Play by the rules? : coordination of EU sustainable development policies and the importance of the politico-legal context
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Chapter 6: EU and Member State Implementation of the UN Agenda 2030 and Sustainable Development Goals

6.1 Introduction[472]

"Our intention is to make the implementation of the SDGs a team effort" (First Vice-President Timmermans, European Commission, 10 May 2016)[473]

With the new United Nations Agenda 2030 for Sustainable Development, the EU and its Member States are asked to evaluate their 'internal' and 'external' dimensions and work towards reaching 17 Sustainable Development Goals (SDGs) by 2030 at the latest.[474] The EU is 'fully committed to be a frontrunner in implementing the SDGs according to its recent Communication 'Next steps for a sustainable European future'.[475] As indicated by the European Commission itself "ultimately, sustainable development is an issue of governance".[476] This highlights the importance of evaluating implementation of the Agenda 2030 by both the EU and Member States, as implementation is a 'shared responsibility'.[477] With an absence of legally binding targets at UN level, it seems as if the actual implementation of the Agenda 2030 is a 'political choice' at EU and Member State level.[478]

Research on the 'governance' of sustainable development policies by the Union tended to focus on concepts such as (in)coherence and means of evaluating negotiation structures, e.g. the EU in international climate change (UNFCCC) negotiations.[479] In that sense, the implementation of international agreements is often examined. Moreover, the issue is of implementation is often not viewed from a combined political-legal perspective. This is problematic as the delicate (political) discussions about the (legal) division of competences is one of the often quoted difficulties that is hindering coordination, thereby specially focusing on either the issue of 'creeping competences' by the Commission[480] or instead the absence of a logical single coordination point that the European Commission could provide. Notwithstanding the fact that it is extremely difficult to change the division of competences, it is nevertheless essential to elaborate on its effects in (empirical) practice.

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[472] An amended version of this chapter has been published as UNU-CRIS Working Paper, cf Kamphof, R. (2018) 'EU and Member State Implementation of the UN Agenda 2030 and Sustainable Development Goals'. UNU-CRIS Working Paper, W-2018/1.

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

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

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

[476] *Ibid,* p. 14.

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

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

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

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

There have been few investigations with regards to the political effects of legal competences, let alone for sustainable development policies and implementation of international agreements. As a result, little is known about the *political* effects of the mixed competences and the relationship between legal competences and EU and Member State coordination on sustainable development policies is under-theorised. The purpose of this chapter is to examine the influence of legal competences and see this in interaction with (other) intervening variables. The objective is to see how legal competences interact with other issues often analysed in the literature, and operationalised as 'intervening variables'. To achieve this goal, this study makes use of a step-by-step process tracing approach revising Treaty articles, official policy documents, the UN legal context, cases before the Court of Justice of the European Union, as well as academic literature. The qualitative part of this study relies primarily on sixteen semi-structured interviews with EU and Member State officials, (former) ministers, Members of the (European/national) Parliament, Civil Society Organisations, as well as experts (see Table 6.1 and appendix). The findings are brought together through triangulation. The process tracing approach leads to an overall assessment of the potential influence of legal competences, of the interaction with/autonomy from other intervening variables and other explanations for this specific case.

Category	No of interviews
EU official	8
Member State official	4
Other societal stakeholder	4

Table 6. 1 No of semi-structured interviews for case study SDG implementation

The main question addressed in this chapter is the following: *How do legal competences affect EU and Member State coordination in implementation of the UN Agenda 2030 and the SDGs?* From the outset, it was expected that the division of competences would enable the European Commission in its coordination efforts. However, as this chapter will show, the effects are much more nuanced and the 'political' factors are much more powerful than one would have expected. The effect of the legal competences (independent variables) is compared and assessed together with recurrent issues such as supranational versus intergovernmental dominance, the EU's position in the international constellation of power and preference heterogeneity ('intervening variables'). This chapter also addresses 'other explanations' that were raised during the semi-structured interviews; these could either hinder or enable EU and Member State coordination efforts to implement the UN Agenda 2030 and the 17 Sustainable Development Goals.

The outline of this chapter is the following. Section 6.2 describes the negotiation of the UN 2030 Agenda and the Sustainable Development Goals more extensively and from an EU perspective. The following section (6.3) describes the coordination of implementation plans within the EU and Member States. Section 6.4 assesses then the effects of legal competences, including the (broad) division of competences, the relevant Court's case law and the UN (soft) legal context. Thereafter, section 6.5 assesses the effect of additional intervening variables that have been raised in the semi-structured interviews and compares them with what the legal division of competences would prescribe. 'Other explanations' identified in the interviews are equally discussed in the fourth section. In the final section (discussion), it is evaluated whether the EU and its Member States are indeed legally enabled or restrained by the legal competences or whether 'political' issues play a more

prominent role. However exploratory, this study may offer some insights to develop a larger interdisciplinary 'assessment framework' on sustainable development issues, especially with regards to the implementation of international sustainability agreements.[481]

6.2 UN Agenda 2030, Sustainable Development Goals and EU negotiation

The United Nations document 'Transforming our world: the 2030 Agenda for Sustainable Development' was adopted at the UN Sustainable Development Summit on the 25th of September 2015.[482] The EU and its Member States have played an active role during the negotiation phase of the Agenda and its 17 Sustainable Development Goals (SDG), which lasted roughly from 2012 (Rio+20) to 2015. After the adoption, the EU and its Member States started to implement the Agenda. The timeframe starts with the process of negotiation 2012 to the implementation phase from September 2015 until July 2017 with a focus on the implementation phase. This section will describe the process of negotiation and implementation of the UN Agenda 2030 with a specific focus on the EU institutions and the Member States.

6.2.1 Negotiating the Agenda 2030

During the negotiation of the Agenda 2030, the formal leading role within the European Commission was with DG ENV (environment) and DG DEVCO (development). This was a logical combination, as the 'post-2015' process leading to the Agenda 2030 combines the previously separated Rio+20 process on the environment and the Millennium Development Goals.[483] The process in the Open Working Group has been open, inclusive and participatory, but also demanding in its coordination. Colombia proposed a new form of negotiations in 2012 in which there were only seventy seats and countries should cooperate in 'troikas'. As a result, EU Member States were divided in troikas together with countries that are not part of the European Union. For example, France and Germany worked together with Switzerland, while the United Kingdom and The Netherlands formed a team with Australia. This process has been set up to avoid regional bloc negotiations, as these had hindered some UN processes in the past.

The EU Member States coordinated their position in a Joint working group of the Council, combining three groups: the Working Party on International Environment Issues (WPIEI), the Working Party on Development Cooperation (CODEV) and the United Nations Working Party (CONUN).[484] The European External Action Service has assisted this joint working group and the European Commission has been part of the negotiations. During the negotiation phase, three Communications were adopted. Firstly, the Communication called 'a decent life for all'

[481] For negotiation cf Kamphof, R., and Wessel, R.A. (2018) 'Analysing shared competences in EU external action: the case for a politico-legal framework'. Europe and the World: A law review, Vol. 2, No. 2, pp. 38-64. DOI: https://doi.org/10.14324/111.444.ewlj.2018.02. Oberthür, S. and Groen, L. (2015) 'The Effectiveness Dimension of the EU's Performance in International Institutions: Toward a More Comprehensive Assessment Framework'. *JCMS: Journal of Common Market Studies,* Vol. 53, No. 6, pp. 1319-1335 and Kleistra, Y. and van Willigen, N. (2014). 'Evaluating the Impact of EU Diplomacy: Pitfalls and Challenges.' In Koops, J.A. and Macaj, G. (eds) *The European Union as a Diplomatic Actor* (Basingstoke: Palgrave Macmillan), pp. 52-69.
[482] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from
<https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017.
[483] Griggs, D., Stafford-Smith, M., Gaffney, O., Rockström, J., Öhman, M. C., Shyamsundar, P., ... and Noble, I. (2013) 'Policy: Sustainable development goals for people and planet'. *Nature*, Vol. 495, No. 7441, pp. 305-307. Interview EU official, 31-5-2017, Interview EU official, 13-6-2017.
[484] Coreper decided on 30 November 2017 to set up a specific Working Party on the 2030 Agenda for Sustainable Development, which will report to Coreper II and the General Affairs Council. The specific Agenda 2030 working party has been installed after the analysis conducted for this dissertation and has not been part of the study.

(2013), integrating poverty eradication and sustainable development.[485] This was followed by a 2014 communication outlining the EU and Member States vision of what a 'post-2015' agenda could look like. The EU proposed a 'universal' and 'transformative' agenda and indicated potential targets and priority areas.[486] The third and last Communication was released in February 2015 following Council conclusions in December 2014. This Communication was not only about the Sustainable Development Goals but also prepared the related Financing for Development conference, which was then held in Addis Ababa in July 2015.[487]

The interviews portrayed a picture of overall EU unity despite the difficult coordination process.[488] Especially in the last months of the negotiations, Vice President Timmermans, responsible for sustainable development, kept a closer eye on the negotiations. Despite that, the actual lead within the Commission stayed with DG ENV and DG DEVCO.[489] With regards to Member States, on some topics one to two 'outliers' could use their 'troika' coordination structure to work more autonomously. However, the internal process of working together in a joint working group and delivering annual Communications have led to a communal effort.[490] Moreover, the EU position as outlined in the Communications has had a large influence on the result of the Agenda 2030. The 'integrated' notions of poverty eradication and sustainable development feature prominently in the Agenda, as well as notions such as 'transformation' and 'universality'. While the EU has not been fully supportive of the number of goals, (17 goals have been called 'too many' according to multiple interviews), the EU supported a comprehensive agenda from the start. The EU has however been less positive about the 'soft' monitoring and review mechanism of the High Level Political Forum.

6.2.2 The Agenda 2030 and 17 Sustainable Development Goals

The new United Nations Agenda 2030 for Sustainable Development was adopted on 25 September 2015 and has transformed the global development agenda from a North-South agenda to a universal/ Global one. The Sustainable Development Goals (SDGs) aim to eradicate poverty, fix climate change, and reduce inequality. The 17 SDGs (see Table 6.2) are interrelated and require action both in the EU and its Member States, as well as in developing countries. Compared to their predecessors, i.e. the Millennium Development Goals (MDGs, 2001-2015), the '2030 agenda' (2016-2030) is a 'universal' agenda for various actors worldwide and devotes attention to global public goods such as energy access, resilient infrastructure, sustainable use of oceans, and inclusive economic growth.[491] Sustainability and security are given a prominent place, alongside the traditional poverty reduction targets that were already part of the MDGs. Moreover, both the Global South and the Global North are expected to contribute. Being the agenda fairly ambitious , with 17 'goals' and 169 'targets', both the implementation and the financing of the SDGs will be

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[485] European Commission (2013) 'A decent life for all: Ending poverty and giving the world a sustainable future', COM(2013) 92 final, 27.2.2013.
[486] European Commission (2014) 'a decent life for all: from vision to collective action', COM(2014) 335 final, Brussels, 2.6.2014.
[487] European Commission (2015) 'A Global Partnership for Poverty Eradication and Sustainable Development after 2015', COM(2015) 44 final, Brussels, 5.2.2015.
[488] Interview EU official, 31-5-2017, Interview EU official, 13-6-2017.
[489] Interview EU official, 31-5-2017, Interview EU official, 7-6-2017.
[490] Interview EU official, 13-6-2017.
[491] United Nations (2014). The road to dignity by 2030: Ending poverty, transforming all lives and protecting the planet. *Synthesis Report of the Secretary-General On the Post-2015 Agenda*. New York, NY: United Nations. Retrieved from http://sustainabledevelopment.un.org/content/documents/5527SR_advance%20unedited_final.pdf

complex, for developed and developing countries.[492] This level of ambition is so high that even in a highly developed country like Sweden over 75 percent of the 'non-development cooperation' targets require at least some work.[493]

Leaders from all parts of the European society have shown support for the new agenda. The prominent delegation to the UN Sustainable Development Summit in September 2015 included the Vice-President of the European Commission and many Heads of State. 'SDG advocates' include prominent European figures like HM Queen Mathilde (Belgium), Mr Paul Polman (CEO Unilever), Her Royal Highness Crown Princess Victoria of Sweden. In the UN 2030 Agenda for sustainable development it is acknowledged that regional frameworks, such as the EU, 'can facilitate the effective translation of sustainable development policies into concrete actions at national level' (para 21), but that each country has 'primary responsibility for its own economic and social development' (para 41). Remarkably, the EU did not have an implementation strategy when the Agenda 2030 was adopted.

6.3 EU coordination of SDG implementation

Coordination is defined in this dissertation as the process of contacts between diplomats and officials from EU institutions (especially the European Commission) and Member States with the purpose of discussing an issue of common interest, and working towards a common position. These coordination processes can be internal (within the EU) or external (international), and they include the discussion of the 'management' of the coordination.

The coordination of the implementation of the Agenda 2030 starts from the adoption of the SDGs in September 2015. Almost fourteen months after the adoption of the UN Agenda 2030, the European Commission presented its implementation strategy in the Communication 'next steps for a Sustainable European future' dated 22 November 2016.[494] This Communication has been presented together with the renewed European Consensus on Development.[495] In the meantime, the European External Action Service presented the Global Strategy in June 2016, which touches upon the issues of the UN Agenda 2030 and the Sustainable Development Goals, but only refers to it in some parts of the Strategy.[496]

In its Communication on the implementation of the Agenda, the European Commission shares its commitments on the goals and targets. The Commission foresees two 'working streams'. The first working stream is to evaluate the current situation and identify concerns linked to sustainability, aiming to embed the SDGs into a European policy framework and among the Commission's priorities. The second work stream goes beyond the 2020 perspective and prepares a 'long term implementation of SDGs'.[497] As such, the first working stream relates to the ten priorities of the current College of Commissioners chaired by

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

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

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

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

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

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

President Juncker (2014-2019),[498] and many other strategies and frameworks that have 2020 as a deadline, e.g. the Europe 2020 Strategy[499] and the Multiannual Financial Framework 2014-2020[500].

Interestingly, the coordination of the Agenda 2030 is in the hands of the Secretariat-General and there is close coordination with (the Team of) the Vice President of the European Commission, Mr Frans Timmermans. The team responsible for the EU coordination in the Secretariat-General has had previous experience on economic issues including the European Semester. There is an informal structure composed by 20 Commissioners that had six informal meetings on the political implications of the Agenda 2030. The coordination involves not only DG ENV and DG DEVCO, who have been involved in the negotiation of the Agenda, but also DGs such as DG Trade, DG GROW and DG SANTE.[501]

Without a specific EU implementation strategy and action plan, at least before November 2016, EU Member States started implementation by themselves. This proved to be a 'mixed record' with some forerunners like Sweden, Finland and Germany and some Member States that have not even started the implementation. Nevertheless, by July 2017 fourteen EU Member States presented their action plans to the UN High Level Political Forum on Sustainable Development.[502] Some Member States have a similar 'centralised' structure to the one of the European Commission, meaning that coordination happens at the Prime Ministers' office level. Other Member States have coordinating structures from their ministries of Foreign Affairs, Development Cooperation or Environment.[503] The Member States have been critically following the coordination of the Commission and stated that they miss a 'gap analysis' in the Communication, in which the Commission should indicate what is currently missing in the implementation.[504]

The Presidencies have not been very active in encouraging collective implementation of the Agenda 2030.[505] Remarkably, the Heads of State in the European Council have not made any reference to the Agenda 2030 in their Conclusions until 22 June 2017, almost two years after adoption of the Agenda.[506] The European Parliament has been quiet too, despite a critical report by the ENVI rapporteur (Seb Dance).[507] Traditionally, the Agenda is primarily discussed in committees such as DEVE (development) and ENVI (environment). A more combined structure is currently absent. Within the Council, the joint working group of WPIEI, CONUN and CODEV is still active.

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[498] European Commission (2015) 'Ten priorities for Europe: A new start for Europe:an EU agenda for jobs, growth, fairness and democratic change'
[499] European Commission (2010) 'EUROPE 2020: A strategy for smart, sustainable and inclusive growth', COM(2010) 2020, Brussels, 3.3.2010.
[500] 'Multiannual Financial Framework', website European Commission, retrieved from http://ec.europa.eu/budget/mff/index_en.cfm, accessed 22 August 2017.
[501] Interview EU official, 30-5-2017, Interview EU official, 12-6-2017.
[502] 4 in 2016, 10 in 2017. https://sustainabledevelopment.un.org/hlpf.
[503] Kamphof, R. and Spitz, G. repr Kaleidos Research (2016) Ready to change? European actors and their challenges and opportunities of the 2030 Agenda, in Partos, FMS, Woord en Daad (2016, eds) Ready for Change: global goals at home and abroad, Ready for Change, May 2016, retrieved from https://www.partos.nl/fileadmin/files/Documents/Partos_RFC_Publication_May_2016.pdf.
[504] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19 and 40.
[505] Interview EU official, 2-5-2017, Interview MS official, 12-6-2017.
[506] European Council Conclusions on the Paris Agreement on Climate Change, 22 June 2017, http://www.consilium.europa.eu/press-releases-pdf/2017/6/47244661588_en.pdf.
[507] European Parliament (2017) 'Draft report on EU action for sustainability (2017/2009(INI))Committee on the Environment, Public Health and Food Safety, Rapporteur: Seb Dance', 2017/2009(INI), 15.3.2017.

The 'socialisation' through which Member State officials adopt a European orientation due to the process of coordination. Strong socialisation is not identified in this specific case study due to different reasons. Firstly, the EU and Member State negotiators were mostly from DG ENV and DG DEVCO, and national development, foreign affairs and environment ministries. However, in the 'implementation' phase (also) other actors lead the coordination, and 'internal' EU and Member State action is needed alongside external action/foreign affairs. The Council still makes use of the same joint working group (WPIEI, CONUN and CODEV) as in the negotiations, but there are many differences for example in the European Commission, where the Secretariat-General is in the lead. Therefore, concepts like 'adaptation' or 'adjustment', rather than 'socialisation', seem to better describe the result of the coordination process to implement the UN Agenda 2030.

6.4 The division of competences, legal issues and EU implementation

The UN Agenda 2030 and the 17 SDGs are not considered as 'legally binding'. Nevertheless, in an 'ever closer union' the EU and its Member States share competences on nearly every issue of European political life. How does this division of competences affect the implementation of the Agenda 2030 in the EU and its Member States? This section deals with the legal issues within the EU, but starts with the 'soft' targets of the United Nations Agenda 2030 in a UN legal context.

6.4.1 UN legal documents and Statutes: soft targets

The UN 2030 Agenda for Sustainable Development is not a legally binding document. The countries that have adopted the Agenda are expected to take ownership and establish a national framework to achieve the 17 Goals. Therefore, "implementation and success will rely on countries' own sustainable development policies, plans and programmes".[508] Regional frameworks such as the EU 'can facilitate the effective translation of sustainable development policies into concrete actions at national level'.[509] Nevertheless, the primary responsibility of implementation would seem to remain at the Member State level, as the UN is an intergovernmental system.

The Sustainable Development Goals are not only 'soft' in the sense of being non-legally binding. The monitoring and review mechanisms are also 'soft', being constituted by a UN High Level Political Forum on Sustainable Development (HLPF) where countries can present their plans. This HLPF has many similarities with the above mentioned UN 'Commission on Sustainable Development' (CSD) in the Rio framework. CSD was established in 1993 as a functional commission under the UN Economic and Social Council in the aftermath of the UN Earth summit held in 1992 in Rio de Janeiro. The Commission was relatively weak; the implementation 'had been unsatisfying',[510] and has not, for example, 'enhanced, brokered, catalysed or 'orchestrated' collaborative partnerships'.[511] Despite these shortcomings, the HLPF functions in a similar manner. The EU and Member States had argued for a more effective and stringent review mechanism in the negotiation phase, but lost this battle.

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[508] United Nations website http://www.un.org/sustainabledevelopment/development-agenda/.
[509] United Nations General Assembly (2015) 'Transforming Our World: The 2030 Agenda for Sustainable Development', UN Resolution A/RES/70/1, adopted on 25 September 2015, available online from
<https://sustainabledevelopment.un.org/post2015/transformingourworld>, Accessed 12 January 2017, para 21.
[510] Bäckstrand, K and Kylsäter, M. (2014) 'Old wine in new bottles? The legitimation and delegitimation of UN public–private partnerships for sustainable development from the Johannesburg Summit to the Rio+ 20 Summit'. *Globalizations*, Vol. 11, No. 3, p. 338.
[511] Ibid, p. 337.

Despite their soft legal character, the SDGs are the result of an inclusive global process during which many actors and citizens were consulted, especially when compared to the Millennium Development Goals.[512] It is a structured, universal and almost all-encompassing global framework. While the UN speaks of 'national ownership' and 'not legally binding' targets, this may have a stronger legal bearing within the EU and Member State actors, as a result of the EU's commitments to sustainable development set out in the Treaty, the division of competences, as well as the far-reaching Court's case law. The remainder of the section will deal with the legal arguments from the perspective of the EU, rather than of the UN. .

6.4.2 SDGs and EU competences (Lisbon Treaty)

The UN Agenda 2030 is a broad framework encompassing many policy areas. Given the 'universal' bearing of the Agenda, the EU and its Member States are expected to achieve its goals both in developing countries, as well as 'at home'. The EU has the ambition of 'effective multilateralism'.[513] Moreover, the Treaty explicitly refers to the UN system in Art 21(1) TEU, providing that: "The Union (..) shall promote multilateral solutions to common problems, in particular in the framework of the United Nations". Therefore, it is vital to check whether and how the SDGs are linked to the catalogue of competences of the EU as clearly set out and categorised in the Lisbon Treaty.

Table 6.2, compiled by the author, gives an overview of all 17 SDGs, the main policy areas to which these are connected, what this means for EU competence on the specific policy area and where more information can be found within the Treaties. As it was demonstrated, it seems a right choice to bring the level of coordination to a 'higher' level in the Secretariat-General and in the Prime Ministers' offices in (some) EU Member States. The Agenda is extremely broad in policy areas, and competences differ per SDG from 'no competence' (SDG 11: sustainable cities and communities) to 'CFSP-type competence' (SDG 16: peace, justice and strong institutions) to 'supportive competence' (e.g. SDG3 Good Health and well-being'), 'shared competence' (e.g. SDG15 life on land) and 'exclusive competence' (e.g. SDG14 life below water). The EU implementation strategy needs to reflect these differences in competences and it needs a credible 'arbiter' in coordination.

Sustainable Development Goal	Main policy area	EU competence?	Treaty provision
1. *No poverty*	Development cooperation and humanitarian aid	Shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs'.	Art 4(4) TFEU. See also Art 3(5) TEU, Art 21(2)d) TEU, Art 208(1) TFEU

[512] Brolan, C. E., Lee, S., Kim, D. and Hill, P. S. (2014) 'Back to the future: what would the post-2015 global development goals look like if we replicated methods used to construct the Millennium Development Goals?'. *Globalization and Health*, Vol. 10, No. 1, 19, p. 7.
[513] Drieskens, E. and Van Schaik, L.G. (2014) *The EU and Effective Multilateralism: internal and external reform practices* (Routledge).

2. *Zero hunger*	Agriculture	Shared competence	Art 4(2) TFEU. See also Art 38-44 TFEU.
3. *Good health and well-being*	Protection and improvement of human health	Supportive competence	Art 6(a) TFEU. (See also Art 4(2)k TFEU and 168 TFEU.
4. *Quality education*	Education	Supportive competence	Art 6(e) TFEU. See also Art 165-166 TFEU.
5. *Gender equality*	Social policy	Shared competence	Art 4(2)b TFEU. See also Art 5 TFEU, Art 8 TFEU, Art 151-161 TFEU.
6. *Clean water and sanitation*	Environment	Shared competence	Art 4(2)e TFEU. See also Art 191-193 TFEU.
7. *Affordable and clean energy*	Energy	Shared competence	Art 4(2)i TFEU, see also Art 194 TFEU, Art 122(1) TFEU.
8. *Decent work and economic growth*	Employment	Coordination	Art 5(2) TFEU. See also Art 145-150 TFEU, Art 151-161 TFEU.
9. *Industry, innovation and infrastructure*	Trans-European Networks, Technological Development and Industry	Shared competence (but the exercise of EU competence for technological development 'in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.) and Supportive	Art 4(2)h TFEU and Art 4(3) TFEU and Art 6(b) TFEU. See also Art 173 TFEU, Art 179-190 TFEU

		competence	
10. *Reduced inequalities*	Development cooperation	Shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs')	Art 4(4) TFEU, See also Art 8 TFEU, art 208 TFEU.
11. *Sustainable cities and communities*	Urban policy	No EU competence (the Union shall respect regional and local self-government)	Art 4(2) TEU.
12. *Responsible consumption and production*	Competition and Internal Market	Exclusive competence and Shared competence	Art 3(1)b) TFEU and Art 4(2)a) TFEU. See also Art 32 TFEU and Art 101 TFEU.
13. *Climate action*	Environment	Shared competence	Art 191(1) TFEU (no explicit indication 'climate change' in Art 4 TFEU)
14. *Life below water*	The conservation of marine biological resources & common fisheries policy	Exclusive competence and Shared Competence	Art 3(1)d) TFEU and Art 4(2)d) TFEU. See also Art 38 TFEU.
15. *Life on land*	Environment	Shared competence	Art 4(2)e) TFEU. See also Art 191-193 TFEU.
16. *Peace, justice and strong institutions*	Common Foreign and Security Policy	CFSP-type competence See e.g. Art 275 TFEU: The Court of Justice of the European Union shall not have jurisdiction with	See also Art 2(4) TFEU, Art 218(6) TFEU, Art 17(1) TEU, Art 18(2) TEU, Art 21-46 TEU.

		respect to the provisions relating to the common foreign and security policy	
17. *Partnerships for the goals*	Multi-stakeholder cooperation and development cooperation	No specific EU competence and shared competence (but the exercise of EU competence 'shall not result in Member States being prevented from exercising theirs')	Art 4(4) TFEU, See also Art 8 TFEU, art 208 TFEU.

Table 6. 2 Sustainable Development Goals and EU competences[514]

The interviews show that there is almost a 'reversed subsidiarity' reflex, as Member States do not necessarily agree with exclusive EU competence, while at the same time feeling that the EU is the best coordinator, given its extensive policy and legislative framework.[515] This does not necessarily stem from the division of competences, as many feel that 'shared competence' green policy areas, such as environment and climate, would qualify for this reversed subsidiarity, while other shared competences, including social areas, transport and agriculture, do not qualify.[516] This is an important subsidiarity-related finding especially due to the legalistic, bureaucratic 'culture' within the EU institutions. Especially the Commission, where there is a more top-down idea of competences as described by the Treaty which defines the boundaries of one's work. The broad field of sustainable development, combined with a 'new' universal agenda and Treaty-based action, makes it however difficult for the European Commission to play its coordinating role . This may be one of the legal reasons restraining the Commission from acting more extensively on the SDGs.

6.4.3 Regulations and directives

Being the SDGs soft legal instruments, and as such not legally binding, some turn to more stringent EU regulations and directives as instruments to achieve the targets set out in the UN Agenda.[517] Nevertheless, the approach chosen by the Commission is to 'motivate' EU Member States to contribute to the SDGs, rather than to threaten the use of infringement procedures.[518] The large amount of internal regulations and directives in the single market as

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[514] Systematic compilation by the author. The main policy area has been assigned based on the text in the UN Agenda 2030 for Sustainable Development and compared with the policy areas as indicated in the Treaty (Art 2-6 TFEU). The treaty provision(s) are based on the competences as well as substantive provisions.
[515] Interview MS official, 12-6-2017, Interview MS official, 4-5-2017, Interview EU official, 13-6-2017.
[516] *Ibid.*
[517] Interview other societal stakeholder, 29-5-2017. Interview other societal stakeholder, 8-6-2017.
[518] Interview EU official, 30-5-2017, Interview MS official, 4-5-2017.

well as the legalistic top-down culture makes it difficult to start a systemic transformation from the Commission.[519]

6.4.4 Court of Justice

The Court's case law underlines that the division of competences is not clear-cut and that the Treaty may not always provide *a priori* answers. The ERTA case-law[520] is particularly relevant with regards to the EU and Member State's SDG implementation of the UN Agenda 2030. The adoption of the Agenda 2030 and the SDGs 'represent[s] a change of paradigm of the international policies on development cooperation'.[521] The EU has a commitment to implement the SDGs both in its *internal* and *external* policies. Therefore, as the Court's reasoning in ERTA and follow-up case law also suggests, internal and external policies are more and more streamlined. The internal and external dimension of the SDGs may start a new chapter in 'parallelism' of EU competences. The interviews highlight some inconsistencies, as some are of the opinion that the 'internal' competences are much stronger, while others stress the decisiveness of external action, which is not mirrored by internal action.[522] The Court's case law, combined with the Agenda 2030, provides space to 'parallelise' these dimensions in SDG implementation.

The controversies reflected in recent and pending cases on the scope of the EU's external competences relate more and more to 'sustainable development' issues. Opinion 2/15 on the EU-Singapore Free Trade Agreement (related to the scope of Foreign Direct Investment) covers a specific part of 'the commitments concerning sustainable development' in this Trade agreement. As trade is normally under the area of exclusive competence, the Court was asked to reflect on these broader 'new generation' EU trade and investment agreement, inclusive of environmental and social issues.[523] The Court comes to the far-reaching conclusion that (the free trade agreement) provisions on labour rights and environmental protection fall under the EU exclusive competence attributed to the Common Commercial Policy, as these provisions affect trade sufficiently. Therefore, the 'objective of sustainable development forms an integral part of the common commercial policy'.[524] This ruling could influence the discussion on SDG competences in the future.[525] However, as EU Trade Commissioner Malmström reflected on another Trade Agreement:

> "From a strict legal standpoint, the Commission considers this agreement to fall under exclusive EU competence. However, the political situation in the Council is clear, and we understand the need for proposing it as a 'mixed' agreement, in order to allow for a speedy signature."[526]

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[519] Interview MS official, 4-5-2017, Interview MS official, 10-5-2017. Interview EU official, 2-5-2017.
[520] Cf section 2.3.
[521] Website Europa European Commission, https://ec.europa.eu/europeaid/policies/sustainable-development-goals_en; Accessed 24 November 2017.
[522] Interview MS official, 4-5-2017, Interview other societal stakeholder, 29-5-2017. Interview EU official, 31-5-2017. Interview EU official, 7-6-2017. Interview other societal stakeholder (1) and (2), 7-6-2017.
[523] Cf Kleimann, D. and Kübek, G. (2016) 'The Signing, Provisional Application, and Conclusion of Trade and Investment Agreements in the EU. The Case of CETA and Opinion 2/15 (November 2016)'. Robert Schuman Centre for Advanced Studies Research Paper No. RSCAS 2016/58. Available at SSRN: https://ssrn.com/abstract=2869873.
[524] Court of Justice of the European Union (2017) 'The free trade agreement with Singapore cannot, in its current form, be concluded by the EU alone', press release no 52/17, Luxembourg, 16 May 2017, accessed via https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf, Para 147.
[525] Interviews EU official, 12-6-2017, Interview MS official, 12-6-2017.
[526] European Commission - Press release 'European Commission proposes signature and conclusion of EU-Canada trade deal', Strasbourg, 5 July 2016; http://europa.eu/rapid/press-release_IP-16-2371_en.htm.

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

6.5 Political issues and EU implementation

This section analyses the political-institutional 'turf battles' between the Council and the Commission based on the dominant supranational versus intergovernmental dominance discussion in political analyses. The section then continues with the EU's position within the international constellation of power, which is often the primary focus in empirical analyses on EU's actorness and effectiveness. Moreover, many political theories consider the notion of homogeneity/heterogeneity of policy preferences. Therefore, these 'political issues/factors' are analysed for the specific case study of EU and Member State implementation of the Agenda 2030. This section will conclude by considering other explanations, such as the involvement of 'other societal stakeholders' and the 'political will' in EU institutions and Member States.

6.5.1 Supranational versus intergovernmental dominance

When analysing the current phase of EU implementation of the Agenda 2030 by means of supranationalism and intergovernmentalism, one could identify intra-institutional 'turf battle' taking place between the Council and the European Commission. For example, the Council's conclusions of 20 June 2017 are critical about the Communication of the European Commission 'next steps for a sustainable European future'. The Council urges the Commission "to elaborate, (by mid-2018), an implementation strategy outlining timelines, objectives and concrete measures to reflect the 2030 Agenda in all relevant EU internal and external policies".[527] However, this critical stance has nothing to do with the presupposed 'supranational' direction of EU implementation. Instead, the Commission is criticised for its lack of ambition, the absence of a 'gap analysis' and more long-term coordination that goes beyond 2020. Therefore, this implementation negotiation could not be valued as a traditional supranational versus intergovernmental debate. Nevertheless, many Member States would like to see the 'abstract' coordination of the Agenda 2030 at EU level, but some interviewees warn that the more 'concrete' implementation at Member State level would then make it more difficult, as they would like to leave the burden to 'neighbouring' states, especially when the targets are not 'legally binding'.[528]

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

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[527] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19.
[528] Interview EU official, 8-6-2017, Interview MS official, 4-5-2017, Interview MS official, 12-6-2017.

6.5.2 The EU's position in the international constellation of power

The EU and its Member States proved to be active and effective in the negotiation phase of the Agenda 2030 leading to a comprehensive multilateral agenda in which many of the EU's wishes were recognised. It is in this light at least remarkable that the European Commission has waited for fourteen months to follow up with the actual implementation strategy. The postponement might be connected to the EU's position in the international constellation of power as the EU and its Member States already belong to the 'forerunners' on many of the 17 SDGs and targets. Furthermore, in many other third states the implementation strategies behind schedule.[529]

6.5.3 Preference heterogeneity

With regards to preference heterogeneity, it is difficult to analyse the substantive convergence between the EU and the Member States on the 'broad' concept of sustainable development. This primarily relates to the changing perception of the concept of sustainable development as is visible in the SDGs. While there is still no 'universal' definition of sustainable development besides the 1987 Brundtland definition[530] the practical elaboration of the concept is broader than it was only a couple of years ago. Interviewees point to the 'environmental' notion of the concept that was accepted in 2010.[531] The idea that sustainable development encompasses 'three dimensions' (environmental, social, economic) and even 'security' and 'human rights' dimensions is now more influential since the SDGs. That makes the 'preference homogeneity/heterogeneity' question difficult to answer. Interviewees point to the overall EU substantive convergence on environmental and climate issues at least from a UN perspective. However, there are more worries on topics such as 'human rights' where e.g. Poland and Hungary recently worsened the overall record of accomplishment of the EU. Furthermore, the idea that economic growth should stay 'within planetary boundaries' is sometimes debated. Therefore, one could speak of general substantive convergence on the concept of sustainable development in the EU, but with some significant uncertainties. This 'heterogeneity' is increasingly visible between *ministries/DGs of the European Commission* instead of only between individual Member States or the European Commission and Member States. For example, finance ministries prove to be difficult partners in the new sustainable development paradigm.[532]

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

The previous sections have already demonstrated that there are many actors (potentially) involved in the EU implementation of the Agenda 2030 and its Sustainable Development Goals. This includes the Secretariat-General of the European Commission, most, if not all, of the Directorates-General, the Council and its joint Working Group (WPIEI, CONUN, CODEV), actors in EU Member States, the Presidency, EEAS, the European Council, the European Parliament and other societal actors such as the private sector, civil society organisations and cities and regions. The UN Agenda 2030 itself underlines that these challenges need to

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[529] Interview EU official, 8-6-2017. Interview EU official, 13-6-2017.
[530] 'ensure that development meets the needs of the present generation without compromising the ability of future generations to meet their own needs'
[531] Interview other societal stakeholder, 7-6-2017. Interview MS official, 12-6-2017, Interview EU official, 7-6-2017.
[532] Interview EU official, 2-5-2017. Interview other societal stakeholder, 29-5-2017. Interview other societal stakeholder, 7-6-2017. Interview EU official, 7-6-2017. Interview MS official, 13-6-2017.

be addressed in a 'Global Partnership'[533] as well as in effective public-private partnerships[534] with a wide variety of stakeholders. The agenda has been negotiated with considerable input from civil society actors including CSOs, the private sector and municipalities.

The European Commission is taking this multi-stakeholder implementation more seriously. Normally, other societal actors are officially 'only' consulted in the drafting phase of legislation and policies. However, the Commission and specifically Vice President Timmermans started a new trend with the EU implementation of the Agenda 2030 by introducing a 'high level' multi stakeholder platform chaired by VP Timmermans.[535] This multi-stakeholder platform is set up to create a 'dynamic space' that should help 'to develop cooperation and coordination between the Commission and stakeholders on matters relating to the implementation of Sustainable Development Goals at Union level and should help to bring about an exchange of experience and best practices in the field of the Sustainable Development Goals'.[536] Thirty persons will be selected for this stakeholder platform. Moreover, other EU institutions such as the European Economic and Social Committee and the Committee of the Regions play a role in involving other societal actors. While there is growing public and academic recognition of the role of the private sector in delivering SDG implementation and in global governance,[537] many multinational corporations still have the individual Member State as their 'entry point'.

With soft targets (see section 6.4), many interviewees point to the 'political will' necessity in order to implement the Agenda.[538] As indicated previously, the adoption of the Agenda 2030 in 2015 at UN New York premises was attended by many European Heads of State and by level members of the European Commission, e.g. the First Vice President Frans Timmermans. Moreover, in some Member States such as Sweden and Germany, the coordination for the implementation is at the highest level and there is an informal meeting of around 20 Commissioners on implementation of the Agenda 2030. Notwithstanding this fact, the implementation phase itself cannot be considered as an example of long-term political leadership. Symptomatic in this regard is the absence of a reference to the Agenda 2030 in European Council conclusions until June 2017.[539] Furthermore, the 'second working stream' of the Communication 'next steps for a sustainable European future' leaves many implementation questions unanswered until the next Commission (2019-2024) will start their term of office. In that sense, the adoption of the 2030 Agenda did not change the ten

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

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

[535] See European Commission (2017) 'Commission Decision on setting up the multi-stakeholder platform on the implementation of the Sustainable Development Goals in the EU', C (2017) 2941 final, Brussels, 22.5.2017. Cf European Commission (2018) 'From commitment to action: Implementing the Sustainable Development Goals through the next Multi-Annual Financial Framework of the European Union'. Advisory report to the European Commission by the Multi-Stakeholder Platform on the Implementation of the Sustainable Development Goals in the EU, March 2018. Accessed << https://ec.europa.eu/info/sites/info/files/adopted-position-paper-on-the-mff_en.pdf>> 18 August 2018.

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

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

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

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

'Juncker priorities' that were already present before 2015. Next to this, many other external and internal challenges like terrorism, 'Brexit' and migration occupy the European Union and its Member States. In more long-term policy documents such as the scenarios on the Future of Europe (until 2025), there is no explicit reference to implementation of the UN Agenda 2030 and the SDGs while the 'leading role' of the EU in the adoption and negotiation of the Agenda is highlighted.[540]

6.6 Discussion

The main question addressed in this chapter has been the following: *How do the legal competences affect EU and Member State coordination in implementation of the UN Agenda 2030 and the SDGs?* The division of legal competences between the EU and Member States has been raised as one of the top priority issues EU. The political elites and analysts often narrow this discussion down to either retreating the 'creeping' competences[541] of the EU or instead supporting the supranational coordination of the European Commission, in the field of external relations especially.[542] The United Nations Agenda 2030 for sustainable development and the 17 Sustainable Development Goals are not 'legally binding' but the topics relate to the competences divided between the EU and Member States. On the basis of the literature review and sixteen semi-structured interviews with EU and Member State actors and other societal stakeholders from March to June 2017, the influence of the legal competences is evaluated against other, more 'political' influences. These are operationalised in the 'intervening variables' of intergovernmentalism versus supranationalism dominance, the EU's position in the international constellation of power and preference heterogeneity. Other related explanations were found in the interviews: most notably the (absence of) political will and the involvement of other societal stakeholders.

Ministries and DGs of environment and development primarily conducted the EU and Member State negotiation of the Agenda 2030 between 2012 and 2015. The coordination of the implementation, especially at EU level, is nevertheless very much centralised at the level of the Secretariat-General and (in some Member States) at the level of the office of the Prime Ministers. The implementation phase also sees a larger role for many 'new' actors, including other societal actors such as CSOs and the private sector.

As the 17 Sustainable Development Goals concerning a broad range of topics, encompassing the internal and external dimensions of EU and Member State policies, the Secretariat-General seems to be the best-placed coordination structure with overview of the division of competences at EU and Member State level. However, the legal competences are rarely used in implementation strategies like the European Commission Communication 'next steps for a sustainable European future'. Instead, even from the Member States, the level of ambition and coordination by the Commission is criticised.[543] The catalogue of competences in the Treaties, as well as case law of the Court of Justice of the EU, such as ERTA and the Opinion 2/15 on the Singapore Agreement, enable a larger role for the European Commission in both the internal and external dimension of its sustainable development

[540] European Commission (2017) 'White Paper on the Future of Europe: reflections and scenarios for the EU27 by 2025', p. 8.
[541] Pollack, M. A. (2000) 'The end of creeping competence? EU policy-making since Maastricht'. *JCMS: Journal of Common Market Studies*, Vol. 38, No. 3, pp. 519-538.
[542] Macaj, G. and Nicolaïdis, K. (2014) 'Beyond 'one voice'? Global Europe's engagement with its own diversity'. *Journal of European Public Policy*, Vol. *21*, No.7, pp. 1067-1083.
[543] Council of the European Union (2017), A sustainable European future: The EU response to the 2030 Agenda for Sustainable Development - Council conclusions, 10370/17, 20 June 2017, para 19.

policies. Notwithstanding these legal arguments, this stronger EU coordination role is not taken up due to political reasons including 'national ownership' of the Agenda 2030 at the UN level, soft targets at the UN level, the existence of already ambitious sustainability policies at the EU level and the absence of EU targets beyond 2020. The legalistic, 'Treaty-based' culture of top-down competences seems to partly explain the hesitation of the EU in taking a larger coordination role implementing the transformative UN Agenda 2030 and its 17 Sustainable Development Goals.

The political reasons seem therefore more influential in deciding the fate of EU implementation of the Agenda 2030 and the 17 SDGs. Nevertheless, the classic 'intergovernmentalism versus supranationalism' argumentation is almost reversed with what one would expect based on previous theories, as the Council is opting instead for more EU (Commission) coordination. The EU's position in the international constellation of power seems rather detached from other countries and regional blocs. Regarding preference heterogeneity, there seems to be a significant substantive convergence on the 'narrow' environmental concept of sustainable development, but more divergence on the broader notion of sustainable development which includes topics such as 'human rights' and transformation of the economic growth paradigm. These discussions seem however to be taking place more between different ministries/DGs than between the EU and Member States. The most influential political argument enabling or restraining the implementation seems therefore to be political will.[544] Two 'political will' developments seem to restrain coordination processes. Firstly, the 'second working stream' of the Communication 'next steps for a Sustainable European future' postpones many long-term implementation actions until the start of the next College of Commissioners (2019-2024). The current Juncker Commission could then focus on its own Ten Priorities and internal discussions such as on migration, security and Brexit. Secondly, at the Head of State level there has been no explicit reference to implementation of the Agenda 2030 in European Council conclusions until June 2017. This is hindering coordination between EU and Member State actors. Therefore, while the legal competences could enable EU and Member State actors in coordinating implementation of the Agenda 2030 and SDGs, this is currently hindered by political will. The effect of the variables and explanations is visualised below in Figure 6.1.

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[544] Interview MS official, 12-6-2017. Interview EU official, 2-5-2017. Interview EU official, 7-6-2017. Interview other societal stakeholder, 7-6-2017. Interview other societal stakeholder, 8-6-2017. Interview EU official, 13-6-2017. Interview EU official (2), 13-6-2017. Interview EU official (3), 13-6-2017. Interview MS official, 4-5-2017.
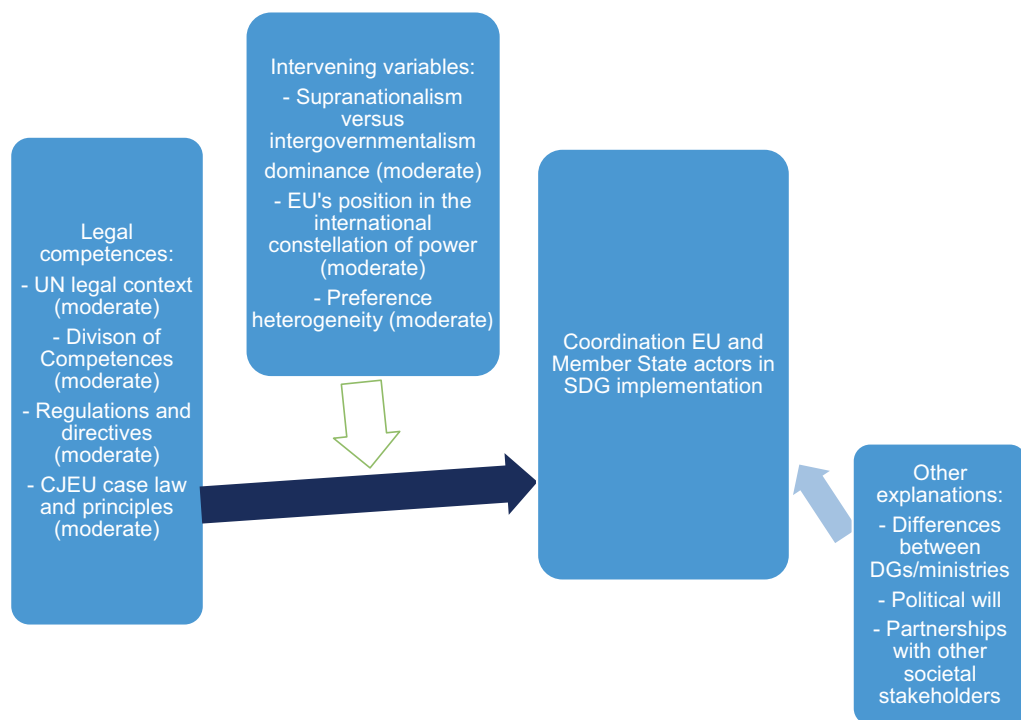
Figure 6. 1 Variables and effects on coordination of EU and Member State actors in SDG implementation

Further research

The results can only be valued as 'plausibility probes', providing interesting avenues for future research, but it is acknowledged that they need further testing over time to become more robust.[545] While research on the effects of the treaty-based division of competences in practice may be the most obvious candidate, further research could in particular review the role of the Court in EU external relations and the effects of case law on political practice.[546] Indeed, this institution is still one of the more overlooked actors, with the role of the Court and the effect of its judgments on the role of actors in areas such as environmental policy or foreign and security policy hardly acknowledged in political analyses.[547]

Furthermore, the interviews point to a couple of other topics related to the division of competence and EU implementation of the Agenda 2030 that can be worked out in more detail. This includes the concept of policy coherence for sustainable development,[548] data

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[545] George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press).
[546] Cf Hillion, C. and Wessel, R. A. (2009) 'Competence Distribution in EU External Relations after ECOWAS: Clarification or Continued Fuzziness?'. *Common Market Law Review*, Vol. 46, No. 2, pp. 551-586.
[547] Cremona, M. & Thies, A. (eds) (2014) *The European Court of Justice and External Relations Law: Constitutional Challenges* (Oxford: Hart Publishing).
[548] See Organisation for Economic Co-operation and Development (2017) 'Policy Coherence for Sustainable Development 2017' with contributions from the author, http://www.oecd.org/publications/policy-coherence-for-sustainable-development-2017-9789264272576-en.htm.

and reporting[549], a comparison with other regional blocs like ASEAN and MERCOSUR[550], private sector involvement[551], UN system transformation with the SDGs[552] and the connection with the scenarios on the Future of Europe[553] and 'Brexit'. Overall, this analysis is to be understood as a plea to combine existing and new political and legal insights, to better understand the effects of legal choices on political practice (and *vice versa*). The present contribution has provided a number of reasons to further this new area of research.

SUMMARY CHAPTER 6

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

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[549] Interview EU official, 13-6-2017.
[550] Interview EU official, 7-6-2017.
[551] Cf Kamphof, R. and Melissen, J. (2018)'SDGs, Foreign Ministries and the Art of Partnering with the Private Sector', *Global Policy (online, early view)*https://doi.org/10.1111/1758-5899.12563. On the difficulties for governments, specifically ministries of Foreign Affairs, being in partnerships with the private sector for the SDGs.
[552] Interview other societal stakeholder, 7-6-2017.
[553] European Commission (2017) 'White Paper on the Future of Europe: reflections and scenarios for the EU27 by 2025'.