

Sectorialised Policy-Making in the EU: Modes of Governance in Social and Environmental Policy

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1. Introduction

The European Union (EU) is a highly sectorialised polity. Its policy areas are marked by a wide variety of legislative procedures, actor constellations and policy instruments. To grasp the logic of policy-making in the EU, we thus need a toolkit to understand the differences and similarities between policy areas. We argue that the concepts of governance and modes of governance are useful instruments to accomplish this task. In this policy brief, we use these conceptual tools to compare two policy areas, EU social policy and EU environmental policy.

2. Modes of Governance

In general, governance denotes a system of societal coordination and control. Modes of governance refer to different types or styles of coordination and control. The literature discusses hierarchy, network and market as general modes of governance. Furthermore, we can disaggregate these general modes of governance to three different aspects of policy-making.

First, modes of governance describe to what extent and in which ways public and private actors participate in initiating, formulating and negotiating a policy (public-private dimension). We distinguish between "statism", where public and private actors have a hierarchical relationship, with public actors taking the lead, "pluralism", where a vast variety of private actors compete for influence on policy outcomes, and two forms of network-style relationships: "corporatism", where a small set of private actors has privileged access to policy-making and engages in tripartite concertation with state actors, and "network governance", where a broader set of public and private actors interacts intensively and repeatedly in producing policy decisions.

Second, modes of governance in the institutional dimension of EU policy-making determine who is entitled to take part in decision-making and how decisions are taken. Here, the distinction is between the hierarchical mode of "supranational centralisation", where the EU Commission and the European Court of Justice can decide without the consent of anybody else, two network-style modes, where both member state governments and supranational actors interact to make decisions that are taken by majority ("joint decision-making") or by unanimity ("intergovernmentalism"), and "unilateral adjustment", where member states react to political decisions in other member states without EU institutions or regulation being involved.

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Third, the types of policies resulting from decision-making may be classified as different modes of governance. In the European multi-level system, policy outputs vary with respect to the level of obligation they impose on member states and the amount of discretion they offer member states in implementation. "Coercion" corresponds to clearly-defined command and control measures that the addressees of political steering have to obey. "Framework regulation" also consists of legally binding provisions. However, these provisions give more leeway to the actors involved in implementation. The opposite of framework regulation is "targeting", which entails precise and detailed but non-binding recommendations. Finally, "voluntarism" only defines broad and non-compulsory goals.

3. Modes of Governance in EU Social Policy

Public-private dimension: Traditionally, the ultimate power to adopt social policy proposals at the EU level lies firmly in the hands of member state governments. However, since the early 1970s elements of corporatism have emerged, where the social partners, i.e. employers' associations and trade unions, are formally incorporated into the legislative process. The Social Protocol of the Maastricht Treaty finally gave way to the creation of a corporatist mode of governance. Since the Amsterdam Treaty revisions, this corporatist procedure of legislation has been forming part of the EC Treaty. Although the new bargaining track has been used successfully several times, traditional policy formulation through the Council, the Commission and the European Parliament was not replaced by this new procedure. Instead, most of the social policy initiatives are still adopted on the basis of the traditional law-making procedure, where a wide range of interest groups is intensively consulted, but does not assume real co-decision powers (network governance).

Institutional dimension: Traditionally, the vast majority of legal acts in EU social policy had to be adopted by unanimous agreement in the Council. After successive Treaty amendments, the area subject to the mode of intergovernmental negotiation nowadays applies to anti-discrimination, collective interest representation and codetermination, social security and

protection of workers, as well as funding for employment policy. In contrast, many social policy measures may now be adopted on the basis of the co-decision procedure, with qualified majority voting in the Council and the European Parliament acting as a co-legislator (joint decision making). This mode applies to areas such as health and safety at the workplace and working conditions in general, information and consultation of workers, integration of persons excluded from the labour market, and equal treatment of women and men. There are further areas where decisions can be taken by qualified majority voting but policy outputs may only be adopted in the form of soft law. These areas include employment, social inclusion, the modernisation of social protection systems and incentive measures to combat discrimination. Supranational centralisation has assumed a prominent role in the areas of gender equality and the free movement of workers, where decisions of the European Court of Justice have had direct and far-reaching consequences at the domestic level. Finally, unilateral adjustment also plays a certain role. The EU may not interfere into certain core areas of domestic industrial relations. In these areas, therefore, member states react to decisions taken by other member states without EU-level co-ordination.

Further reading

This policy brief is based on research carried out within the NEWGOV project no. 1 on "The Evolution and Impact of Governing Modes". The scientific objectives of this project are to map, measure and classify governing modes; to explain why and under what circumstances and conditions new governing modes emerge; to identify common patterns and theorise about how they interact and evolve to form new governing mixes and macro-systems; and to find criteria and parameters by which the emergence and evolution of new modes of governance may be evaluated in a comprehensive way and against the background of different theoretical and conceptual approaches.

Further information can be found on the NEWGOV Website in the [special section](#) of cluster no. 1.

Policy dimension: The dominant type of policy instrument in EU social policy is framework regulation, consisting of directives that are legally binding but give member states quite some leeway in implementation. Yet coercive policy instruments with little flexibility also play a certain role, especially in areas pertaining to the free movement of workers and the European Social Fund. Finally, there are policy outputs, mainly in employment policy, which operate on the basis of legally non-binding policy goals that are, however, clearly defined and include tightly-specified targets (targeting). This contrasts with some examples of the open methods of coordination (OMC), especially the ones on pensions and social inclusion. They do not define any goals nor do they make any recommendations but seek to initiate a debate among political and administrative experts (voluntarism).

4. Modes of Governance in EU Environmental Policy

Public-private dimension: The dominant mode of interest intermediation in EU environmental policy is network governance, characterised by interwoven negotiations among both public and private actors. The emergence of this mode was spurred by the principle of horizontal environmental policy integration laid down in the Environmental Action Programmes and in the EC Treaty. The principle states that measures in other policy areas must take environmental concerns into account. Thus, a wide array of public and private actors have been integrated into the process of policy-making by creating various forums for consultation, cooperation and the exchange of information. However, environmental groups are rooted in different cultural and political traditions and often compete with one another. These ele-

ments of pluralism face a few instances of corporatism where certain groups gained privileged access to decision-making. When the directive on the conservation of natural habitats and of wild fauna and flora was formulated, for example, the Commission singled out two environmental organisations, the Royal Society for the Protection of Birds and the WWF, by assigning them the task of coordinating and bundling up the interests of environmental groups throughout Europe.

Institutional dimension: Like social policy, environmental policy started out as a field that was governed by unanimous agreement. The Single European Act for the first time introduced qualified majority voting for those areas of environmental policy that affect the completion of the common market. The Maastricht Treaty extended qualified majority voting to almost all measures in environmental policy. Joint decision-making is thus the dominant mode in environmental policy. There are only few exceptions that are still subject to unanimous decision-making. Intergovernmentalism as a mode of interaction is thus restricted to measures which concern fiscal provisions, town and country planning, the quantitative management of water resources, or land use not related to waste management, and measures that affect the mix of energy supply from different sources in the member states. Supranational centralisation plays less of a role in environmental policy. The European Court of Justice also interprets and develops European environmental law and thus has a direct impact on national environmental policies, but this impact is less pronounced than in EU social policy.

Policy dimension: In order to achieve environmental policy goals, binding legal acts are predominantly used. There is a substantial amount of directives and regulations which lay down clearly-specified environmental standards without much flexibility in implementation, e.g. in the field of packaging waste or chemicals (coercion). Yet there are also measures which give more leeway to member states during the implementation stage by laying down broad goals, limit values, and alert thresholds (framework regulation). Those measures have the form of framework directives which are subsequently specified by daughter directives, e.g. in the areas of air

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and water. Economic instruments, such as the directive on emission trading, also allow for more flexibility by using market mechanisms in order to make actors behave in an environmentally friendly way. Finally, there are also a few modes of governance which, while defining clear goals, rely on voluntary implementation, like eco-labels and voluntary agreements by private actors (targeting).

5. Conclusion

As far as modes of governance at various stages of the policy process are concerned, EU social policy and EU environmental policy show both similarities and differences (see figure 1).

Both social policy and environmental policy emerged as independent policy areas at the European level in the early 1970s. Initially, legal acts in both policy areas could only be adopted by unanimity in the Council (intergovernmental negotiation). Subsequently, both the legal basis in the Treaties and qualified majority voting in the Council were extended. In most areas which are also subject to environmental policy in the member states European legal acts may now be adopted by qualified majority voting. Only few exemptions still require unanimity in the Council. Although European competence and qualified majority voting was also extended in social policy, there are several areas in which unanimity is still required or only soft law may be adopted. Thus, member states and the Council play a more crucial role in EU social policy than in EU environmental policy. In both areas, interest

groups are intensively involved in the policy formulation process through the mode of network governance. In social policy, corporatism also plays a significant, although not dominant, role. Finally, EU social policy and EU environmental policy are marked by policy outputs which constrain member states or give member states broad leeway during implementation. However, coercion is more frequent in environmental policy, while non-binding policy instruments play a much more important role in EU social policy.

The taxonomy of different modes of governance allows a better understanding of policy-making in EU environmental policy and EU social policy. In both policy areas, we can discern an important role of the community method, which in our terms is a combination of joint decision making in the institutional dimension of policy formation, network governance as mode of interest intermediation, and coercive types of policy instruments. Yet EU environmental policy may be characterised as being more communitarised than EU social policy. Qualified majority voting is much more widespread in this policy area, and environmental policy instruments comprise more coercive instruments than is the case in EU social policy. As a corollary, the Open Method of Coordination, which combines intergovernmental negotiation at the policy formation stage, mostly pluralist forms of interest intermediation, and non-binding policy instruments of voluntarism or targeting, is quite important in EU social policy, while it does not play a role in EU environmental policy.

Figure 1: Modes of Governance in EU Social Policy and EU Environmental Policy

		Social policy	Environmental policy
Public-private dimension	Pluralism	-	+
	Network governance	+++	+++
	Corporatism	++	+
	Statism	-	-
Institutional dimension	Unilateral adjustment	+	-
	Intergovernmentalism	++	-
	Joint decision-making	++	+++
	Supranational centralisation	++	+
Policy dimension	Voluntarism	++	-
	Targeting	+	+
	Framework regulation	+++	++
	Coercion	+	+++

Role of respective mode of governance is “-” insignificant; “+” weak; “++” significant, “+++” dominant