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Play by the rules? : coordination of EU sustainable development policies and the importance of the politico-legal context

Kamphof, R.

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Executive Summary

There is an increasing amount of attention on EU and Member State contributions to worldwide sustainable development and this is expected to continue with the implementation of two landmark agreements: the Paris Climate Agreement and the UN Agenda 2030 with its 17 Sustainable Development Goals (SDGs). However, absent from the literature is an analysis of the political effect of legal competences on coordination between EU and Member State actors. By using different case studies focusing on alternative fuel policies, 'Team EU' in climate negotiations and SDG implementation, this dissertation attempts to explore the potential of including legal competences as independent variables explaining coordination of EU and Member State actors. Each case study relies on the same sources: legal documents (Treaty provisions, cases before the Court of Justice of the EU, regulations and directives), additional (policy) documents, literature and (in total) forty-seven semi-structured interviews. By means of a step-by-step approach the effect of the legal competences on coordination (and socialisation) processes are tested autonomously and in interaction with intervening variables consisting of issues provided by the theoretical literature: 'supranational or intergovernmental dominance', 'the EU's position in the international constellation of power' and 'preference heterogeneity'. The integrative politico-legal research design provides for a triangulation of findings.

The expectation beforehand was that legal competences, especially those derived from EU Treaties, would have a considerable effect on coordination of EU and Member State actors in all stages (policy formulation, negotiation and implementation). Furthermore, it was expected that there would be a considerable interaction with the issues stemming from political theories, but that legal competences would be more dominant. Regarding the 'management' of the coordination process by EU and Member State actors, it seemed likely that the legal competences would further empower the European Commission, while often restraining Member State actors from having a 'managing' role in coordination.

The findings nuance some of the theories and concepts in which the role of EU Treaties is often neglected. The legal competences by the Treaties and UN documents have at least a moderate effect. The 'legal competences' were operationalised in a broad manner, to include Treaty articles, the Court's case-law, the external legal multilateral context as well as regulations and directives. This approach proved to be useful as it differed per case study which 'legally defined power' was important. The legal competences often mark the policy areas in which coordination is supposed to be more complicated, and sketch the common path of coordination in negotiation and (to a lesser extent) policy formulation and implementation for these specific case studies. While the literature often focuses on 'competence creep' of the Commission, the case studies reveal that the Member State actors especially are protective of their fixed legal competences on e.g. taxation, energy-mix or land-use policies. Additionally, the external (UN) legal context to a certain extent amplifies the necessity of coordination, as is shown in the (UNFCCC) climate change multilateral context. In the absence of a multilateral forum, such as for alternative fuels, it proves more difficult to keep the coordination process of EU and Member State actors active.

The dissertation also shows, however, that the legal competences are sometimes *not* used habitually and that there is an overall silence of the Court of Justice in these specific sustainable development policies. The Commission in particular seems to be hesitant to start legal procedures, thereby not pushing its legal competences to the limit. This finding is all the

more fascinating as every case study provides for some clear examples of behaviours 'contrary to the Treaty-logic' or 'contrary to sustainable development objectives'. Examples include, inter alia, the peculiar negotiation mandate (unanimity) for UNFCCC negotiations, the lack of EU coordination on SDG implementation and the absence of steering policies and the absence of legal questions to the Court of Justice on traditional combustion engines in the alternative fuels case study. Moreover, the category of 'shared' competences proved to be a wide-ranging category in need of specific examination per policy area. This makes the coordination of multi-faceted mixed competence arrangements, analysed in this dissertation, increasingly difficult and often based on *ad hoc* decisions. The interaction with intervening variables provides some additional understanding. The case studies, however, show that there is a lot of interaction between these intervening variables and legal competences in practice. These findings can be valued as minimal plausibility probes, given the small number and peculiarities of the cases. Nevertheless, this study contributes to develop a new methodological approach to analyse the EU's and Member State's coordination on sustainable development issues, both within the EU as well as in a multilateral context.

The chapters of this dissertation are organised as follows. Chapter 1 introduces the research question, concepts, variables, expectations and methods, taking into account the boundaries and limitations of this dissertation. Chapter 2 reviews the existing bodies of literature with reference to the EU's and Member State's coordination (in sustainable development policies) and selects some of the main elements from both legal and political perspectives. It then explains how this dissertation constructs a theoretical framework that contributes to both these fields by focusing on competences, i.e. legal competences and the interaction with variables derived from the theories of neo-functionalism, intergovernmentalism, social constructivism and institutionalism and concepts such as actorness, cohesiveness and effectiveness. Chapter 3 outlines the research design of a comparative case study, the method of data collection and analysis as well as its methodological limitations. It also presents the process tracing a routine applied throughout all the case studies. Chapter 4, 5 and 6 then cover the case studies on policy formulation on alternative fuels for passenger cars, 'Team EU' in climate change negotiations, and the implementation of the UN Agenda 2030 in the EU and Member States. The two final chapters contain an overall analysis. More specifically, chapter 7 provides a descriptive and analytical overview of the findings in all the three cases while summarising the findings. Moreover, other specific explanations raised in the case studies are reviewed. The chapter assesses and visualises the interactions between legal and political variables and refers back to the methodological challenges, while nevertheless showing its value for future research and theory building. Finally, chapter 8 then builds on the results reached in chapter 7. It answers the central research question and provides reflections on the theoretical, methodological and conceptual aspects by focusing on advantages and limitations of the research design and methods. Following the main findings and reflections, some avenues for future research are suggested and the policy relevance of the findings is addressed, followed by concluding remarks.