QUEEN'S UNIVERSITY BELFAST

EU environmental policy at 50: retrospect and prospect

Jordan, A., Gravey, V., & Adelle, C. (2021). EU environmental policy at 50: retrospect and prospect. In A. Jordan, & V. Gravey (Eds.), *Environmental Policy in the EU. Actors, Institutions and Processes* (4th ed., pp. 357-374). Routledge. https://doi.org/10.4324/9780429402333

Published in:
Environmental Policy in the EU. Actors, Institutions and Processes

Document Version:
Publisher's PDF, also known as Version of record

Queen's University Belfast - Research Portal:
Link to publication record in Queen's University Belfast Research Portal

Publisher rights
Copyright 2021 the authors.
This is an open access article published under a Creative Commons Attribution-NonCommercial-NoDerivs License (https://creativecommons.org/licenses/by-nc-nd/4.0/), which permits distribution and reproduction for non-commercial purposes, provided the author and source are cited.

General rights
Copyright for the publications made accessible via the Queen's University Belfast Research Portal is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

Take down policy
The Research Portal is Queen's institutional repository that provides access to Queen's research output. Every effort has been made to ensure that content in the Research Portal does not infringe any person's rights, or applicable UK laws. If you discover content in the Research Portal that you believe breaches copyright or violates any law, please contact openaccess@qub.ac.uk.

Download date:05. Lis. 2021

Environmental Policy in the EU

Actors, Institutions and Processes

Edited by
Andrew Jordan and Viviane Gravey

Fourth edition published 2021

ISBN: 978-1-138-39214-4 (hbk)
ISBN: 978-1-138-39216-8 (pbk)
ISBN: 978-0-429-40233-3 (ebk)

Chapter 20

EU environmental policy at 50: retrospect and prospect

Andrew Jordan, Viviane Gravey and Camilla Adelle

(CC BY-NC-ND 4.0)

DOI: 10.4324/9780429402333

Routledge
Taylor & Francis Group
LONDON AND NEW YORK

20 EU environmental policy at 50

Retrospect and prospect

Andrew Jordan, Viviane Gravey and Camilla Adelle

Summary guide

Over the last 50 years, environmental protection has emerged as one of the front-ranking objectives of the EU. Today, the EU has some of the world's most ambitious and comprehensive protection policies. This chapter begins by summarising the main characteristics of EU environmental policy. Second, it reflects on the challenges that the advocates of EU action overcame to build such a significant environmental role. It then analyses how and why the focus of policy making in recent decades has shifted away from securing the EU's legal authority to act, to more managerial priorities such as ensuring that existing policy is fully implemented and insightfully updated. Finally, it looks forward and identifies what is likely to challenge policy makers in the coming decades as the EU attempts to implement its bold Green Deal policies in the aftermath of the COVID-19 global pandemic.

> Economic expansion is not an end in itself. Its first aim should be to enable disparities in living conditions to be reduced. It must take place with the participation of all the social partners. It should result in an improvement in the quality of life as well as in standards of living. [P]articular attention will be given to intangible values and to protecting the environment, so that progress may really be put at the service of mankind.
>
> (Statement from the Paris Summit, 19–21 October 1972)
> (Bulletin of the European Communities, October 1972, No. 10)

Introduction

With this bold statement, the heads of the then 12 member states formally instigated a process of developing a common EU-wide environmental policy. Although some minor environmentally related items of policy were already on the EU's statute book in 1972, most environmental policies in Europe had until then been developed by states acting independently in their own distinctive national settings. While extensive and wide-ranging, these national policies did not fully address the increasingly transboundary nature of many environmental problems. The Paris meeting aimed to promote more coordinated environmental action. Shortly afterwards, the Commission began to steer the EU towards the European Council's vision of a more sustainable Europe – one that still seems remarkably visionary today, some 50 years later.

In 1972, other supranational bodies such as the OECD and UN were also embarking on similar journeys. But since then, the EU has moved further and faster than they

DOI: 10.4324/9780429402333-20

have towards a pattern of deep and enduring policy coordination. Today, environmental policy is a front-ranking political objective of the EU. It is also a relatively mature area of EU activity, which is 'broad in scope, extensive in detail and often stringent in effect' (Weale et al., 2000: 1). In many sub-areas of policy, which touch upon all levels of governance from the international right down to the street level, the EU is an advocate of high environmental standards. According to the EEA, they constitute 'the most comprehensive set of environmental standards in the world' (EEA, 2019: 61).

The chapters of this book have charted the EU's environmental 'journey to centre stage' (Haigh, 2016), pinpointing the key *actors*, *institutions* and *processes* of environmental policy making. The key *actors* include DG Environment, the Environment Committee of the European Parliament and the EEA, around whom orbit a number of other actors, including interest groups, scientific organisations and governmental bodies. The main *institutions* are both legal – chiefly the founding treaties and the main items of environmental law and policy – and procedural. Finally, new *processes* of policy making have been established which allow the EU to absorb political demands for collective action and fashion them first of all into policy outputs (laws, rules and policies) and, eventually, environmental improvements on the ground in the 27 member states.

The main aims of this concluding chapter are threefold. First of all, it summarises the main characteristics of EU environmental policy, emphasising those which most strongly distinguish it from international and national policy. Second, it characterises the EU as a complex, multi-levelled environmental governance system and identifies key challenges that advocates of greater EU action had to overcome since 1972. It reveals how and why their focus has shifted on from securing the EU's political and legal authority to act, to more managerial priorities such as ensuring that policy is fully implemented and insightfully evaluated. Third, it considers if EU environmental policy is now a system in equilibrium. Finally, it looks forward and identifies future challenges, including implementing the EU's bold European Green Deal in the aftermath of the global COVID-19 pandemic.

Summary points

- EU environment policy formally commenced at a meeting of heads of state in 1972.
- Over the next 50 years, the EU made far greater strides in developing coordinated protection policies than other broadly comparable supranational organisations such as the OECD and the UN.
- This chapter summarises the main characteristics of EU policy, outlines the challenges that the EU had to overcome to develop a role in the environmental sector and explores some of the challenges that may emerge in coming decades.

The main characteristics of EU policy

Over the last 50 years, environmental protection has been transformed from a rather discrete, 'niche' activity (Lenschow, 2020: 297) to a significant and wide-ranging policy sector in its own right, with distinctive actors, institutions and policy processes.

As it developed and matured, EU environmental policy has assumed certain defining characteristics, that differentiate it from policies developed at national and international levels. Without wishing to be exhaustive or to over-state the uniqueness of EU policy, the chapters of this book have revealed that it is:

- *Broad in its aims and focus:* its four overarching objectives are very succinctly stated in the Lisbon Treaty (TFEU, Article 19) (see Box 1.3). The focus of its protection activities is correspondingly wide-ranging, encompassing very specific sub-sectoral concerns such as waste, air and water pollution, through to those that impinge heavily on cognate sectors such as genetic modification, biofuels, carbon capture and storage and access to environmental information. In that respect, the cross-sectoral reach of EU environmental policy is little different to most national policies in the industrialised world.
- *Actively informed by (and has been engineered to give substantial effect to) a set of overarching policy principles:* these principles, which include the polluter pays, prevention and policy integration, are also well-established in UN law. But the EU has given them quasi-constitutional status, through enshrining them in its founding treaties (Benson et al., 2019), and used them to build seven comprehensive action programmes and many hundreds of items of law and policy. In fact, some of the principles have become almost synonymous with the EU. They include 'precaution', 'subsidiarity', 'sustainability' and 'environmental policy integration'. In a sense, they are the EU's 'specialisms' (Chapter 12) that embody its particular philosophy of environmental protection.
- *Relatively ad hoc in nature*: in spite of its breadth, scale and scope, EU policy is largely the product of 'political action but not of political design' (Weale et al., 2000: 488). It is an intricately embroidered 'policy patchwork' (Chapter 4) that emerged incrementally over time, rather than in response to a master plan drawn up in Brussels. Where problems spanned political borders or involved a clear trade dimension, the value added of EU involvement was more obvious and common policies were adopted relatively quickly. But many issues, which are now actively governed by the EU, have never exhibited a strong trade dimension: zoos, bathing and drinking water quality, waste water treatment, nature protection and renewable energy supplies for example. This feature has long puzzled scholars as other supranational organisations such as the UN do not ordinarily involve themselves in directly governing such local matters.
- *Mainly regulatory in nature*: despite many attempts to engage in policy instrument 'innovation' (Chapter 4), the EU still operates mainly as a 'regulatory state'. The lack of a legal base in the treaties supporting fiscal measures has certainly helped to retard the use of environmental taxes, as has political resistance from vested interests. Voluntary agreements have been trialled but not extensively employed at EU level. Nevertheless, the EU still has many more policy instruments in its toolbox than other international organisations.
- *Ambitious with respect to both its scope and its effect*: one of the most fundamental weaknesses of international policy is that it struggles to rise above the lowest common denominator of state preferences. But over the last 50 years, the EU has sought to go well above and beyond the lowest common denominator of member state preferences (see Chapters 4 and 11) and adopt policies that 'aim at a high level of protection'. In fact, this aim is enshrined as a treaty objective (TFEU, Article

191 (2)). The EU has done so for various reasons, including the entrepreneurial activities of actors such as the Commission and the Parliament, expansive rulings by the CJEU and the campaigning activities of environmental interest groups.

- *A powerful determinant of national policy and politics within Europe*: the first few items of EU policy may have landed on 'virgin ground' in the member states (see Chapter 7), but nowadays, almost all new policy development in Europe is determined in or involves the EU (Börzel and Buzogány, 2019). It is impossible to understand the environmental policy of any of the member states without understanding EU policy (Haigh, 2000), as the two have become inextricably intertwined. Europeanisation is the process through which EU-level policies affect and transform domestic policy and political systems. Scholars have shown that every member state has been deeply Europeanised by the EU since 1972, even the so-called environmental leader states (Chapter 5) that originally encouraged the EU to adopt high standards. In states with less well-developed environmental policies, the combined EU effect since 1972 has been even greater (Jordan and Liefferink, 2004). Crucially, EU policy creates a set of minimum standards which member states of all levels of ambition and internal capacity find difficult to regress from when, as often happens, political and economic conditions change (see Chapter 19). Finally, the EU does not simply Europeanise policy objectives and standards: it also disseminates policy processes such as impact assessment and *ex post* evaluation (Chapter 14), as well as, via its agencies such as EEA, the basic raw materials of policy development: scientific knowledge, monitoring data and best practices (Chapter 6).
- *Remains flexible enough to allow member states to maintain some distinctive national approaches*: while core aspects of national policy have become more similar through their interaction with EU policy, there has been no long-term convergence towards a standard 'EU-inspired' model or policy blueprint. The 27 member states routinely 'customise' EU policy requirements (Chapter 13) in noticeably different ways, but not to an extent that hinders trade. Despite what some Eurosceptics may think, 'Brussels' is not all powerful – there is a basic and fundamental 'diversity in unity' (see Chapter 4), which is facilitated by the widespread use of a specific type of policy instruments know as a directive, which dictate the ends to be achieved rather than the precise means of policy. Maintaining or adopting more stringent national measures remains possible in some cases (see TFEU, Article 193).
- *Affects standards in other parts of the world*: the EU is an international actor in its own right and a party to around 60 international environmental agreements – a right which was 'hard won' (see Chapter 15). Even today, the EU has no formal voting rights in the UN. International environmental diplomacy is, moreover, only one of several ways in which the EU seeks to give effect to its Treaty-based commitment (TFEU Article 193 (1) to address international environmental issues). Although its international ambitions have regularly overstretched its policy delivery capabilities (Adelle et al., 2018: 356) and there have been 'major disappointments' along the way (see Chapter 15), the EU has learnt to deploy a wide array of different levers, such as its 'market power' (Damro, 2012), to push other parts of the world to align with its preferred environmental standards – giving effect to what is sometimes known as the 'Brussels effect' (Bradford, 2020) (see also Chapter 3). On occasions, its efforts have triggered political disputes with some of its trading partners such as the US (in relation to plans to include international aviation in the EU ETS) and Canada (which objected to the EU's policies on tar sands)

(see Chapter 9). Soft and market power have also been repeatedly deployed much closer to home to influence environmental practices in aspiring member states via the formal mechanism of EU enlargement (Pollack et al., 2015: 477).

- *Are nevertheless heavily influenced by international policy processes.* For example, Chapter 16 noted that the conclusions of the 1972 Paris summit (quoted above) were a response to the world's first UN environmental conference held in Stockholm in June 1972. Similarly, the EU landmark ETS – the world's largest emissions trading system – would not have been created had the EU not previously signed up to an international (Kyoto) protocol in 1997 (Chapter 17). International and EU policies are in other words 'mutually constitutive' (Chapter 15). Aware of the potential political potency of this, the Commission has repeatedly sought out international agreements on matters such as the SDGs, in the hope that they would also boomerang back into the EU and foster political pressure for more ambitious internal policies (Jordan and Moore, 2020).
- *Has been relatively effective*: EU policy has delivered many important policy successes. But the EEA's most recent five yearly state of the environment report began by emphasising that the EU must nonetheless confront environmental problems of 'unprecedented scale and urgency' (EEA, 2019: 9). Time and time again, the scale and speed of human development has overtaken the EU's policy achievements (see also Selin and Van Deveer, 2015: 310). What is or is not done in the next ten years will be of 'decisive importance' if the EU wishes to implement the vision that lies at the heart of its Green Deal (EEA, 2019: 9).
- *Relatively popular with EU citizens*: unlike some other policy areas, the basic rationale for EU involvement in environmental protection is widely understood and appreciated by the public. Eurobarometer polls regularly attest to the relatively high levels of support for EU-level action (Eurobarometer, 2017), particularly on issues related to climate change (Eurobarometer, 2019). Although the public's support is not unconditional – on which more below – it nonetheless represents a significant and somewhat surprising achievement, given the relative remoteness of Brussels from national politics and the relatively limited effect that public opinion has in shaping EU policy agendas (see Chapter 10).

Summary points

- As it matured, EU policy assumed a number of unique characteristics, which differentiate it from international and state policy.
- These characteristics include policy that is: broad in focus; informed by guiding principles; mainly regulatory; and ambitious in scope and effect.
- Nowadays, EU policy is a powerful determinant of national policy and politics within Europe, but flexible enough to allow differences in national approach.
- Although less fully accomplished than its internally focused policies, the EU also has significant ambitions (and policies) to influence environmental quality outside Europe.

Environmental policy at 50: a stocktake

The EU as a system of multi-level governance

Having summarised the main characteristics of EU environmental policy, what about the wider political system in which it is embedded? As noted above, the EU does not fit easily into the conventional categories used by policy analysts, being neither a sovereign state nor a relatively toothless international organisation. Today, there are still the same basic levels of governance that existed in 1972 (i.e., international, national and sub-national), but the EU now constitutes a distinct level of governance in its own right. Moreover, at this new level, there are actors present that did not even exist in 1972. It may not always mean a great deal to those living outside the Brussels 'bubble', but it is politically significant that the environment has its own designated ministerial forum – the Environment Council (see Chapter 5). The European Parliament too has its own committee dealing with environmental affairs, and the EU has an agency – the EEA – based in Copenhagen, whose main task it is to collect and disseminate environmental knowledge. It is immensely important in politics to have strong institutional anchor points such as these, when national policy agendas are in constant flux (see Chapter 10). In addition to these anchor points, there are many other actors who, while being attentive to EU-level activities, principally operate at a national level (e.g., national ministries and agencies, national parliaments and political parties). Finally, the chapters of this book have also identified another set of actors that moves seamlessly between all the levels (environmental lobby groups and national civil servants, for example, as well as internationally oriented businesses and lobbyists, see Chapter 9).

If the EU is not a state or an international organisation, what kind of political system is it? The term that is often used to describe it is a system of 'multi-level governance'. As Börzel (2010: 191) and others have helpfully pointed out, the EU has hierarchical powers, including the ability to fine member states and withdraw their voting rights, but generally chooses not to use them. In other words, the governance of the EU operates in the 'shadow of hierarchy' (Börzel, 2010: 209). Green political theorists have long debated the form that the modern state should adapt to be environmentally optimal (Dobson, 2000). Many believe that states are too big and ponderous to deal with local matters, but too small and puny to deal with problems that span borders. Some maintain that in the EU, Europe has gradually settled on the best combination of both forms – the 'closest real-world approximation' that we have to a genuinely 'green state' (Eckersley, 2004: 251).

The 'process of becoming': challenges overcome

In Chapter 1, we noted that the EU has always been a work in progress – a 'process of becoming' (Laffan et al., 2000: 193). One point which emerges from the chapters in Part I is that over the last 50 years, this process has often been against the odds. First of all, EU policy originally lacked an uncontested basis in the Treaty of Rome (see Chapters 2 and 4 for further detail). This forced the Commission to rely on an *ad hoc* strategy of purposeful opportunism, i.e., focusing on the mundane technical task of how to harmonise standards in an emerging single market, rather than grand policy planning. Fifty years on, lawyers would prefer the *acquis* to be more neatly and logically organised around a set of clear underlying legal principles (Lee, 2014). But some messiness was arguably inevitable, given the Commission's necessarily incremental working strategy. Although things eventually changed in the 1980s, environmental

protection still does not enjoy the same status in the treaties as that of free trade (Chapter 7). When the two have conflicted, the latter has generally been treated as the overriding priority. Crucially, EU policies which restrict trade are 'always very carefully defined and bounded' (Sbragia, 2000: 223).

The second challenge was how to overcome the need for unanimous agreement in the Council (Deters, 2018: 317). This may not sound particularly important, but it is something that continues to hold back other supranational bodies such as the UN. The Commission responded by pushing for European 'integration by stealth' (Majone, 2009) – i.e., focusing on the detailed technical content of new legislative proposals whilst at the same time pushing for treaty changes, which eventually introduced more majority voting (see Chapter 1 for details) (Zito et al., 2019: 187). It is a measure of how far this process of constitutionalisation had progressed by the 2000s that the most recent amendment – the 2009 Lisbon Treaty – had relatively limited effect on most aspects of EU environmental policy making (but see Chapter 15). It is telling that this edition of the book is the first not to include a chapter dedicated to explaining the effects of recent treaty changes. Nevertheless, there are still some important sub-areas of environmental policy where the EU's role is not completely accepted – and hence the Council operates on the basis of unanimous voting. These include land use planning, green taxation and the selection of energy supplies.

Third, there has never really been a strong, EU-wide party–political coalition pushing for stricter environmental policies (Chapter 4). The Greens have been the most consistent champions and have enjoyed repeated electoral success in Northern states and of course in the Parliament itself (Chapter 8). But even today, they have very little presence in the southern and the eastern parts of the EU (in the 2019 Parliamentary elections, not a single Green MEP won a seat in the 'EU 12' or Italy). Many EU policies have, however, imposed significant adaptation costs on some member states as well as powerful actors such as businesses (Chapter 9). Policies that do this tend to foster political opposition against themselves, eventually slowing down or halting new policy adoption. But by acting stealthily and employing consensus-forming strategies (e.g., delaying the imposition of costs into the future, using side payments and engaging in package dealing – see Chapter 10), pro-environmental actors have been able to expand the stock and scope of EU environmental policy measures. In fact, many actors that initially opposed EU action – the water, waste and energy supply industries to name just three – eventually benefited massively from the greater investor confidence that EU policies provided, and now actively support greater EU action. In other words, strong policies have, through time, created new political dynamics supporting a higher level of protection. In the policy sciences, this phenomenon is known as policy feedback (Jordan and Moore, 2020).

Fourth, the EU has always had – and in all probability will continue to have – a strongly 'economic bias' (Chapter 2), focusing strongly on the removal of barriers to trade (see Chapters 9–11). Even after 50 years of steady policy expansion, EU environmental policy makers still enjoy much weaker enforcement powers than those working in the trade and competition sectors (see Chapter 7). At a general level, policy theory – and specifically Anthony Downs' account of political agenda setting (see Chapter 19) – suggests that economic factors repeatedly disrupt and retard policy expansion. However, pro-environmental actors have nonetheless managed to invent strategies to spot and exploit synergies between environmental protection and the pursuit of economic growth – such as via the ideological framings of ecological modernisation and 'green growth' (Chapters 9 and 16). As Chapter 10 made clear, framing a new policy proposal

in such terms has become a tried and tested agenda-setting tactic within Brussels. For example, in 2011, DG Environment (2011) produced a consultancy report that sought to calculate the net social costs of *not* implementing EU environmental rules. But other areas of EU action, such as biodiversity protection or access to information, have found it harder to reframe their ideas in more politically tractable ways, hence the emerging debate about the bio-economy and ecosystem services (Chapter 16).

Starting in 2004, the EU was confronted by two further challenges which together forced a more fundamental reappraisal of both the means and the ends of policy. First of all, the number of member states began to change quite significantly. The EU has repeatedly expanded in the past 50 years, from just 6 states in 1957 to 27 in 2020, although mostly for 'non-environmental' reasons. Each new wave of entrants increased the economic, social and administrative diversity of the EU, but somehow EU environmental policy continued to march onwards. With regards to the first enlargement (in 1973, when the UK, Ireland and Denmark joined), the environment was hardly salient at all (Selin and Van Deveer, 2015: 322). The 1981 enlargement (to include Greece, Portugal and Spain) raised more significant environmental issues but these did not significantly disrupt the steady rhythm of EU environmental policy expansion. And the next (1995) enlargement – when the Nordic member states and Austria joined – arguably strengthened the group of environmentally progressive states in the Council (see Chapters 2 and 5).

However, the 2004, 2007 and 2013 enlargements were quantitatively and qualitatively very different, rapidly increasing the size of the EU (from 15 to 28 member states) and significantly altering internal power dynamics (see Chapters 2 and 4). Relatively quickly, the EU was transformed from an economically relatively homogenous West European club to one that is now truly pan-European, encompassing states at very different level of industrial development. Initial fears that such a sudden increase in diversity would immediately lead to institutional paralysis were not borne out, however. Indeed, the associated growth in the EU's combined 'market power' arguably strengthened the EU's hand in international negotiations on the environment, on trade and other matters (see Chapter 15).

Nevertheless, the post-2004 enlargements have undoubtedly impacted the internal political dynamics of policy making, raising doubts as to whether the traditional and mostly informal methods of manufacturing consensus – package dealing, side payments, fluidity in matters of external representation (see Chapters 10 and 15), etc. – are still fit for purpose. In the Council, a new subgroup – the Visegrad Group – formed and began to retard the pace and scope of climate and energy policy making. The Group's determination to water down the EU's 2008 climate energy package was an early harbinger of what was to follow (see Chapter 5). In 2019–2020, the Group again made its presence felt, delaying the EU's attempts to adopt a net zero greenhouse gas reduction target (by 2050) and complicating the adoption of a new interim reduction target for 2030 (the existing target of 40% was adopted before the signing of the Paris climate Agreement). However, it is an open question as to whether recent enlargements significantly worsened the EU's overall implementation record; research reported in Chapter 13 reveals that the compliance records of the post-2004 member states may be as good if not better than the EU-15's. Nevertheless, whether or not the EU still has, in the light of these experiences, the political appetite to absorb more member states, e.g., from the Western Balkans, is a very salient question indeed.

Meanwhile, the size of the EU changed again in 2020 when, for the very first time, a member state (the UK) departed the EU. Before Brexit, the EU had only ever enlarged.

Although the EU only reduced by one state, the UK was an especially large and economically powerful one. When the shock result of the EU referendum was announced in 2016, it prompted a great deal of fevered speculation that it might embolden other states to head towards the exit door, culminating in a gradual unravelling of the whole Union. At the time of this writing, this has not happened. Indeed, the EU-27 have managed to maintain unity throughout the politically fraught exit negotiations and on into the negotiation of a new trading agreement. As Chapters 5 and 19 made clear, Brexit will eventually feed through to and influence EU-level policy-making dynamics (the UK was an especially consistent advocate of stronger climate policies and better regulation-type initiatives). But in the meantime, most of the uncertainty has been around the future scope and stringency of UK policy and governance as the country attempts to establish a new relationship with the EU and other trading partners.

The second additional challenge was the long period of economic austerity that unfolded in the wake of the 2008 financial crisis. The EU's willingness to engage in international environmental leadership certainly faltered in the wake of the crisis, most spectacularly at the Copenhagen Climate Summit. After 2009, the EU struggled to agree more ambitious emission reduction targets (Jordan and Moore, 2020), some claiming that to do so would encourage large industries to re-locate to states with lower standards ('carbon leakage'). Environmental groups warned that the various bailouts provided to indebted member states and business sectors such as car manufacturing would help to lock in dirty sources of energy and unsustainable, road-based patterns of transport. It is widely accepted that the first new (Juncker) Commission after the crisis gave far less political emphasis to environmental issues than its predecessors (Burns and Tobin, 2016), prompting fears that environmental policy as a whole would not simply stagnate, but go into reverse. During the Juncker Commission, the environment and fisheries Commission portfolio were merged, major new proposals (on soil protection and a circular economy) were withdrawn and fundamental evaluations of keystone policies (namely, the nature directives) were announced with an eye towards reforming them. And there was a marked decline in the number and stringency of new environmental policies adopted after 2008 (Wurzel et al., 2019; Burns et al., 2020). But as Chapter 19 made clear, there was no significant dismantling of existing policies.

Summary points

- The EU has constructed a multi-levelled system of environmental governance which is unique in the world.
- While the EU has access to relatively strong hierarchical powers, they are rarely deployed in practice; EU governance generally operates in the shadow of hierarchy.
- Over time, EU policy has overcome a number of challenges, including the absence of a secure basis in the Treaty of Rome and the need for unanimity in the Council.
- After 2004, the EU confronted two additional events which heavily challenged established dynamics of policy making: persistent economic austerity and repeated alterations in EU membership (including Brexit).

The EU: an environmental governance system in equilibrium?

Environmental policy enters a new era?

In the period since the publication of the third edition of this book (2013), the EU has adopted a number of significant new policies and initiatives, for example:

- On *sustainable finance,* a detailed 'taxonomy' of what constitutes green investments, as part of a wide package of legislative measures aimed at fostering financial sector involvement in and channelling capital towards more sustainable economic measures. In time, the EU hopes to use this taxonomy to determine 'green labels' for green bonds and other investment products.
- An extensive package of new *climate and energy policy measures* to deliver on the EU's 2030 framework. These included revisions to many existing directives on, for example, emissions trading and renewable energy (RED II) (Jordan and Moore, 2020). Interestingly, the new emissions trading directive provides for the creation of a new environmental fund (the Modernisation Fund), replenished from the auction of emission allowances, to support low-carbon energy projects.
- A *circular economy action plan* to ensure that resources are used more intensively. Launched in 2020, it includes proposals for six new directives on waste and a new strategy on plastics. One important theme of the plan is to extend existing eco-design rules beyond energy performance to cover other aspects such as durability and repairability (i.e., to address the throwaway society).
- A high-profile *Directive on single use plastics* – making it illegal to market plastic cutlery and expanded polystyrene cups (see Box 10.1) – and a *Regulation on CO_2 emissions form lorries.* The share of the EU's greenhouse gas emissions from the transport sector is projected to rise in the future and this new law is the first time that lorries have been subject to binding greenhouse gas emission controls at EU level.

In addition to these, in December 2019, the Commission launched, with great fanfare, a European Green Deal that aims to put the EU on a new growth trajectory (COM (2019) 640, final). The detailed contents were summarised in Chapters 12 and 16, but amongst the most eye-catching elements were a series of what the Commission promised would be 'deeply transformative policies' (COM (2019) 640, final: 4), including:

- *A new Climate Law* – which will set the EU on a path to become the first climate neutral continent in the world, i.e., requiring all emissions to be reduced effectively to zero within 30 years (i.e., 2050).
- *A proposal to tighten the existing 2030 emission reduction target to 50% and possibly 60%* to ensure that the EU is firmly on track to be the world's first climate-neutral continent by 2050. By 2021, all relevant existing climate-related policy instruments will be reviewed and where necessary revised in light of this challenging new target (COM (2019) 640, final: 4–5).
- *A 'green oath'* – to ensure that all future policy proposals 'do no harm' to the environment (COM (2019) 640, final: 19). These new policy proposals will address significant ongoing *biodiversity loss, promote environmentally friendly farming ('Farm to Fork') and significantly reduce the use of polluting chemicals.*

Finally, the Commission proposed a brand new (eighth) EAP setting out a road map for 'decisive further action in the EU and globally (…) that gives back to the planet

more than it takes' (COM (2020) 652 final: 1). EAPs have often been criticised as more aspirational than transformative. But the new programme sets clear targets for the EU (covering climate neutrality, the delivery of a just decarbonisation transition and the UN SDGs) and, critically, offers new tools to hold the EU accountable for fulfilling them. These tools include a new monitoring mechanism and a pledge to comply fully with the Aarhus Convention (see Chapter 18), which will make it possible for interest groups to challenge EU decisions which have general, not only individual, scope (on the crucial issue of legal standing, see Chapter 7).

… or a system in equilibrium?

The European Green Deal was as puzzling as it was impressively presented, because it emerged at a time when many observers thought that EU environmental policy had attained a state of political and institutional equilibrium, which befitted a middle-aged organisation. If the initial phases of policy making (described in Chapter 2) were dominated by the youthful urge to build institutions, occupy new policy niches and establish a legal toehold, the 'high period of EU environmental policy ambition [was] over' by the mid to later 2010s (Burns et al., 2019: 3). In the third edition, we already noted the marked reduction in the output of new legislation after 2004; those policies that were adopted tended to incorporate greater flexibility, allowing member states to integrate at different speeds (Deters, 2018: 321). Suddenly, the salient political issues were not whether the EU should be involved, but more procedural ones such as how it should act, with whom and for what purpose (see also Chapters 10 and 19). Matters such as openness, transparency, policy coordination, policy implementation and *ex post* evaluation have long concerned national-level policy makers. Their growing salience at EU level did not imply an end to environmental politics, but suggested that a more managerial kind of politics had gradually taken over.

There were several notable features of the more managerial politics that took root in the 2000s and 2010s. They stemmed from a recognition that after decades of policy expansion, greater effort probably should be devoted to ensuring that the *acquis* remained up to date. The Commission responded by establishing new processes for these purposes – impact assessment, fitness checking and so on – which turned out to be every bit as political as the initial phases of EU policy environmental policy.

Second, the more managerial politics took root because several actors had adapted their own preferences and strategies to changing external events. For instance, the Council arguably became more split, particularly along an East–West axis, with particular sub-groups emerging and blocking agreement when it did not suit their interests. The European Council has begun to take a more active interest in environmental and particularly climate policy making, reducing the scope for the EU institutions to act on their own initiative. The EU institutions are themselves also exercising more self-restraint, resulting in shorter, more 'selective' bursts of policy activism (Chapter 19). The Commission is arguably not as entrepreneurial as it once was (Deters, 2018: 321). It probably realises that it does not always have to be entrepreneurial – its basic competence to act has more or less been accepted by the other actors. In fact, recently, it offered to share some of its agenda-setting power with the Parliament (Chapter 6). Meanwhile, the Parliament also became a more fragmented legislature making it harder to build internal coalitions favouring new policy action. It is also using its own hard-won powers more selectively (see Chapter 9).

Understanding and implementing transformative policy change

So, what changed in the late 2010s to facilitate the unexpected emergence of the Green Deal? Agenda-setting theories, neatly summarised in Chapter 10, offer some important clues. First of all, in 2019, there was a sudden burst of public interest in environmental issues, following a series of high-profile school strikes initiated by the teenage activist Greta Thunberg and public marches in many European capitals which were attended by many hundreds of thousands of people. Other radical activist groups such as Extinction Rebellion began to alter the framing of climate change from highlighting the business opportunities to underscoring the fact that they represented an urgent almost existential crisis. Other environmental groups extended this framing to issues such as biodiversity loss and plastic waste in oceans, using the same crisis-laden terminology. In its 2019 state of the European environment report, the EEA predicted that the EU would fall well short in fulfilling the goals identified in the Seventh EAP. In spite of progress in some areas, it underlined the need for a suite of new policies that generated faster and more transformative change in the underlying systems of food production, transport and energy supply (see also Eurostat, 2019).

Second, the EU came under greater pressure to live up to the international commitments to deep decarbonisation that it had entered into at the 2015 Paris conference, illustrating yet again the politically potency of the inside-outside dynamic outlined above and in Chapter 15. Third, on the back of these developments, the Green political parties did spectacularly well in the May 2019 European elections, increasing their seats by 50%, which for a period, made them the fourth largest political grouping in the Parliament. This 'green wave' forced Ursula von Leyen to pivot towards environmental issues to secure her election as the next Commission President. As part of her pitch, she even placed the environment at the top of her list of political priorities during her term in office (2019–2024). Once elected – and within the first 100 days – her Commission published the European Green Deal outlined above, which made repeated references to the need for 'deeply transformative' policies (COM (2019) 640, final: 4). In fact, on her very first day as President, she told world leaders that the Green Deal was 'Europe's new growth strategy' which would not simply set the EU on a radical new course, but drive a new wave of economic development that bound the whole continent closer together. It was heady and relatively novel stuff – the mere idea that a Commission President would make such bold promises would have seemed completely far-fetched even a few years earlier. Suddenly, the environment and climate change were being presented not just as important aims of EU action, but *the* most important aims towards which all other sectors would align. She likened it to putting the first man on the moon (Nicolas, 2019) – immensely challenging, but feasible if there was sufficient political will.

The sudden change from managerial to transformational 'man on the moon' politics and policy making certainly poses significant analytical challenges for EU scholars. Over the last 50 years, EU environmental policy has adopted a range of different forms. Alongside, the standard legal instruments of policy (Directives, Regulations, etc.), there are now myriad secondary laws (delegated acts) (Lee, 2014) as well as methods of open coordination such as the NECPs that are less hierarchical than legal harmonisation. Add in the fact that all these policy forms can potentially move in a more or less ambitious/stringent direction, and it becomes clear why academics are struggling to comprehend the changing scope and ambition level of EU policy.

For example, in seeking to determine whether policy is being dismantled, should they count the number of policy items or assess their stringency or concentrate on how they are being implemented (Chapter 19)? To complicate matters still further, how should they assess the effects of environmental policy beyond the EU's borders – a significant policy phenomenon (EEA, 2019) but one that is fiendishly complex to study across space and time (Adelle et al., 2018)? It does not help that the EU's influence is projected externally via a mixture of interacting policy mechanisms (development assistance, internal policies, forms of technical assistance, free trade agreements, etc.), which affect different parts of the world at different rates (Kettunen et al., 2020). In short, as the scale and reach of EU environmental policy has grown, so has the analytical difficulty of describing and explaining it.

Summary points

- The more managerial politics of the 2000s and 2010s were characterised by the discussion of seemingly technical issues such as policy refinement and updating.
- By contrast, the Commission presented the European Green Deal as a 'man on the moon' strategy to shift the EU onto a radically different growth trajectory.
- It arose from an unexpected confluence of different factors: more urgent scientific warnings of imminent environmental crises; the rise of new, radical action groups; and mounting public concern.

Looking to the future: emergent challenges and opportunities

The EU's apparent determination to embark on a new growth strategy certainly poses a number of immediate, practical challenges. This section examines what these are likely to be, starting with the most immediate and obvious of all (how will the EU achieve what it now wants to do?). Then, it moves on to examine questions of a more existential nature (e.g., the EU's relationship with its citizens and, ultimately, its ultimate purpose in life). Crucially, the newer challenges are themselves layered on the existing challenges outlined above – greater internal differentiation, economic austerity, etc.

The first and perhaps most obvious immediate challenge is ensuring that the EU has the capacity to deliver on the sweeping policy promises contained in the Green Deal. The Commission's initial Communication pointedly referred to the need to harness 'all policy levers' (COM (2019) 640, final: 4), including entirely new instruments such as a carbon border adjustment tax to prevent carbon leakage and meet some of the projected costs of the EU's unprecedented, multi-billion Euro COVID-recovery plan (see Chapter 6 for details). We have already noted that EU policy is still largely pursued via regulatory means. Crucially, when they have been employed, the alternatives have not always outperformed regulation (the voluntary agreement on car emissions being a good example, see Jordan and Moore, 2020). The EU has also innovated in the way that it has adopted new policy-making procedures (Impact Assessment, for example)

and/or governance processes to cover issues in which its competence is contested (e.g., the use of the Open Method of Coordination in the area of climate change adaptation and climate/energy planning).

But does it genuinely have the capacity to transform whole systems of production and consumption commensurate with net zero emissions? Regulation will probably have an important part to play in the way the EU responds, but its limitations are well known and difficult to overcome (Chapter 17). In spite of repeated efforts to address the situation, something as apparently straightforward as implementing the existing stock of laws and policies stubbornly remains the 'Achilles' heel' of EU policy (Chapter 13), as the EEA and many others have repeatedly pointed out (EEA, 2019: 423). The Green Deal also makes bold promises to deliver greater cross-sectoral policy coordination – another challenge that the EU has repeatedly struggled to overcome since 1972 (see Chapters 12 and 16).

The second challenge relates to whether the EU has the capacity to fulfil ambitious environmental and climate objectives in an era of persistent economic constraint. In the early 2000s, European leaders tried to improve the economic competitiveness and productivity of the EU as part of a concerted effort to keep pace with the rising economic powers of Brazil, India and, most of all, China. After the start of the financial crisis in 2008, environmental policy began to be portrayed as an expensive luxury and, as noted above, new policy ambitions were significantly scaled back. In the late 2010s, the political appetite for policy expansion began to recover, resulting in the European Green Deal. But no sooner had this been launched, than the EU succumbed to another economic crisis, related to the COVID-19 pandemic.

Initially, the Commission sought to use the pandemic to entrench support for a Green Deal-led recovery, underpinned by a massive financial recovery package. Signed off by the European Council after marathon talks in July 2020, the package supplemented the EU's normal seven-year spending plan (MFF) with up to euros 750 billion of borrowed money (dubbed 'Next Generation EU') that will be handed out to member states in the form of grants and loans. Crucially, at least 30% of the MFF will be devoted to spending that supports climate change. The plan is that the Next Generation EU will be partly paid for via the sale of ETS emission allowances and, possibly, the proceeds from the Carbon Border Adjustment Tax. Nevertheless, it remains to be seen whether the political consensus that originally bore the Green Deal and COVID-19 recovery packages can be maintained into the future, particularly if job losses and costly economic impacts begin to stack up. Or to put it slightly differently, will the Green Deal mark a new phase of EU environmental policy making, or the continuation of existing dynamics? The answer to this question will become apparent as the EU starts to work through the fine detail of implementing both.

Third, there is the ongoing challenge of ensuring that the EU remains democratically legitimate. No system of governance – let alone a young, multi-levelled one with relatively insecure democratic foundations – can possibly hope to endure unless it is seen as legitimate by its citizens. As discussed in Chapters 2, 4 and 18, the EU began life as 'an elitist project', supported by an implicit acceptance amongst the public that deeper European integration was an inherently good thing. Environmental policy has benefited greatly from the Monnet Method of integrating 'by stealth' (Weale et al., 2000: 488). There is mounting evidence to suggest that citizens have become disillusioned with this way of working. After 2000, turn-out at European parliamentary elections declined significantly and anti-EU political parties began to emerge. Some

argue that the passive consensus in favour of 'more Europe' has been replaced by a 'constraining dissensus' (Hooghe and Marks, 2008).

So what is to be done about it? One option is to concentrate on producing more of the policy outputs that citizens appear to care about. This is what political theorists term 'output legitimacy' and it is what EU environmental policy makers have arguably spent the past 50 years building up. As noted above and in Chapter 18, Eurobarometer polls regularly cite the environment as one of the most popular of all the EU policies. However, it is an open question whether output legitimacy is capable of underpinning the delivery of something as broad ranging and ambitious as the European Green Deal, particularly if it impinges on the daily lives of EU citizens. While a radical shift to low-carbon technologies maybe a source of growth and jobs for the Eurozone as a whole, it will inevitably cause disruption in areas that are heavily reliant on the production of fossil fuels such as coal or vehicles powered by internal combustion engines.

In practice, legitimacy has at least two faces or sides (Scharpf, 1999). Another way to enhance the legitimacy of the EU may therefore be to focus more on the input side, for example, by involving citizens directly in EU decision making. Hix (2008) is of the opinion that the EU could and should do more to legitimise itself by undertaking institutional reforms which politicise issues that affect the lives of its citizens, and thus draw more of them into its orbit. In theory, this idea sounds very appealing. The Treaty of Lisbon went some way towards strengthening the input side by empowering the European Parliament and allowing citizens to directly petition the Commission to legislate in new areas (the European Citizen Initiative, see Chapter 18). Steps have also been taken to make EU activities more open and transparent. However, the chapters of this book have revealed that EU is also incredibly complicated; to be fair, a good deal of environmental policy making is concerned with very dry technical details. Communicating the complexity but also the importance of EU policy to citizens is hugely challenging. In the past, policy complexity tended to favour special interest groups who mobilised in Brussels and Strasbourg to secure selective benefits for their members (Hix, 2005: 407). Complexity also allows politicians to hedge their bets by playing blame games (Chapter 18), i.e., claiming the credit for EU policies that deliver, but blaming the EU when things go wrong. Environmental lobby groups tend not to engage in such games, but nor do they always satisfactorily explain the role or importance of the EU to their supporters (see Chapter 9). Consequently, when the EU does environmental things well, many of its citizens (and not simply those in the UK) fail to notice.

At present, EU environmental policy is scoring relatively well in terms of output legitimacy, but is evidently still finding it difficult to shake off some of the habits of the past. Its automatic reflex is, when challenged, to act stealthily to adopt new policies. In the Environment Council, for example, a very high percentage of policy dossiers are agreed without any open discussion. Even the Parliament – the EU's only directly elected institution – uses informal trilogues to avoid policy dossiers becoming stuck in long and drawn-out conciliation negotiations. The role of the plenary is then restricted to rubber stamping what has been agreed behind closed doors.

The fourth and final challenge is probably the most existential of all: to decide what is to be the main purpose and hence direction of EU integration. From its inception in the 1950s, the EU has been an elite political project to repair war-torn Europe. EU environmental policy originally emerged as a reaction to the overly economic nature of those foundational ideals. After 50 years of more or less continuous development, environmental policy makers have managed to establish environmental protection as

one of a number of front-ranking objectives of the EU, now formally enshrined in the founding treaties and supported by a powerful network of environmental committees, ministries and agencies, as well as pressure groups and political parties. Given the rather unfavourable starting conditions that pertained in 1972, this must count as a significant achievement.

But sterner tests arguably still lie ahead. More and more people have started to question the EU's ultimate purpose, in much the same way as heads of state did in Paris 50 years ago. In the late 2010s, an alternative vision – broadly speaking environmental sustainability – long promoted by the environmental sector was grasped by the Commission, reformulated into a European Green Deal and presented as a 'moonshot' vision for the entire EU to aim for. The Commissioner charged with overseeing its implementation, Frans Timmermans, has admitted that it demands nothing less than a 'tectonic shift in the way our society is structured' (Financial Times, 2020). Time will tell whether the EU is capable of rising to such a momentous challenge. One thing is clear though: whatever eventually emerges from the EU's efforts, they will have wide-ranging and potentially long-lasting impacts on those who live within and well outside its borders.

Summary points

- The EU's apparent determination to embark on a 'new growth strategy' requires it to overcome a number of significant challenges that are well known and long running.
- These include employing different types of policy instruments, addressing implementation gaps and integrating an environmental dimension in the operation of all policy sectors.
- Sustainable development requires more than the mere adoption of greener technologies; delivering a European Green Deal will also challenge the EU's already contested democratic legitimacy to act.
- Regardless of how well the EU performs, its actions will have wide-ranging and long-lasting impacts well beyond its borders.

Key questions

1 What are the defining characteristics of EU environmental policy?
2 In what ways is EU environmental policy similar to policies found at the national level within and outside the EU?
3 How does the current, COVID-19-dominated phase of environmental policy making differ from previous phases?
4 What challenges – big or small – are likely to emerge in the next 50 years or so, and how likely are they to be overcome by EU and national-level policy makers?
5 Which do you think are likely to be the most difficult challenges, and why?

References

Adelle, C., K. Biedenkopf and D. Torney (2018). *European Union External Environmental Policy.* Palgrave Macmillan, Basingstoke.

Benson, D., V. Gravey and A.J. Jordan (2019) Environmental policy, in M. Cini and N. Pérez-Solórzano Borragán (eds) *European Union Politics*, 6e. Oxford University Press, Oxford, pp. 373–386.

Börzel, T. (2010) European governance: Negotiation and competition in the shadow of hierarchy, *Journal of Common Market Studies*, 48, 2, 191–219.

Börzel, T. and A. Buzogány (2019) Compliance with EU environmental law. The iceberg is melting, *Environmental Politics*, 28, 2, 315–341.

Bradford, A. (2020) *The Brussels Effect*. Oxford University Press, Oxford.

Burns, C., P. Eckersley and P. Tobin (2020) EU environmental policy in times of crisis, *Journal of European Public Policy*, 27, 1, 1–19.

Burns, C. and P. Tobin (2016) The impact of the economic crisis on EU environmental policy, *Journal of Common Market Studies*, 54, 6, 1485–1494.

Damro, C. (2012) Market power Europe, *Journal of European Public Policy*, 19, 5, 682–699.

Deters, H. (2018) European environmental policy at 50, *Environmental Policy and Governance*, 29, 315–325.

Dobson, A. (2000) *Green Political Thought* (3e). Routledge, London.

Eckersley, R. (2004) *The Green State*, MIT Press, Cambridge, MA.

EEA (European Environment Agency) (2019) *The European Environment: State and Outlook*. EEA, Copenhagen.

Eurobarometer (2017) *Special Eurobarometer 468: Attitudes of European Citizens towards the Environment*. DG COMM, Brussels.

Eurobarometer (2019) *Special Eurobarometer 490: Climate Change*. DG COMM, Brussels.

Eurostat (2019) *Sustainable Development in the European Union, 2019 Edition*. European Commission, Brussels.

Financial Times (2020) The energy transition will not come cheaply, *Financial Times*, 17-1-20.

Haigh, N. (2000) *Manual of Environmental Policy*. Elsevier, London.

Haigh, N. (2016) *EU Environmental Policy: Its Journey to Centre Stage*. Routledge, London.

Hix, S. (2005) *The Political System of the EU*. Palgrave, Basingstoke.

Hix, S. (2008) *What's Wrong with the European Union and How to Fix It*. Polity Press, Cambridge.

Hooghe, L. and G. Marks (2008) A postfunctionalist theory of European integration, *British Journal of Political Science*, 39, 1–23.

Jordan, A.J. and D. Liefferink (eds.) (2004) *Environmental Policy in Europe*. Routledge, London.

Jordan, A. and B. Moore (2020) *Durable by Design? Policy Feedback in a Changing Climate*. Cambridge University Press, Cambridge.

Kettunen, M., E. Bodin and E. Davey, et al. (2020) *An EU Green Deal for Trade and the Environment*. IEEP, Brussels.

Laffan, B., R. O'Donnell and M. Smith (2000) *Europe's Experimental Union*. Routledge, London.

Lee, M. (2014) *EU Environmental Law, Governance and Decision-Making* (2e). Hart Publishing, Oxford.

Lenschow, A. (2020) Environmental policy, in H. Wallace, M. A. Pollack, A. R. Young and C. Roederer-Ryning (eds.) *Policy-Making in the European Union* (8e). Oxford University Press, Oxford, pp. 297–320.

Majone, G. (2009) *Europe as the Would-be World Power*. Cambridge University Press, Cambridge.

Nicolas, E.S. (2019) Von der Leyen: 'Green deal is our man on the moon moment', *EU Observer*, 19-12-19.

Pollack, M., H. Wallace and A. Young (2015) Policy Mmaking in a time of crisis, in: M. Pollack, H. Wallace and A. Young (eds.) *Policy Making in the European Union* (7e) (pp. 467–488), Oxford University Press, Oxford.

Sbragia, A. (2000) The EU as coxswain, in J. Pierre (ed.) *Debating Governance*, Oxford University Press, Oxford, pp. 219–240.

Scharpf, F. (1999) *Governing in Europe*. Oxford University Press, Oxford.

Selin, H. and S. VanDeveer (2015) Broader, deeper and greener: EU environmental politics, policies, and outcomes, *Annual Review of Environment and Resources*, 40, 309–335.

Weale, A., G. Pridham and M. Cini et al. (2000) *Environmental Governance in the EU*. Oxford University Press, Oxford.

Wurzel, R.K., D. Liefferink and M. DiLullo (2019) The European Council, the council and the member states, *Environmental Politics*, 28, 2, 248–270.

Zito, A., C. Burns and A. Lenschow (2019) Is the trajectory of EU environmental policy less certain? *Environmental Politics*, 28, 2, 187–207.