantling, with most prior scholarship having focused on the EU as a potential driver for policy dismantling at the level of the Member States (see for example Bauer and Knill 2012; Knill, Tosun and Bauer 2009). However, the succession of crises facing the EU in recent years, such as the financial crisis of 2007/8 and the euro crisis in 2010-12, the refugee crisis of 2015, and Brexit in 2016, that have preoccupied the EU in the last couple of years, have also led to calls for austerity and a renewed focus on cutting administrative and regulatory burdens through, for example, the Better Regulation Programs (European Commission n.d.). This has led some to argue that EU environmental policy has lost its prominence, causing the existing legislation to be at risk of dismantling attempts (Gravey and Moore 2018, 1). However, there is still uncertainty about whether these changes only affect policy discourse or whether they actually lead to concrete policy changes (Slominiski 2016; Gravey and Jordan 2016). Furthermore, it is uncertain whether the different subsectors of environmental policy are affected differently. To shed some more light on this topic, this thesis addresses the following question: To what extent has policy dismantling occurred in relation to the EU’s air quality and nature conservation policy between 2012 and 2022?

In order to see if and where policy dismantling in EU nature conservation and air quality policies has taken place, this thesis proceeds as follows: first, chapter 2 provides an overview of the evolution of EU environmental policy, followed by an overview of the current academic debate surrounding policy dismantling in the EU. Chapter 3 will explain the theoretical framework that will be incorporated into the research. Chapter 4 will elaborate on the method that will be used for the analysis. Chapter 5 will

present the findings of the research, which will subsequently be discussed in Chapter 6. Finally, Chapter 7 will draw conclusions and answer the research question.

It will be argued that while a net policy expansion has taken place in EU nature conservation and air quality policies, a small number of policy dismantling instances have taken place over the last decade. However, active dismantling instances are rare, with the maintaining of the status quo and policy expansion being the main pattern of change. Nevertheless, evidence was also found to suggest that policy dismantling by default has taken place due to a lack of adjustment to the technical and scientific knowledge. However, given the increasing salience of the EU's Better Regulation Agenda, no observable increase in policy dismantling instances were found when compared to earlier periods. Instead, the last decade has also seen the introduction of new pieces of legislation.

2. Literature Review

While the first four decades of EU environmental policy were considered an “unexpected success” (Knill and Liefferink 2021, 18), since the 1990s we have witnessed recurring calls for a slowdown of the pace of EU policy expansion. The last two decades, with its numerous crises, have led to the role of environmental policy losing some of its priority at times, which amongst others has led to the creation of an academic debate surrounding the topic of (environmental) policy dismantling at the EU level (e.g. Gravey and Jordan 2021, Burns and Tobin 2020, Lenschow, Burns and Zito 2020, Steinebach and Knill 2017). This literature review will, thus, provide a history of the evolution of EU environmental policy, with a focus on the developments of the last decade. Furthermore, it will showcase the current discussion surrounding policy dismantling at the EU level, and, finally, it will demonstrate that new insights can be gained by expanding the timeline until 2022.

2.1 The Evolution of EU Environmental Policy

Until 1987, the EU’s common environmental policy was mainly motivated in order to realize the Common Market as Member States creating different environmental standards could result in trade obstacles (Lenschow 2021, 299). Additionally, the 1960s also had multiple environmental catastrophes which highlighted the cross-boundary nature of certain environmental issues, such as air pollution. Furthermore, one of the goals of the EU was the improvement of the living conditions within the EU, which for the European Commission included efforts towards improving the environment (Knill and Liefferink 2021, 14-16). However, at the time, environmental policy did not have a legal basis as the Treaty of Rome made no mention of it, which is why it was framed as being part of trade and competition policy. Therefore, they were not part of a well-coordinated EU environmental policy. Nevertheless, from the 1970s until the mid-1980s, the EU had created a number of European environmental laws, despite the lack of a clear legal basis, which is why the early phase of EU environmental policy is considered an “unexpected success” (Knill and Liefferink 2021, 18). With the Single European Act (SEA), adopted in 1986, EU environmental policy received its formal legal basis and ,thus, it increased the capacity for EU environmental policy. Through the 1980s and 90s, the EU caught up to the US, which was then considered to be the global environmental leader (Knill, Steinebach and Fernandez-i-Marin 2020, 363). However, already from the mid-1990s, the dynamic surrounding EU environmental policy was seen as having weakened in response to economic pressures stemming from globalization, as well as growing reluctance from some of the Member States to adopt stricter environmental regulations (Deters 2019, 320-1). A growing divide appeared with, for example, NGOs arguing that the EU was doing too little when it comes to environmental policy as well as too slowly, while others were arguing that the EU was doing too much as well as too

quickly (Gravey 2016, 23). Concerns were raised about EU environmental law and policy infringing on state's sovereignty and/or harming competitiveness (Golub 1996). The 2004 enlargement as well as the subsequent crises that the EU went through have led to a phase of stagnation in EU environmental policies (Knill, Steinebach and Fernandez-i-Marín 2020, 364).

The concerns of EU environmental policy infringing on states' sovereignty and/or harming competitiveness have also fuelled repeated calls to remove or dismantle some of the existing policies (Gravey and Jordan 2016, 1180). These discussions have been on-going, spanning over multiple Commission Presidencies. Already in the early 1990s, Member States pushed a discussion on subsidiarity, led by the UK Council Presidency in 1992, which tasked the Delors Commission with creating a list of policies to be looked at for review. In parallel, Member States created their own lists. Hence, this period saw the creation of 'hit lists' created by the governments of the Member States, i.e. from the UK, France, and Germany, but also by the European Commission itself. These hit lists listed both existing legislation as well as new policy proposals (Gravey 2016, 86-7). While the following revisions did lead to some simplifications, it was argued that the ambition of the policies had not been changed negatively (Turnpenny and Jordan 2012, 190-1). However, these hit lists also focused on new policy proposals, where a reduction was observable between 1992 and 1995 (Golub 1996, 699-700). With the German Council Presidency in 1994, the debate was reframed into one of proportionality and competitiveness. Nevertheless, it was still argued that this was pro-European and would lead to the EU being brought closer to its citizens (Gravey and Jordan 2016, 354). Hence, under the Santer Commission, the Molitor Report on the Simplification of Legislation and the Administration and the BEST Initiative (Business Environment Simplification Taskforce) aimed at evaluating EU legislation were launched (Gravey 2016, 94-5). The European Commission also announced that they would "look-out for rules that are cumbersome, excessive and archaic" (European Commission 1995, 10).

By the early 2000s, the debate was reframed into a Better Regulation Agenda, with air and waste being two of the priority sectors (Gravey 2016, 106). The European Council's 'Lisbon Strategy' in 2000 was aimed at economic reform and the strengthening of employment, noting the need to "remove unnecessary red tape" (European Council 2000, 4). While better regulation is fundamentally about the regulatory quality and not directly regarding the regulatory quantity, concerns were voiced over the 'real' purpose of the Commission Agenda and whether the distinction between quality and quantity was straightforward (Gravey 2016, 26). The Commission was, for example, discussing the simplification of "existing legislation, in both qualitative and quantitative terms" (European Commission 2001, 4). Thus, possible policy dismantling was reframed as a way of delivering better regulation. Political support for this was also growing in the Council of the EU as four Member States, i.e. Ireland, the Netherlands, Luxembourg, and the UK, worked collectively over their presidencies to

advocate for a better regulation reform, launching the Joint Initiative on Regulatory Reform, as well as agreeing on a hit list of legislation to be simplified (Council of the European Union 2004). They were later joined by Austria and Finland (Gravey and Jordan 2020, 355). Thus, greater political support seemed to be forming, compared to the individual Member States' hit lists in the 1990s (Gravey 2016, 110). Furthermore, the Barroso I Commission placed a bigger focus on growth and jobs, emphasizing the need to reduce administrative burdens (Gravey 2016, 109). Additionally, in 2007, the European Commission created a new program to cut down on administrative burden, with a target of a twenty-five percent reduction by 2012 (European Commission 2007) as well as creating the High-Level Expert Group on Administrative Burden led by Dr. Edmund Stoiber (Gravey and Jordan 2016, 355).

As environmental policies are especially vulnerable during crises because their benefits are generally long-term and harder to quantify, as well as often having powerful actors interested in lowering environmental standards, the focus of the better regulation agenda on environmental policy continued (Burns, Eckersley and Tobin 2020, 4). Thus, the economic crises have also been used to justify the less ambitious and less extensive environmental policies (Burns and Tobin 2020, 529). Hence, we have seen a shift from an increasing regulatory demand towards calls for fewer environmental policies to explicit demands to remove some of the existing standards (see for example Steinebach and Knill 2017, Gravey 2016). However, an exception from this picture is the issue of climate change, which has become an increasingly salient issue, with the Paris Agreement of 2015, the Fridays For Future protests, the increase in votes for green parties during the 2019 European Parliament election, and the passing of the European Green Deal (EGD) (Knill and Liefferink 2021, 28). These all point toward environmental policies assuming a higher prominence on the political agenda (Burns and Tobin 2020, 540). This political salience is mainly related to the issue of climate change, however, the field of environmental policies is more encompassing. The European Green Deal is more narrow in scope, mostly focused on climate change, as compared to earlier periods of environmental activism (Gravey and Jordan 2021, 351). Furthermore, this one-sided focus on climate change policy might allow for the dismantling of other subfields of environmental policy.

2.1.1 EU environmental policy from 2012 to 2022

As this thesis is focused on the last decade, i.e. 2012 until 2022, a more in-depth look at the developments of EU environmental policy will be taken in the following section.

While the von der Leyen Commission (2019-2024), through the creation of the European Green Deal has made especially climate policy a focus again, the two prior Commissions, the Barroso II Commission (2009-2014) and the Juncker Commission (2014-2019), did not prioritize the environment in their agenda (Gravey and Jordan 2021, 334). Instead, the second Barroso Commission (2009-2014)

made better regulation a central focus, through the 2010 launch of the Smart Regulation initiative, which combined the different better regulation initiatives in the Secretarial General, as well as shifting it from administrative to regulatory burdens (Gravey and Jordan 2016, 355-6). This shift towards regulatory burdens was seen by Vogel and Van den Abeele (2010) as a move towards a more open dismantling intention (Vogel and Van den Abeele 2010, 69). The Commission introduced its program on Regulatory Fitness (REFIT) to reduce “the overall regulatory burden” (European Commission 2012a, 1). While the Commission Communication stated that REFIT would concentrate on unnecessary burdens, the staff working document cited the need for “broader and deeper overall reduction in the regulatory burden at EU level” (European Commission 2012b, 3). This trend continued under the Juncker Commission which was focused on “the big things like jobs and growth” (cited in Gravey and Jordan 2021, 346). Under the Juncker Commission, for example, the number of new environmental policies fell (Gravey and Jordan 2021, 335). However, while the overall number of policy proposals fell, this did not affect all environmental subsectors equally, the main exception being climate policy, which saw a rise in new policy proposals (Gravey and Jordan 2021, 347). Both Barroso II and Juncker were focused on cutting regulatory burdens in relation to EU environmental policy (Corporate Europe Observatory and Friends of the Earth Europe 2014, Gravey and Jordan 2021, 347). For instance, under the Juncker Commission, the Nature Directives were evaluated with the possibility of reforming them (Jordan, Gravey and Adelle 2021, 365). Additionally, the portfolio for the environment was merged with the fisheries and maritime affairs portfolio and the new portfolio entrusted to the Commissioner came with the demand “to overhaul the existing environmental legislative framework to make it fit for purpose” (cited in Cavoski 2015, 503). Thus, throughout the 2010s, EU environmental policy was not seen as a priority and instead became a target of the Better Regulation Agenda of the EU.

Furthermore, as the Netherlands and the UK are seen as the most prominent proponents for policy dismantling at the EU level, the Brexit negotiations as well as the leadup to them also played an important role (Gravey 2016, 136). The dynamics between the UK and the EU, when it comes to environmental policy, were not uniform across all of its subsectors, but a mix of both positives and negatives. Prior to the Brexit referendum, the UK pushed for greater ambitions in some areas of environmental policy, e.g. climate change and the greening of the CAP, while also hindering policy expansion in others, e.g. soil and air quality (Gravey and Jordan 2021, 348). For example, the UK has blocked/watered down policies on air quality. Additionally, while the UK was an early proponent of nature conservation laws, such as the Habitats Directive, it has in recent years considered it a hindrance for its development projects (Hilson 2018, 92-3). In the renegotiation phase of UK membership, prior to the Brexit vote, Prime Minister David Cameron called for a review of the whole *acquis* to determine whether it complied with the principles of subsidiarity and proportionality.

Furthermore, the Commission agreed to work on the establishment of specific regulatory burden reduction targets. It was feared, that this would lead to the weakening of existing policies (Gravey and Jordan 2021, 348). Thus, the UK has been one of the strongest advocates for better regulation-type initiatives at the EU, which has often been interpreted as a euphemism for deregulation, meaning that Brexit could also influence EU-level policy dynamics in this regard (Jordan, Gravey, and Adelle 2021, 365).

With Ursula von der Leyen becoming president of the Commission in 2019 and making climate change policy a priority, this was seen as a return of the prominence of EU environmental policy, as the European Green Deal showcased. However, the outbreak of the Covid-19 pandemic led many EU Member States to experience disruptions in most social and economic sectors. Amidst this, there have been several attempts to suspend or even weaken the European Green Deal (EGD) (Bornemann 2022, 159). Furthermore, the Covid-19 crisis led to an initial shift in focus from the EGD to the crisis management, which led to the postponement of some key initiatives of the EDG, such as the EU's Biodiversity Strategy for 2030. While preliminary indicators suggest that the EU's climate policy ambitions have increased during the pandemic, other sectors of environmental policy remain less clear (Bornemann 2022, 160). So, while climate policy was not relegated to the background, as was the case in previous crises, e.g. the financial crisis in 2008, it has yet to be seen how other subsectors have fared (Bornemann 2022, 162). Moreover, while the von der Leyen Commission was not bound by Camerons' New Settlement, it has still decided to deliver on the specific regulatory burden reduction targets (Gravey and Jordan 2021, 348).

To conclude, EU environmental policy went through multiple phases of change, with the EU having experienced multiple crises, such as the Euro crisis, Brexit, and the Covid-19 pandemic. However, external shocks do not, by default, have a negative impact on the EU's capacity to expand its environmental legislation (Crnčec, Penca, and Lovec 2023, 3). Furthermore, given the scope of environmental policy, not all subsectors were affected equally, with some experiencing a fall in policy output, as well as being targeted by regulatory burden-cutting initiatives. Thus, a need persists for further research to see the changes that have taken place in the last decade.

2.2 Policy Dismantling

As shown in the previous section, while EU environmental policy has received a legal basis, as well as being institutionally consolidated, it has also suffered from a period of reduced environmental ambitions. The academic debate on policy dismantling has received more attention since the 2010s. However, policy dismantling is not a new concept but rather a way of combining older debates

surrounding policy termination, deregulation, welfare state retrenchment, etc. seeing as the previous terms were connected to a specific area or elements of a policy (Steinebach and Knill 2017, 429). Bauer et al. define policy dismantling as “ a change of a direct, indirect, hidden or symbolic nature that either diminishes the number of policies in a particular area, reduces the number of policy instruments used and/or lowers their intensity” (Bauer et al. 2012, 35). With the exemption of welfare state retrenchment, which has been part of the academic literature since the 1980s, the rest of the literature on policy dismantling is still relatively fragmented (Jordan, Bauer and Green-Pedersen 2013, 795). Additionally, the literature is still largely unable to give general insights into the causes as well as the long-term consequences associated with policy dismantling (Bauer et al. 2012, 203). However, what has been proven is that policy dismantling is not just connected to social policy but rather a phenomenon that is pursued in a number of policy areas, circumstances, and countries (Bauer et al. 2012, 220).

2.2.1 Policy Dismantling in the EU

In general, however, the EU as a level of study has been largely neglected. It was assumed that policy dismantling took place on other levels of governance, with the EU merely enabling or hindering the dismantling of domestic policies (Gravey and Jordan 2016, 1184). On the EU level, it was believed that potential dismantlers would be faced with significant obstacles, due to the larger number of veto players and the often consensual nature of EU politics (Gravey and Jordan 2016, 1181). Even if some of the Member States were in favor of policy dismantling, the European Commission as the only institution capable of proposing legislation was assumed to oppose it (Steinebach and Knill 2017, 431-2). Furthermore, even if the Commission was willing to go along with the Member States' demands, it would also have to pass through the European Parliament, which is regarded as the greenest EU institution, in its role as co-legislator with the Council of the European Union (Gravey and Jordan 2021, 342). The obstacle that these two institutions formed was considered too large of an obstacle, that the EU level was not really considered as a locus for policy dismantling (Steinebach and Knill 2017, 432). However, the growing powers of the European Parliament, have also led to EU decision-making becoming more politicized (Hix and Hoyland 2013) with new cleavages such as left and right appearing beside the pro or anti-European integration cleavage (Peterson 2001, 292). This has led to debates not only being about whether the EU should be regulating this issue but also by how much, with what instrument, etc (Gravey 2016, 35). Furthermore, the European Parliament has become less of an environmental activist (e.g. Burns, Carter and Worsfold 2012; Burns, Rasmussen, and Reh 2013) and has moved to the right (Hix, Noury, and Roland 2007). Additionally, the European Commission has also seen increasing levels of politicization over the last three decades (Wille 2012). Furthermore, the European Commission is being increasingly recognized as a non-homogenous actor, in which the

different DGs compete for political support, with for example potential conflict between the DG Environment and economically oriented DGs, e.g. Enterprise and Industry or Agriculture (Dimitrakopoulos 2004). Hence, the Commission also cannot be completely relied upon to block any efforts to dismantle policies. Thus, the weakening of conventional expectations of the preferences of EU actors has made the occurrence of policy dismantling more likely at the EU level (Gravey 2016, 36).

Hence, the discussion surrounding the Better Regulation Initiative and the REFIT program has led recent studies to start looking into cases of possible policy dismantling in the EU (e.g. Gravey and Jordan 2021, Steinebach and Knill 2017, Pollex and Lenschow 2020). One of the fields most looked at is environmental policy, as the European Commission adopted a greater focus on growth and jobs as well as initiating its Better Regulation Initiative, which targeted a number of environmental legislations such as waste legislation (Gravey and Jordan 2016, 1186). Additionally, the financial and economic crisis only furthered the discourse surrounding policy dismantling (Gravey and Jordan 2016, 1186). Thus, this makes EU environmental policy an interesting field of analysis for policy dismantling.

2.2.2 Policy Dismantling in EU environmental policy

A number of studies have been conducted on policy dismantling within the field of EU environmental policies. Knill, Steinebach and Fernandez-i-Marín (2020), for example, have investigated the policy change observed in regard to air and water protection. While there was no major dismantling of policies at the EU level, they did find instances of policy dismantling by default with the European Commission abstaining from adjusting the status quo of some of the policies (Knill, Steinebach and Fernández-i-Marín 2020, 371-2). A similar study done by Gravey and Jordan (2016) also found instances of policy dismantling by default as well as small instances of active policy dismantling happening alongside instances of policy expansion and stasis (Gravey and Jordan 2016, 1192). Other studies, such as the one by Pollex and Lenschow (2020), did not find cases of active policy dismantling. They did, however, find evidence for policy dismantling by default through for example the weakening of technical implementation measures (Pollex and Lenschow 2020, 32). Therefore, despite the hyper-consensually which was assumed to create policy stability, the EU has also become a place for policy dismantling (Gravey and Jordan 2016, 1182). These studies have, thus, proven that policy dismantling can take place on the EU level, instead of just being a driver for the dismantling process in its member states. This, combined with the finding that policy dismantling does not just take place during “hard times” (Bauer et al. 2012, 220), necessitates more research, in order to come to more detailed conclusions about the nature of policy dismantling of environmental policy on the EU level. Additionally, all of the previously mentioned studies look at a timeframe that never exceeds 2016.

Hence, extending the time frame to 2022 can reveal more about the dynamics of policy dismantling at the EU level. Furthermore, preferences in regard to policy dismantling or non-dismantling should not be merely assumed but also empirically tested (Jordan, Bauer and Green-Pedersen 2013, 803). Especially, as the assumption exists, that in political systems with a high number of veto players, such as the EU, it is more likely to observe instances of policy dismantling being pursued in combination with attempts at policy expansion to compensate and vice versa (Steinebach and Knill 2017,434). To conclude, there is a need to update the analysis on policy dismantling until 2022 to account for the factors mentioned above.

3. Theoretical Framework

This chapter justifies the use of policy output as a measure to analyze policy change and explains the theoretical framework that has been built by Bauer et al. (2012) and expanded on by Gravey and Jordan (2016) as these will serve as the tools through which the policy change in the case studies of nature conservation and air quality will be accessed.

3.1 How can policy change be measured?

While the analysis of policy change has received a considerable amount of scholarly attention, the debate on how to measure, conceptualize and explain policy change is still ongoing. Knill, Schulze, and Tosun (2011) looked at the different approaches that can be taken to measure environmental policy change. They have found that there is a tendency for large-n comparative studies in the field of environmental policy to use the differences in environmental impacts as indicators of policy change, mostly due to data availability reasons. However, as intervening variables cannot be sufficiently controlled for, there exists a potential validity problem with this approach (Knill, Schulze, and Tosun 2011, 9). Therefore, they propose that policy change is better measured based on policy outputs, i.e. governmental regulatory activity. The focus on policy outputs allows for a more detailed approach to capturing instances of policy change. Furthermore, they allow for the assessment of developments in both directions, i.e. policy dismantling as well as policy expansion (Knill, Schulze, and Tosun 2011, 11). It is, thus, assumed that the most empirically observable acts of policy dismantling can be found in the changes to the policy outputs instead of policy impacts or outcomes (Bauer et al. 2012, 43).

3.2 The analytical framework of Bauer et al. (2012) and Gravey and Jordan (2016)

Scholars working on analyzing policy dismantling such as Bauer et al. (2012) have created an analytical framework that differentiates between two dimensions, i.e. policy density and policy intensity. Policy density is seen as the extent to which a policy area is focused on by government activities. This is done by looking at the number of policies and the number of policy instruments that are used (Bauer et al. 2012, 34). Policy intensity on the other hand is concerned with measuring the relative generosity and/or strictness of policies by looking at the substantial and formal intensity. In this case, substantial intensity refers to the level and scope of governmental interventions, whereas formal intensity refers to the conditions of enforcement, administrative capacities, and administrative procedures (Bauer et al. 2012, 35). By combining policy density and intensity it is possible to analyze whether a policy decrease, for example, has occurred alongside an increase in policy ambition or vice versa (Burns and Tobin 2020, 530). This combined with two broad scenarios, namely a scenario where the benefits of policy dismantling are perceived by politicians to be greater than the costs of it and one where the

cost of the status quo is perceived to be greater than the dismantling costs, have led Bauer et al. (2012) to come up with four ideal strategies of dismantling (Bauer et al.2012, 207).

These strategies, summarized in Table 1, are: dismantling by default, dismantling by arena shifting, dismantling by symbolic action, and active dismantling.

	Low visibility (Blame avoidance strategies)	High visibility (Credit claiming strategies)
No dismantling decision	Dismantling by default	Symbolic dismantling
Passive dismantling strategies	<i>De facto reduction of environmental protection by refraining from adjusting existing levels to changing external conditions.</i>	<i>Political actors very deliberately declare their intentions to dismantle existing policies ... however, political declarations do not lead to respective outputs.</i>
Active dismantling decision	Dismantling by arena shifting	Active dismantling
Active dismantling strategies	<i>Transfer the whole policy (possibly with a different budget) to a different arena such as another government level (i.e., decentralization).</i>	<i>Exhibits high visibility with a strong and clear preference to dismantle. Politicians may not only want to be perceived as dismantlers; they may actually wish to dismantle existing policies.</i>

Table 1. Four ideal types of dismantling strategy (Gravey and Jordan 2020, 352)

By adapting the framework slightly to the EU context, Gravey and Jordan (2016) also allowed for the analysis of smaller changes as they solely focused on environmental policy, in contrast to Bauer et al. (2012), who analyzed multiple policy areas (Gravey and Jordan 2016,1188). Therefore, a distinction was made between the changes to the legislative level and changes to the instrument level. Furthermore, they decided not to code for formal intensity as changes to this dimension are hard to interpret, without a thorough understanding of the implementation traditions in the different Member States (Gravey and Jordan 2016, 1189). While the framework by Bauer et al. (2012) was created to measure policy dismantling across a variety of policy areas and jurisdictions in a national context (Bauer et al. 2012, 211), others such as Gravey and Jordan (2016) have adapted the framework to the EU level, thus proving the applicability of the framework beyond the national level.

The different dimensions of policy change that were used as a base for their coding scheme are summarized in Table 2.

Dimension	Definition	Dismantling Examples
Legislative density	Number of pieces of legislation in a given policy area.	One framework directive replacing 6 directives.
Legislative scope	Number of topics covered, or recipients targeted by an item of legislation.	Revising pollution rules to exclude smaller factories.
Legislative settings	Ambition of an item of legislation.	Removing mentions of high standard of environmental protection in legislative objectives.
Instrument density	Number of instruments within an item of legislation.	Reducing instrument numbers.
Instrument scope	Number of topics covered or recipients targeted by instrument.	Revising to cover less environmental issues.
Instrument settings	An instrument's strictness or leniency.	Raising the acceptable level of a pollutant.

Table 2. Six dimensions of policy change (Gravey and Jordan 2016, 1189)

4. Methodology

Firstly, this chapter justifies the selection of case studies: nature conservation and air quality. Furthermore, the selection of primary sources as well as the coding scheme is explained.

4.1. Case selection

As seen in previous studies, policy dismantling has not been a very visible process at the EU level as most cases of policy dismantling occurred mostly at the policy instrument level, rather than overall pieces of legislation being dismantled (e.g. Gravey and Jordan 2016, Steinebach and Knill 2017, Bauer et al. 2012). Thus, as it is difficult to observe instances of policy dismantling, it was decided to look for case studies where it was believed that policy dismantling might be likely, e.g. due to previously voiced criticism that these sectors harm competitiveness and/or being targeted under the Better Regulation Agenda of the Commission. In light of the economic crises and the policies that were implemented after, there was a fear that traditional sectors of environmental policy had been more heavily affected, as compared to more recent sectors such as climate policy (Gravey and Moore 2018, 5). This has led this thesis to focus on more traditional sectors of environmental policy, specifically nature conservation and air quality.

The first case study, i.e. nature conservation, was picked as nature conservation legislation had been previously targeted by the REFIT program (European Commission 2017a). Furthermore, nature conservation legislation has been criticized multiple times for the cost it imposes on Member States and that the Commission has launched several infringement procedures against Member States for failing to adequately protect their biodiversity (European Commission 2022b). EU nature conservation legislation can thus create possible incentives for policy dismantling.

The second case study, air quality, was chosen as it is one of the subsectors that was targeted by the UK as well as being previously targeted by multiple hit lists drawn up by the Commission as well as individual Member States (see for example Gravey 2016). Furthermore, the Ambient Air Quality Directives were evaluated through a Fitness Check in 2019 (European Commission 2020). The European Commission has also filed several infringement procedures against Member States due to the failure to meet air quality standards (European Commission 2022b). In addition, air quality has also been studied in relation to potential policy dismantling at the EU level in earlier periods, i.e. 1980-2014 (Steinebach and Knill 2017), it can, thus, also allow for insights into more long-term trends and developments.

To test whether or not policy dismantling has taken place in those two subfields of environmental policy, this thesis will review the environmental legislation over a ten-year period, 2012-2022,

covering the Barroso II Commission as well as the Juncker and von der Leyen Commission. The review of this decade will allow for an initial evaluation of the developments of environmental ambition in these two subsectors. While a longitude study of several decades may be more effective in identifying longer-term trends, the time available for this thesis does not allow for this. Hence, a limitation of this thesis is the relatively short time period under consideration, which could potentially lead to oversights of what may be a longer-term and possibly ongoing process. In order to mitigate this as much as possible, previous studies will be incorporated to provide a more long-term perspective. While it has to be acknowledged that this is not ideal, as the methodologies will be slightly different, policy change is an ongoing process, thus, solely focusing on the ten-year period might result in oversights. Hence, by combining the decade-long analysis of the EUs policy output with other academic studies as well as reports, a more long term perspective can be taken.

4.2 Primary Source Selection

EUR-Lex was used to identify and compile the list of relevant pieces of legislation. The search considered only binding EU legislative acts, that is directives and regulations, thus, excluding decisions. Decisions have been excluded because most of them do not apply to the EU as a whole, but rather to specific sub-sectors or individual Member States. Furthermore, to find all the legal acts pertaining to the subfield of nature conservation and air quality, the EuroVoc descriptors “air quality”, “protection of animal life”, “protection of plant life”, “wildlife” and “natural resources” were used. In addition, only regulations and directives falling under the directory code “Environment, consumers and health protection” were considered, which for example excluded regulations and directives related to energy efficiency. 29 legal acts were identified for the field of nature conservation and 18 for air quality. Thus, in total 46 legal acts were identified, for the period between January 2012 and December 2022, as one legal act was included twice as it was connected to both subfields. This selection criterion has also meant that policies that were not completed during this period were excluded from the analysis. Furthermore, contextual grey literature, reports, and legislative documents, e.g. Commission Staff Working Documents, Communications from the Commission, and NGO reports, were also consulted.

4.3 Coding Changes in the legislative outputs

The legal acts selected were coded along the six dimensions of policy change created by Gravey and Jordan (2016) which was elaborated on in the Theoretical Framework chapter. Changes are coded with the value 0 for no change; 1 for instances of policy expansion and -1 when instances of policy dismantling were observed. Additionally, n/a is used in cases of a mixed change, that is when changes

were unclear or if dismantling and expansion occurred at the same time (Gravey and Jordan 2016, 1189).

This, however, still leaves the question of how to rank intensity, i.e. via an absolute or relative ranking, which is important to consider as it has a direct impact on the research findings. As the best way to rank intensity is currently still under discussion, there are different methods of ranking being used in the academic literature (Gravey and Moore 2018, 3). For example, Steinbach and Knill (2017) only found a few instances of policy dismantling when looking at the policy developments. In contrast, Gravey and Moore (2018) found a considerable fall in policy ambitions in the early 2000s. However, these findings are not in themselves contradictory, as Steinbach and Knill compared the newer generation of policy instruments to their predecessors, while Gravey and Moore measured the policy ambitions of the EU as compared to international standards (Gravey and Jordan 2021, 339). While absolute rankings provide an amalgamated grade, relative rankings provide a more fine-grained measure of the direction of policy change, as it compares how the legislation in question compares to its predecessor. Relative Rankings are, however, only applicable to mature bodies of policy (Gravey and Jordan 2021, 339). It was decided to use a relative ranking for the analysis, as environmental policy is generally considered a mature body of policy (Jordan, Gravey, and Adelle 2021, 358).

Nevertheless, it has to be acknowledged that the process involved in evaluating and coding legislation can include subjective and normative assessments, with some parts of the legislation being more difficult to classify compared to others. To make the process more transparent, the Research findings chapter includes a table containing all the legal acts under analysis as well as the values that were assigned to each of the six dimensions coded for.

5. Research findings

This chapter presents the results of the coding exercise of the forty-six legal acts that were identified in the period from 2012 until 2022, measured by the six potential dismantling dimensions that were introduced in the Theoretical Framework chapter of this thesis.

5.1 Results of the Coding: Nature Conservation and Air Quality

Twenty-nine legal acts were looked at for the subfield of nature conservation and eighteen for air quality. The coding of these was done along six dimensions of potential change, which were introduced in the Theoretical Framework chapter and are also outlined again below in Table 2.

Dimension	Definition	Dismantling Examples
Legislative density	Number of pieces of legislation in a given policy area.	One framework directive replacing 6 directives.
Legislative scope	Number of topics covered, or recipients targeted by an item of legislation.	Revising pollution rules to exclude smaller factories.
Legislative settings	Ambition of an item of legislation.	Removing mentions of high standard of environmental protection in legislative objectives.
Instrument density	Number of instruments within an item of legislation.	Reducing instrument numbers.
Instrument scope	Number of topics covered or recipients targeted by instrument.	Revising to cover less environmental issues.
Instrument settings	An instrument's strictness or leniency.	Raising the acceptable level of a pollutant.

Table 2. Six dimensions of policy change (Gravey and Jordan 2016, 1189)

Table 3 and Table 4 present the results of the analysis for nature conservation and air quality respectively.

Title	Type of legislation	Date of publication	Legislative Density	Legislative Scope	Legislative Setting	Instrument Density	Instrument Scope	Instrument Settings
2021/2280	Regulation	30.12.2021	1	1	0	0	0	-1
2021/2281	Implementing regulation	30.12.2021	1	0	0	0	n/a	0
2019/2117	Regulation	11.11.2019	1	1	0	0	0	0
2019/1587	Implementing Regulation	27.09.2019	0	1	0	0	0	0

2019/1010	Regulation	25.06.2019	1	0	0	-1	0	-1
2019/220	Regulation	07.02.2019	1	0	0	0	1	0
2018/968	Delegated Regulation	10.07.2018	1	n/a	0	0	0	0
2017/1915	Implementi ng Regulation	20.10.2017	0	1	0	0	0	0
2017/1454	Implementi ng Regulation	11.08.2017	1	n/a	0	0	0	0
2017/160	Regulation	01.02.2017	1	1	0	0	0	0
2017/128	Regulation	26.01.2017	1	1	0	0	0	0
2016/2029	Regulation	23.11.2016	1	1	0	0	0	0
2016/1141	Implementi ng regulation	14.07.2016	1	1	0	0	0	0
2016/145	Implementi ng Regulation	05.02.2016	1	n/a	0	0	0	0
2015/736	Implementi ng regulation	08.05.2015	0	1	0	0	0	0
2015/870	Regulation	06.06.2015	0	1	0	0	1	1
2015/56	Regulation	16.01.2015	1	1	0	0	1	1
2015/57	Implementi ng regulation	16.01.2015	1	n/a	0	0	0	0
1320/2014	Regulation	17.12.2014	1	1	0	0	0	0
1143/2014	Regulation	04.11.2014	1	1	1	1	1	1
888/2014	Implementi ng regulation	15.08.2014	0	1	0	0	0	0
750/2013	Regulation	07.08.2013	1	1	0	0	0	0

578/2013	Implementing regulation	21.06.2013	0	1	0	0	0	0
2013/17/EU	Council directive	10.06.2013	1	1	0	0	0	0
1158/2012	Regulation	12.12.2012	1	1	0	0	0	0
792/2012	Implementing Regulation	07.09.2012	1	0	0	0	n/a	0
791/2012	Regulation	07.09.2012	1	0	0	0	0	n/a
757/2012	Implementing Regulation	21.08.2012	0	1	0	0	0	0
101/2012	Regulation	11.02.2012	1	1	0	0	0	0

Table 3: Analysis of the Nature Conservation Legal Acts (Source: own compilation based on EurLex data)¹

Title	Type of legislation	Date of publication	Legislative Density	Legislative Scope	Legislative Setting	Instrument Density	Instrument Scope	Instrument Settings
2021/1961	Delegated Regulation	12.11.2021	1	0	0	0	0	n/a
2021/447	Implementing Regulation	15.03.2021	1	0	0	0	0	1
2019/1842	Implementing Regulation	04.11.2019	1	0	0	0	1	n/a
2019/1161	Directive	12.07.2019	1	n/a	0	1	1	-1
2019/631	Regulation	25.04.2019	-1	n/a	0	1	-1	n/a
2018/649	Delegated Regulation	27.04.2018	1	0	0	0	0	n/a

¹ The full titles of the legal acts can be found in the bibliography

2017/1499	Delegated Regulation	25.08.2017	1	0	0	0	0	n/a
2017/1375	Implementi ng Regulation	26.07.2017	1	0	0	0	0	n/a
2016/2284	Directive	17.12.2016	0	n/a	0	1	1	n/a
2016/802	Directive	21.05.2016	-1	0	0	0	0	0
2015/2193	Directive	28.11.2015	1	1	1	1	1	1
2015/1480	Directive	29.08.2015	1	0	0	0	0	1
2015/757	Regulation	19.05.2015	1	1	1	1	1	1
749/2014	Implementi ng Regulation	11.07.2014	0	0	0	1	0	0
136/2014	Regulation	13.02.2014	1	0	0	0	0	n/a
133/2014	Regulation	18.02.2014	1	0	0	0	n/a	0
2013/17/EU	Council Directive	10.06.2013	1	1	0	0	1	0
2012/33/EU	Directive	27.11.2012	1	0	0	0	0	1

Table 4: Analysis of the Air Quality Legal Acts (Source: own compilation based on EurLex data)²

Only five out of the forty-six legal acts were found to have experienced dismantling: two in the field of nature conservation and three in the field of air quality. Furthermore, as Tables 3 and 4 indicate, this has more often taken place at the instrument density and the instrument setting dimensions than at the legislative level. In general, a net policy expansion can be observed as the most frequent observable changes with a keeping with the status quo and policy expansion, i.e. the value 0 and the value 1. Despite the low number, policy dismantling was nevertheless observable at the EU level, over the last decade, with instances of policy dismantling occurring along both the legislative and the instrument level. Dismantling instances were, however, more common at the instrument level, i.e. five times, compared to the legislative level, i.e. two times. Additionally, in two instances policy dismantling occurred on more than one dimension within one legal act.

² The full titles of the legal acts can be found in the bibliography

5.2 Changes at the Legislative Level

Legislative Density

In the dimension of legislative density, the most common direction of change in both fields was policy expansion. However, it has to be kept in mind that in case a regulation or directive was amended without the previous one being replaced it was coded as 1, as it increased the number of pieces of legislation in this field. This, for example, meant that Implementing Regulation 792/2012 was considered as an instance of policy expansion on the legislative density dimension despite only making changes to the forms and technical requirements, as well as the technical specifications with regard to these forms, i.e. minor technical changes that did not raise the level of ambition of the legislation. In the case of air quality, there was also the case of Regulation 2019/631 and Directive 2016/802 which were coded along the legislative density dimension with a -1, as multiple legislations were repealed. However, in both cases, it was not a case of the removal of an entire legislation but rather the recast (Regulation 2019/631) and codification (Directive 2016/802) of the previous legislation as they had been amended multiple times. Hence, this also shows that legislative density should not be used as a sole indicator as it can be misleading if considered in isolation.

Legislative Scope and Setting

As the dimensions of both legislative setting and instrument setting exist, the text prior to the first article, i.e. the preamble and recitals, were used as a proxy for the level of ambition in a piece of legislation. As can be seen from the Tables 3 and 4, in most cases a maintenance of the status quo was the most frequent occurrence, as most of the preambles and recitals were very similar to their predecessor version. In all the legal acts under analysis, no example of policy dismantling was observed. However, multiple references to the need to “minimise the administrative burden” (Regulation 2015/757) or the need to “avoid imposing disproportionate burdens” (Directive 2019/1161) were made, which were however already included in the earlier version. Thus, this also highlights again, that the discussion surrounding the cutting of red tape is not new, but rather an enduring debate at the EU level.

Furthermore, when it comes to the legislative scope, no example of policy dismantling was found either, with the keeping of the status quo being the most common occurrence.

5.3 Changes at the Instrument Level

As Table 3 and Table 4 show, most instances of policy dismantling were found at the instrument level. This makes the dismantling instances on the one hand less severe, as the dismantling is only focused

on one specific instrument, while also making it harder to detect as it can be more easily hidden, as compared to a change that affects the whole text. Thus, these findings also align with other studies on the topic, finding most examples of policy dismantling relating to the instrument level (e.g. Gravey 2016, Steinebach and Knill 2017).

Instrument density

Only one legal act experienced a reduction in instrument density with the value 0 being by far the most common value. Regulation 2019/1010, the only one which experienced a reduction in instrument density, focused on the alignment of reporting obligations for environmental legislation and amended several EU Directives and Regulations. This Regulation came about as a result of the Fitness Check of the European Commission on the Reporting and Monitoring of EU environmental policy (European Commission 2017b). The Regulation deleted Article 57 of Directive 2010/63/EU, which deals with the protection of animals used for scientific purposes. The article obligated the European Commission to publish a report based on the information received by Member States to the European Parliament and the Council. Thus, this constitutes the removal of one of the legislation's instruments, hence a decrease in the instrument density. Furthermore, the analysis has also shown the prominence of the status quo when it comes to the dimension of instrument density, showing that even when amended this does not often lead to a change in the number of instruments used in a given regulation or directive. Thus, the number of instruments can be considered as fairly stable.

Instrument Scope

The instrument scope dimension looks at the number of topics and/or recipients covered under an instrument (Gravey and Jordan 2016, 1189). The only case, in which the instrument scope was dismantled, was in Regulation 2019/631 which sets the CO₂ emission performance standards for new passenger cars. The regulation excludes manufacturers who are responsible for fewer than 1,000 new passenger or new light commercial vehicles from several articles of the Regulation. Furthermore, it also adds the possibility to apply for a derogation for manufacturers that produce fewer than 10,000 new passenger cars. Hence, the instrument scope was narrowed by excluding certain recipients. Additionally, the changes found on this dimension closely align with Steinebach and Knill (2017) who for air policy, in the period from 1980 until 2014 also only found small-scale changes such as old and small combustion plants being exempted from the existing regulation (Steinebach and Knill 2017, 437).

Hence, this also shows that the severity of policy dismantling instances on the instrument scope dimension, in this subfield, has remained similar over time.

Instrument Setting

The instrument setting dimension was the one that experienced the most amount of policy dismantling out of the six dimensions.

The first instance where a form of policy dismantling on this dimension was observed, was in Regulation 2021/2280, which amended two of the EUs wildlife trade regulations. National implementation reports now have to be handed in every three years instead of every two years. Besides only presenting a minor change in the overall setting of the legislation itself, the change was also not decided by the EU legislators alone, but rather reflects a decision taken by the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

The second instance of policy dismantling was found in Regulation 2019/1010 on the alignment of reporting obligations in the field of environmental legislation. It concerns the Birds Directive (2009/147/EC), where the reporting cycle was changed from every three years to every six years, thus, the strictness of the reporting under the Birds Directive was reduced with the time between reports being doubled. The justification for this was to streamline the implementation of the Birds Directive with the Habitats Directive (92/43/EEC) which already had a six-year reporting cycle.

Lastly, in Directive 2019/1161 on the promotion of clean and energy-efficient road transport vehicles, another instance of policy dismantling on the instrument setting dimension was found. The change concerned the reporting requirements of the European Commission being shifted from every two years to every three years, starting in 2027. Thus, a small change in the instrument settings.

Notably, except in one instance all policy dismantling changes at the instrument level concerned reporting requirements.

Comparison across Instrument Dimensions

As both Table 3 and Table 4 have shown, most of the observable instances of policy dismantling in the two subfields of EU environmental policy have taken place at the instrument level, however, as Figure 1 and Figure 2 show, it still remains the most infrequent direction of change.

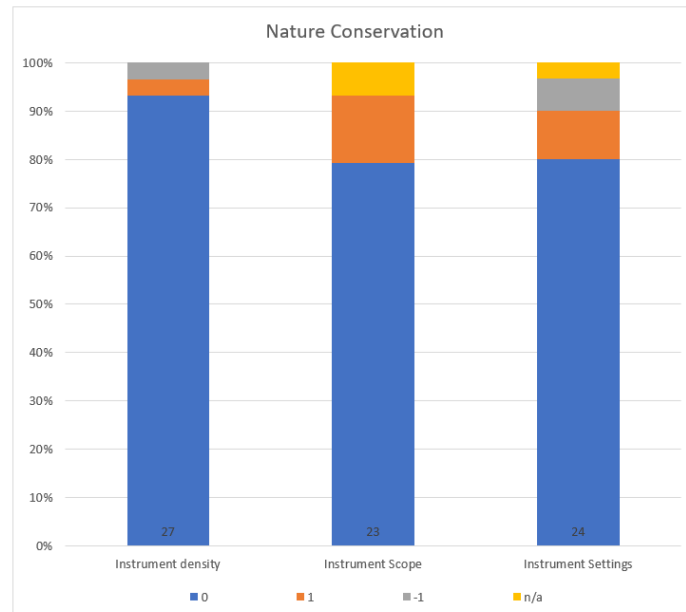


Figure 1: Comparison of policy change across instrument density, scope and setting (Nature Conservation) (Source: own compilation)

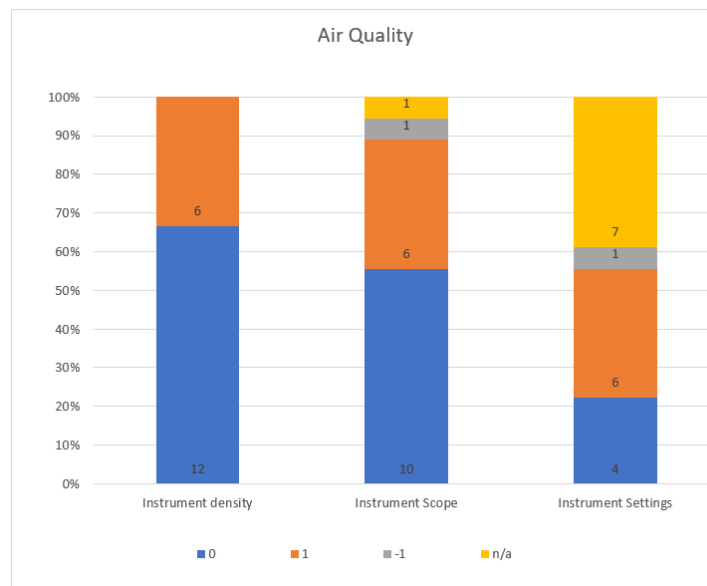


Figure 2: Comparison of policy change across instrument density, scope and setting (Air Quality) (Source: own compilation)

The figures show that the importance of policy dismantling should not be overstated, even at the instrument level, at least in the two subfields under analysis. Furthermore, these figures also show the prominence of the status quo. Most of the regulations and directives that have been amended over the last decade, have not resulted in a complete overhaul of the legislation. Often, only minor changes have taken place, with most instruments remaining as they were, with little or no change to

their scope and setting. Nevertheless, it still shows that the different changes in policy direction can take place side by side, i.e. policy expansion and policy dismantling occurring simultaneously.

When it comes to the differences between the two subfields, one important note is that a majority of the nature conservation legal act, i.e. twenty-two of them are connected to the EU wildlife trade regulations, where most changes occurred due to additions to the Annexes. This does not lead to any changes in the instrument dimensions, contributing to the dominance of the status quo in that subfield.

Additionally, the predominance of the status quo also shows that when decisions to amend are taken, this does not automatically lead to the renegotiation of each of the instruments contained within a piece of legislation. However, as technology and scientific knowledge have advanced during the last ten years, the predominance of the status quo could also be indicative of possible cases of dismantling by default. Thus, while very few examples of policy dismantling have been found via the coding exercise summarized in Table 3 and Table 4, this does not mean that there are not more subtle forms of dismantling present as well.

For instance, only two legal acts in the subfield of nature conservation were related to the Birds and Habitats Directive. One of them was concerning the reporting obligations for environmental legislation, as a result of the Fitness Check mentioned above, the other case, being the Council Directive 2013/17/EU, which was adopted due to the accession of the Republic of Croatia. The Directive only changed the content of the Annexes of the Birds and Habitats Directive. Thus, the only changes that were observable in relation to these two legislations were a limited expansion of their legislative scope. While this constituted an expansion of legislative scope due to the method of comparison that was chosen, i.e. the comparison to the predecessor version of the legislation in question, it has to be acknowledged that very few changes have taken place for those two Directives. Furthermore, these changes were mostly in relation to the accession of new EU Member States. An earlier study by Gravey and Jordan (2016) which looked at the Birds Directive, also found mainly a keeping with the status quo, except for one small occurrence of policy dismantling on the instrument scope dimension (Gravey and Jordan 2016, 1192-93). Given the study's timeframe from 1992 until 2014, it aligns with the findings of this thesis in showing very little change. This has, however, led to gaps within the listings of the Annexes of the Habitats and Birds Directives, which has also been noted by the Fitness Check of the EU Nature Legislation in 2017 (European Commission 2017a). The Fitness Check concluded that the Directives currently do not cover all taxonomic groups. Nevertheless, it also suggested that the Natura 2000 network had an umbrella effect that covered a high percentage of the species of conservation concern, beyond those listed in the Annexes. Thus, the European Commission

concluded that the Annexes currently provide an “adequate level of protection to enable the objectives of the Directive to be met” (European Commission 2017a, 6). However, when comparing the plants listed in the Annex of the Habitats Directive with those listed by the IUCN Red List with European distribution, a considerable gap between the two is shown. 2,252 species are listed by the IUCN Red List which have a European distribution, while not being included in the Annexes of the Habitats Directive. A fifth of the species with European distribution not listed are categorized as at risk, thus arguably being in need of EU conservation action (Amos 2021, 380-81). Hence, it could be argued that this could be considered an instance of policy dismantling by default, as the incomplete updating of the Annexes of the Nature Directives has led to the de facto reduction of environmental protection by not adjusting the Annexes to the change in the conservation status of a number of species.

Something similar can also be noted when it comes to the subfield of air quality, as the EU’s air quality standards currently allow for a higher air pollutant concentration than those recommended by the 2006 WHO guidelines. The discrepancies between the EU standards and the recommendations of the WHO have only increased since the new guidelines were published in 2021 (EEA 2023). The Ambient Air Quality Directives, for example, are the third generation of EU-level air quality policies since the early 1980s. However, many of the provisions, including many of the air quality standards, are inherited from predecessor legislation without making adjustments despite scientific evidence having changed (European Commission 2020). This was also already been pointed out, in the study by Knill, Steinebach, and Fernandez-i-Marín (2018) which noted instances of policy dismantling by default in air policy, looking at the period between 2000 and 2016 (Knill, Steinebach, and Fernandez-i-Marín 2018, 371-2). However, as many Member States are already failing to meet the current standards, the European Commission has considered it ineffective to tighten EU standards (European Commission 2013a).

Therefore, this has shown, that further dismantling examples might be present, despite not showing up in the Tables 3 and 4. However, it still has to be kept in mind, that although EU standards have not always kept up with the increasing scientific knowledge, current EU standards, both for air quality and nature conservation are amongst the highest in the world (European Commission 2020, European Commission 2017a).

On the other hand, the analysis has also shown major policy expansions in these two subsectors, through the introduction of the bio invasion regulation for nature conservation (Regulation 1143/2014), as well as the creation of a directive for setting the limits for emissions for certain

pollutants from medium combustion plants (Directive 2015/2193) and a Regulation on the monitoring, reporting, and verification of carbon dioxide emissions from maritime transport (Regulation 2015/757). Given the noted slowdown of environmental policy at the EU level following the financial crisis (e.g. Burns and Tobin 2016; Burns, Eckersley and Tobin 2020), Regulation 1143/2014 on the prevention and management of the introduction and spread of invasive alien species constitutes a significant example of policy expansion, as the Barroso Commission created a new piece of legislation in an already mature field of environmental policy. Justo-Hanani and Dayan (2020), who analyzed the introduction of the bio invasion regulation in more depth, argued that different factors such as the framing of bio invasion as constituting a single market failure as well as the low political salience of the issue, helped to create political consensus for the new legislation (Justo-Hanani and Dayan 2020, 323).

Furthermore, the two new legislations in the field of air quality came about as the result of the Air Quality Review in 2013, which noted a gap in EU source legislation. It also noted the importance of creating these legislations to avoid trade-offs between air quality and renewable energy policies, especially in regard to the increased use of biomass (European Commission 2013b). Hence, this also shows that Reviews of existing legislation do not always have to result in a fear of policy dismantling, but can instead also lead to the strengthening of ambitions, amongst others through the creation of new legislation. Thus, this also confirms Hjerp et al (2010) claim that better regulation initiatives can also result in the introduction of more ambitious measures (Hjerp et al. 2010, 27).

5.4 Concluding Remarks

To conclude, this chapter has found that while occurrences of policy dismantling have been found at the EU level for air quality and nature conservation in the last decade, these instances have not been very common. Furthermore, except for an example of legislation being recast and one being codified, all other instances of policy dismantling were found at the instrument level. Additionally, most of these instances were related to reporting requirements, thus not amounting to substantial changes in the ambition of the legislation. Thus, in the last decade, there was a net policy expansion observable, with a strong prevalence of the status quo, which could also be indicative of policy dismantling by default due to the lack of adjustments made in the legislation taking the scientific and technological advancements into account. However, considerable policy expansion has also taken place by introducing new pieces of legislation, which in two cases was due to a review of the legislation. Hence, this also highlights that these reviews do not necessarily only lead to policy dismantling but can in fact also serve to increase the ambition of EU legislation.

6. Discussion

This chapter will discuss the findings of the previous chapter in terms of their wider implications and the context in which they emerged.

As seen in the previous chapter, policy dismantling was the least common direction of policy change. This thesis has, thus, shown that policy dismantling is possible at the EU level, despite the presence of multiple veto players and the hyper consensus that is often needed. However, policy dismantling is not a very frequent direction of change, with the findings of this thesis closely aligning with those of other studies conducted for earlier periods, finding only small instances of active policy dismantling alongside possible instances of policy dismantling by default through the lack of adjustment to the advancement of technical and scientific knowledge (e.g. Knill and Steinebach 2017, Gravey and Jordan 2016, Knill, Steinebach and Fernandez-i-Martin 2020). Hence, there was no observable increase in policy dismantling taking place in the last decade when compared to earlier periods.

There have been increasingly strong political dynamics surrounding policy dismantling, with then Commission President Barroso for example stating in a speech, that, while the Better Regulation Agenda was “initially met with a rather cold reception” (Barroso 2014), it is now “becoming part of the consensus” (Barroso 2014). Furthermore, NGOs have also stated, that “a deregulatory agenda favourable to big business interests has, over the last decade, entirely permeated the European Commission” (Corporate Europe Observatory and Friends of the Earth Europe 2014, 17). Therefore, the Barroso Commission's focus on reducing the overall regulatory burden (European Commission 2012), an agenda continued by the Juncker Commission (European Commission 2019), gave rise to the expectation of finding more examples of policy dismantling. However, this thesis has not found evidence for this. Especially in the run-up to the Brexit referendum, the expectation existed that incentives to cut red tape would be given, in order for the UK to remain in the EU (The Guardian 2014). In this context, the last Stoiber report in 2014 was seen as partially aimed at keeping the UK within the EU (Corporate Europe Observatory and Friends of the Earth Europe 2014). Thus, we might have possibly seen more policy dismantling instances had the UK remained in the EU. However, with Brexit, the EU has now lost one of the main proponents of the EU's Better Regulation Agenda. As the Literature Review has shown, while better regulation agendas have become more commonplace since the 1990s, the actors involved are fairly limited, with only a small number of Member States consistently advocating for it, i.e. the UK, the Netherlands, and Germany. While France, for example, produced a hit list in the 1990s as well as other countries coming together for broader coalitions, as was the case with the six presidencies in 2004/05, this support for better regulation agendas was not sustained for longer periods of time (Gravey 2016, 181).

Thus, as active dismantling strategies are difficult to archive in the EU, given its consensual nature, the small number of continuous dismantling advocates, now being even fewer after Brexit, will make future attempts even more difficult. Thus, given the UK's enduring role in promoting better regulation initiatives and the need to build coalitions to be able to find agreement in the Council of the EU, for example, could result in fewer (successful) instances of policy dismantling in the future.

Thus, while the EU has faced significant potential for policy dismantling over the past three decades as the Better Regulation Agenda has become more prominent and widely supported, the passing of the European Green Deal may indicate that the EU has weathered the storm of increasing policy dismantling pressures, possibly also helped by Brexit. With the European Green Deal, the EU's environmental policy received more impetus, which while focusing more on climate policy also deals with other areas of environmental policy (Gravey and Jordan 2021, 351). The European Commission has, for example, proposed the revision of the Ambient Air Quality Directives, which would raise the EU's air quality standards closer to the WHO guidelines (European Commission 2022a). The EU failing to meet the standards set out by the WHO has been flagged as an instance of possible policy dismantling in both this thesis as well as earlier studies (e.g. Steinebach and Knill 2017, Gravey and Moore 2018). Moreover, the Better Regulation Agenda has not completely disappeared from the EU level, as the von der Leyen Commission has continued with the Agenda, adding the one-in-one-out principle (European Commission 2021). Nevertheless, the fear surrounding this being a possible deregulation agenda, does not appear to be present, as the European Green Deal is seen as possibly leading to a new phase of EU environmental policy (Knill and Liefferink 2021, 28-9).

However, as this thesis focused on the analysis of the policy outputs, there was a fairly limited focus on the political dynamics surrounding the discussion of policy dismantling, by for example conducting expert interviews, which could have given greater insights into the policy dismantling attempts going on. Hence, while the policy outputs have not shown great divergence from earlier periods, this thesis did not capture the political dynamics present in the EU. Thus, it could have missed, for example, unsuccessful policy dismantling attempts. Therefore, future research could complement this thesis by looking in more depth at the political dynamics of the EU surrounding the topic of policy dismantling in the last decade.

A further limitation of this thesis is the missing focus on the dimension of formal intensity, due to the difficulties associated with measuring this, without a good understanding of the implementation traditions in the different Member States (Gravey and Jordan 2016, 1189). Bauer and Knill (2014) defined formal intensity as "the factors affecting the probability that substantial requirements are effectively achieved" (Bauer and Knill 2014, 33), focusing on the administrative capacities and

procedures. It looks at the financial and personnel resources given to administrative authorities charged with the implementation of legislation. Bauer and Knill (2014) considered the withdrawal of such resources, as possible avenues for governments to engage in policy dismantling by, for example, accepting deficits in the monitoring and enforcement requirements (Bauer and Knill 2014, 34). Thus, given the enduring interest of reducing administrative burdens by Member States, as well as the analysis of this thesis finding most instances of dismantling being related to changes in administrative elements, e.g. the length between reporting periods and/or the necessity to report to the European Commission being changed, might also point to formal intensity becoming a dimension were policy dismantling might be more common. Thus, policy dismantling of EU environmental policy, successful or attempted, might also still be present, which due to the decision to leave out this dimension for the analysis of this thesis has remained hidden. Nevertheless, this could prove an interesting avenue for further research.

7. Conclusion

The starting point of this thesis was the question of, to what extent policy dismantling had occurred in EU air quality and nature conservation policy between 2012 and 2022. The Literature Review had shown that the developments of EU environmental policy had slowed down since the 1990s with repeated calls for the cutting of administrative and regulatory burdens being heard. Through the 2000s and 2010s, the discussion surrounding the Better Regulation Agenda had become intensified, and a broader consensus on the topic has been reached within the EU. This combined with the fact, that previous studies had found instances of policy dismantling at the EU level, showed that there was a rationale behind extending the time period under investigation for possible policy dismantling at the EU until 2022. This thesis built on Bauer et al. (2012) and Gravey and Jordan's framework (2016) for analyzing policy dismantling, which differentiates between policy density and policy intensity, by splitting the analysis along the changes in the scope, setting, and density of the legislative and the instrument level. Thus, the changes in the EU's nature conservation and air quality policies were analyzed with this framework. The analysis of the forty-six legal acts showed that policy dismantling instances have taken place at the EU level, with two instances found for the subfield of nature conservation and three for air quality. Thus, a total of five out of forty-six legal acts. Moreover, policy dismantling instances were found at both the legislative as well as the instrument level. While these findings have shown that policy dismantling has taken place in the EU, the maintenance of the status quo and policy expansion were far more prominent. Furthermore, as most instances of policy dismantling pertained to reporting requirements, it also cannot be said that the overall ambitions of the legislation were considerably weakened. Hence, in contrast to the expectation of growing dismantling occurrences due to the greater focus on the Better Regulation Agenda that was observed in the last decade, the findings of this thesis are very similar to earlier periods. The findings only showed small examples of active policy dismantling and possible instances of policy dismantling by default taking place alongside policy expansion. However, this thesis is limited to only looking at a ten-year time period, which could potentially lead to oversights of ongoing processes. Nevertheless, as this thesis has incorporated earlier studies into the findings, this was mitigated as much as possible. Furthermore, the focus of this thesis on the policy outputs of the EU has left room for future studies to look at the political dynamics surrounding the discussion of policy dismantling at the EU. Additionally, the missing focus on the dimension of formal intensity might yield more examples of policy dismantling that have not been shown in this thesis. Hence, these two avenues of future research would be able to complement the findings of this thesis by shedding more light on the political dynamics surrounding it. Furthermore, while this thesis has shown instances of policy dismantling taking place, the passing of the European Green Deal might lead to the raising of the EU's

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environmental standards. While it still has to be seen whether the momentum of the European Green Deal can be maintained in the coming years, it might point to the fact that the European Union has weathered the storm of strong policy dismantling pressures on its environmental policy.

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