

Policy dismantling at EU level: Reaching the limits of ‘an ever-closer ecological union’?

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Abstract

Having explained their adoption, analysts are now trying to understand how EU environmental policies have subsequently evolved over time. In 2003, David Vogel famously speculated that having overtaken the US in the environmental race to the top, EU policies would also eventually succumb to policy gridlock, i.e. neither expanding nor dismantling. Empirical research has since confirmed that EU policy expansion is in decline, but less is known about why dismantling has also been very limited. This article breaks new ground by reconfiguring dismantling – a concept developed for national policy systems – to explain the various dismantling strategies deployed at EU level (1992 to 2016). It finds that the absence of significant dismantling is due both to the symbolic nature of early dismantling attempts and the failure of more recent attempts to build coalitions that overcome institutional obstacles to policy change in the EU.

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Introduction

Leadership in the development of new policies has been a longstanding theme in environmental policy analysis. The conventional wisdom is that until the 1980s, the US was the world's environmental lead state. Its environmental policies were demonstratively more ambitious than the EU's. But in a highly influential article published in 2003, Vogel argued that things started to change after 1990. His core claim – that throughout the 1990s the European 'tortoise' gradually caught up and, in many respects, overtook the American 'hare' as political opposition to new policies grew – has been repeatedly confirmed by subsequent developments (Vogel 2012). Into the early 2000s, the EU continued to move seemingly ineluctably towards what Weale *et al.* (2002) termed an 'ever closer ecological union'. And in international negotiations, evidence of the EU exerting its power to push up international standards, has continued to accumulate (Selin & VanDeveer 2015) – such as in the area of climate change (Oberthür & Groen 2017).

Meanwhile, Vogel argued that weakened support for new policies in the US after 1990 also went hand in hand with political demands for what he termed policy roll-back – or what is now more commonly referred to as policy dismantling i.e. 'the cutting, diminution or removal of existing policy' (Jordan, Bauer, & Green-Pedersen 2013, p. 795). These demands were amplified in the subsequent W. Bush and Trump administrations (Layzer 2012, Klyza & Sousa 2013, Bomberg 2017). When Vogel completed his 2003 article, attempts to achieve dismantling were also running into political opposition, this time from pro-environment interests. The net result of limited expansion and limited dismantling was what he termed policy gridlock (*ibid*).

Vogel concluded his article with a bold prediction: that having caught up with the US, the EU would continue to follow in its footsteps, gradually moving in a *less* environmentally ambitious direction. Crucially, he claimed that the state of policy gridlock in the US after 1990 would ‘at some point occur in Europe’ (Vogel 2003, p. 580). But has it?

EU environmental legislation has grown from a few dozen laws in the 1970s to over 400 pieces (Delreux & Happaerts 2016). This growth has been at the heart of the EU’s emergence as an environmental ‘Regulatory State’ (Majone 1999) and has attracted the attention of many policy scholars. Their work has revealed that after three decades of significant policy expansion, the Commission significantly reduced the number of new policy proposals after the late 2000s. Policy sectors such as the environment and health were particularly heavily affected (Kassim, Connolly, Dehousse, Rozenberg, & Bendjaballah 2017). This pattern of events has confirmed the first part of Vogel’s prediction: that policy expansion would stall.

What about the other part: that policy dismantling would fail? The rapid rise up the EU’s agenda of new discourses of better regulation and ‘fitness checking’ has certainly attracted the attention of analysts (Gravey & Jordan 2016; Steinebach & Knill 2017). But studies of environmental policy dismantling at EU level have been much more limited. Dismantling has generally been studied at national, rather than at EU level. Over three decades ago, Hanf (1989), for example, analysed the deregulation of environmental policy in the Netherlands. More recently Jordan & Turnpenny (2012) and Bernauer & Knill (2012) have studied dismantling in the UK and Germany respectively. Initial studies of the content of policies at EU level, have, however, suggested that significant dismantling is not occurring at EU level.

Various studies (e.g. Gravey 2016; Schaffrin, Sewerin, & Seubert 2015; Steinebach & Knill 2017; Burns, Eckersley & Tobin 2019) have, for example, pointed out that in spite of multiple political demands for and discourse of policy dismantling, EU environmental policies have not been dismantled across the board. In fact, in some cases the policies targeted for reform have become *more* not less stringent (Benson & Jordan 2014).

Hence, growing political demands for policy dismantling in the EU are not (yet) translating into significant policy change. What we do not really understand is why. In this article we make an original contribution by investigating how far the observed absence of significant policy dismantling can be explained by analysing the various dismantling strategies that have been deployed, i.e. the ‘mode[s], method[s] or plan[s] chosen to bring about a desired dismantling effect’ (Bauer & Knill 2014, p. 37). We address the puzzling co-existence of growing dismantling discourses but limited dismantling of policy outputs by paying closer attention to the intervening process: namely the selection and implementation of dismantling strategies. We do so by analyzing the selection and deployment of dismantling strategies at EU level over an extended period of nearly 25 years (1992 – 2016). This period extends from the ratification of the Maastricht Treaty up to the 2016 UK referendum, prior to which the Cameron Government listed policy dismantling as one of its four main demands in order to preserve the UK’s membership (Cameron, 2015).

Section two briefly reviews what has been learnt – both empirically and theoretically – about dismantling since Vogel’s article. It sets out how we will analyse different dismantling strategies and, more specifically, how we will differentiate between them empirically. We claim

that the explicit and visible attempts to dismantle noted above align with two distinct strategies developed by Bauer *et al.* (2012): active dismantling and symbolic dismantling. We investigate whether the absence of notable dismantling is best explained by the deployment of active dismantling strategies that fail (i.e. an active decision to dismantle that nevertheless yields no policy dismantling) or the use of symbolic dismantling strategies (i.e. dismantling in name only), by identifying and testing three possible explanations. Drawing on Pierson (1996) and Bauer *et al.* (2012), a first explanation would be that decision-makers failed to assemble a sufficiently large winning coalition on what and how to dismantle – in effect foundering on the various hurdles in the EU’s hyper consensual system. A second possible explanation is that although politicians managed to agree what and how to dismantle, they subsequently faced opposition from interest groups and voters (what Vogel claimed had happened in the US after 1990). A third possible explanation is the commitment to dismantle was only ever symbolic. Symbolic dismantling refers to a situation in which explicit commitments to dismantle are deliberately not followed through by decision-makers, being limited to symbolic activities such as ‘relabeling policies [and]... commissioning consultations/evaluation reports’ (Bauer & Knill 2012, p.46). Section three presents our empirical findings, encompassing the selection and deployment of dismantling strategies at EU level. Finally, section four discusses our findings in relation to Vogel’s predictions about the long-term relationship between expansion and dismantling and arrives at some conclusions with regards to how far EU environmental policy has, like the US, succumbed to a form of policy gridlock. It also reflects on the implications of our findings for future research on policy dismantling, EU integration and environmental policy leadership.

Studying policy dismantling: the neglected role of reframing and venue-shopping

Since Vogel's article on US environmental policy gridlock was published in 2003 other analysts have tried to add more fine-grained empirical detail. For example, Klyza and Sousa (2010) argued that the US environmental policies adopted in the 1960s, 70s and 80s created a supportive policy regime – a 'Green State' – that opposed dismantling in Congress. Thus, pro-environmental actors had 'simply to play defense to protect old commitments, typically an advantageous position in the American political system' (2010, p. 445). This broadly equates to our Explanation 1. It also echoed both Vogel's findings and (incidentally) Pierson's earlier arguments (1996) about how policy feedback sustains the welfare state (Jordan & Matt 2014).

Vogel concluded by pointing to the way in which dismantling was increasingly being blocked by Congress, but more recent studies have underlined the need to look 'beyond legislative gridlock' (Klyza & Sousa 2013) and examine attempts both to strengthen and weaken policies across multiple venues – i.e. in the courts, in different states etc. Korte & Joergens (2012) have usefully shown how a particular venue – the executive branch – can be used to weaken policies in the absence of congressional support, through budget cuts and political appointments. Hence, when, as in the US, governance is multi-levelled, analysts should be alive to the possibility that dismantling advocates (and opponents) may choose to switch their strategies to venues that are more (or less) conducive to the building of coalitions of support.

Finally, in exploring the agenda setting stages of the policy process, Layzer (2012) emphasized that advocates of dismantling must also win the battle for attention just as advocates of policy

expansion must, for example by emphasizing particular frames or ideas. She argued that after the 1980s, the US environmental movement lost the battle of ideas with conservatives, who reframed the issue into one of how to boost economic growth by dismantling existing policies and cutting ‘red tape’. In the similarly multi-levelled governance context of the EU, frames and venues are potentially even more important than in the US; they are a means to ‘gain... attention’ and ‘build... credibility’ (Princen 2011, p. 928) – necessary conditions that have to be satisfied to achieve a winning coalition in favour of policy change, including dismantling.

In summary, the US literature suggests that venue-shopping and/or reframing are likely to be central to the pursuit of policy dismantling in the EU. Crucially, the vagaries of agenda setting explain why ‘retrenchment opportunities wax and wane while institutional arrangements change slowly or not at all’ (Sheingate 2000, p. 336). For EU analysts, the US literature also underscores the need to think about how pro and anti-dismantling coalitions are built and sustained over time, including via the selection and deployment of different dismantling strategies, as these will be central to our Explanation 1.

In their study of national policy, Bauer and Knill (2014) suggested that there are, in principle, four ideal-types of dismantling strategy. These are based on two questions: first, whether the ‘political decision to dismantle is actively and consciously taken or not’; and second, to what extent ‘political actors wish to hide or reveal their dismantling activities’ (2014, p. 38). This creates two cleavages: between active and passive dismantling (i.e. whether politicians actively pursue dismantling or let it happen during their term of office without engaging with it); and between open and hidden dismantling (i.e. whether politicians try to avoid blame or claim credit).

<<insert Table 1 here >>

As this article focuses on explaining the puzzling coexistence of dismantling talk and very little dismantling in practice (Gravey & Jordan 2016), we are particularly interested in the distinction between *active* dismantling and *symbolic* dismantling. Bauer and Knill (2014) suggest that these two are ideal-types: symbolic dismantling is evidenced by the commissioning of reports and/or the announcement that cuts will in future be made; by contrast, active dismantling is evidenced by cuts to the number of or the stringency of policies. But how can we distinguish between them empirically? And more specifically, how can we distinguish between *failed* active dismantling and symbolic dismantling? We do so by conceptualizing the strategies as two opposite points on a continuum of dismantling types, ranging from no or very limited initiative to pursue dismantling to a number of concrete policy initiatives (successful or not) to cut, remove or weaken policy outputs (see Table 2).

<<insert Table 2 here>>

As one moves from the ‘symbolic’ to the ‘active’ end of this continuum, the empirical indicator is the growing number of deliberate policy initiatives, such as attempts to reframe dismantling in a new way or change the venue in which it is pursued in order to increase support for (or decrease opposition to) it. This relates to what Princen (2011, p.933) has described as linking policy initiatives ‘with established overall values that are held to be central to the EU’s ‘purpose and identity’ or with ‘stated policy priorities and commitments’ to garner sufficient support.

Hence, a member State strategy of commissioning a report on EU ‘red tape’ would be considered symbolic. But if the member State subsequently followed up on that by building a political coalition to turn ‘tackling red tape’ into an EU-wide effort it would move towards the more active end of our continuum.

The rest of this article analyses the environmental policy dismantling strategies that have been employed at EU level from 1992 to 2016. How dismantling is framed by political actors and in which venues it is pursued, is explored using two types of historical data. First, documents from the Commission, Parliament and member states, as well as reports from think tanks and civil society organisations were collected and coded using NVIVO. This data was used to identify the relationship between particular political actors, the targets of policy dismantling targets and the associated frames and venues. Second, we undertook seventeen elite interviews with actors in the EU institutions (in the Commission, member states and Parliament) and in wider civil society (e.g. environmental NGOs, business lobbies, etc.).

Environmental policy dismantling: a long-term perspective

On 2 June 1992, the Danish people voted down the Maastricht Treaty – the first time that voters had openly voted against deeper European integration. The EU Presidency at the time (July-December 1992) was held by the UK. It was tasked with bringing Denmark back into the fold. The UK eagerly seized this opportunity to advocate the dismantling of a range of (mostly environmental) policies which were causing it implementation difficulties at home (Jordan 2002). It did so by reframing dismantling as being consistent with subsidiarity, a principle that

had long been discussed at EU level but was only formally integrated into the EU Treaties, alongside proportionality, by the Maastricht Treaty (Golub 1996). The UK calculated that such reframing would be a more successful dismantling strategy if it was perceived to achieve ‘stated policy priorities and commitments’ (Princen 2011, p. 933) – *i.e.* to *deepen* European integration by securing Danish ratification.

However, its attempts at reframing were only partly successful. Reacting to the Danish ‘no’, the June 1992 European Council adopted a moderate interpretation of subsidiarity, *i.e.* that ‘all *future* legislative proposals’ should be subsidiarity-proofed (ENDS Report, 1992). Inside the European Parliament, the UK Chair of the Environment Committee, Ken Collins, expressed grave concerns that subsidiarity would be used to dismantle the entire environmental *acquis* (Agence Europe 1992a). These concerns were later echoed by the European Parliament’s President, Egon Klepsch, who argued that the Parliament would ‘energetically oppose any attempt to misuse the principle of subsidiarity in order to return to national policies or to intergovernmental cooperation’ (Agence Europe 1992b). Conversely, the UK’s Commissioner Leon Brittan supported the UK government approach and argued that the Commission should show greater ‘self-restraint’ in future (Agence Europe 1992c). The 1992 UK Presidency thus followed a two-pronged approach: subsidiarity should be applied to both new proposals (as already agreed in June) and to the most problematic parts of the existing *acquis*.

The UK’s preferred dismantling strategy was to draw up lists of policies that the EU should agree to dismantle. However, the key venue for dismantling would be the Commission (as it held a monopoly over new EU legislative proposals), not the Council. Therefore, the UK Presidency invited the Commission President Jacques Delors to draw up an EU-wide hit list (The

Independent 1992). However, as a venue, the Commission was not especially conducive to dismantling. The Commission, particularly under Delors, was emphatically pro-integration. Unsurprisingly, the Commission's list contained 20 proposals for new legislation – amongst them one (on zoos) that was only indirectly environmental – that could be removed, *not* items of the existing *acquis*. However, the Commission made somewhat vague and symbolic promises to update rather than dismantle existing legislation. Unsatisfied with Delors' list, the UK Presidency produced its own list (Financial Times 1992). Leaked to the press shortly before the Edinburgh summit, it listed 37 directives and regulations (plus 34 proposals for new policy) for dismantling. Amongst the environmental items on that list, the UK suggested that one directive be completely repealed (shellfish waters) and five others weakened (relating to wildlife habitats, hazardous waste, bathing, drinking and ground-water respectively).

In effect, the lack of political agreement at EU level (our Explanation 1) spawned two parallel processes, each focused on a particular venue. First, a Commission-led process centred on the production of annual reports on the implementation of the subsidiarity and proportionality principles (European Commission 1993). Second, the UK, France and eventually Germany, engaged in more listing activities. The UK and France produced a combined hit list in 1993, targeting a mixture of new proposals and existing policies (covering habitats, zoo animals and environmental impact assessment) (Reuters 1993). Germany followed up with its own hit list (with a sole environmental target: the proposal for a zoos directive) which received little support. However, Germany profoundly changed its tactics during its 1994 Council Presidency (Wurzel 2002), by reframing dismantling in terms of the pursuit of proportionality and competitiveness. It also pushed for a venue change. Writing on agricultural policy dismantling, Sheingate argued

that clear ‘jurisdictional boundaries’ and the use of the unanimity rule renders venue shopping within the EU much harder than in the US (2000, p. 357). The German Presidency tried to circumvent these obstacles by forming a new, independent *ad hoc* group to review the entire *acquis*. Known as the Molitor group, it was the first EU-wide effort to investigate the scope for dismantling the entire *acquis*. Although invoking different frames (i.e. proportionality instead of subsidiarity), Germany continued in the UK’s footsteps by arguing that dismantling was ‘pro-European’ and would also bring the EU closer to its citizens (Agence Europe 1994).

The next (Santer) Commission openly supported Germany’s attempt to reframe dismantling. It pledged to ‘look-out for rules that are cumbersome, excessive and archaic’ (European Commission 1995, p. 10). It supported the Molitor group and when that eventually ran out of steam through lack of active support from France (ENDS Report 1995) and the European Parliament, it developed new dismantling processes including consulting industry stakeholders (SLIM) and national experts (BEST) (European Commission 1998a). The Commission duly removed over 130 existing proposals and sharply reduced the number of new ones (European Commission 1998b). Santer’s determination to do ‘less but better’ led him to advocate that each member state should set up its own better regulation unit (European Commission 1998a). Nevertheless, he resisted UK calls to establish one inside the Commission, suggesting that his personal commitment to dismantling was rather symbolic (House of Commons 1998) – in line with our Explanation 3.

The Commission subsequently came under added pressure when an internal political scandal in 1999 led to the resignation of the entire Commission. Santer’s successor, Romano Prodi, embarked on a fresh round of reforms spurred on by the European Council, which in 2000

claimed that ‘further efforts are required to lower the costs of doing business and remove unnecessary red tape’ and called for better regulation (European Council 2000, p. 4).

Better regulation has been understood from ‘three general perspectives’ which can involve ‘(1) technocratic (evidence-based) policy-making; (2) deregulation or (3) participatory policy-making’ (Bunea & Ibenskas 2017, p. 593). Hence, while Prodi’s plans for better regulation are often viewed through the narrow prism of impact assessment (Radaelli & Meuwese 2009), i.e. increasing the evidence-base of new policymaking, it is also important to remember that it was originally framed as a means to ‘simplify.... existing legislation, in both qualitative and quantitative terms’ (European Commission 2001, p. 4). This simplification was presented as ‘an absolute necessity for the future of the European Union’ (European Commission 2001, p. 2). Thus, policy dismantling was in effect being reframed, this time into a means of delivering better regulation. The Commission duly set itself wildly ambitious targets, such as to reduce the number of existing policies by 25 percent by 2005 (European Commission 2001), to remove proposals if amendments through the legislative process were disproportionate or undermined subsidiarity (European Commission 2001, p. 18), and to create ‘a new administrative and political culture’ at EU level (European Commission 2001, p. 9). The Prodi Commission eventually failed to meet its 25 percent reduction target, which it blamed on the lack of political support from the Council and the European Parliament (European Commission 2004, p. 10).

The struggle to achieve sufficient political support appeared to ease when, in 2004, a larger coalition of member states (Ireland, the Netherlands, Luxembourg and the UK – later joined by Austria and Finland) (Six Presidencies 2004)) coordinated their Presidencies of the EU to push

for much deeper regulatory reform. Crucially, they managed to agree on a single hit list (Council of the European Union 2004) for ‘simplification’ – a term which effectively brought more states on-board. This list comprised a much larger number of environmental policies (5 out of 17), all dealing with waste policy dismantling. Examples of dismantling included cutting policy instruments (obligation to inform citizens, compliance checks on public administrations) framed as reducing excessive administrative burdens. In addition to targeting specific policies, the Six Presidencies also attempted to reframe the better regulation agenda on to the narrower issue of administrative burden reduction (Six Presidencies 2004), an approach originally developed by the Netherlands and subsequently adopted by other member states, such as the UK and Germany (Wegrich 2009).

The start of the Barroso I Commission was overshadowed by yet another political shock in 2005 – the French and Dutch ‘no’ votes against the Constitutional Treaty. As with the Danish ‘no’ to Maastricht, this shock event was quickly seized on by some member states to pursue their pre-existing dismantling plans. For example, the UK 2005 Presidency again framed dismantling as something that would save Europe from itself:

‘We need to have allies for this approach, we need to build up alliances in the European Union, and we are determined to do so because we are doing it very much from a pro-European perspective. To be honest, if we approach it from any other perspective... it will disappear’ (John Hutton MP, in House of Lords EU Committee 2005, p. 22).

The Commission re-launched its better regulation strategy in 2005, but, in an effort to avoid blame, stressed that it was *not* about deregulation (Agence Europe 2005). In 2007 it initiated a new programme to reduce administrative burdens (with the old target of a 25 percent reduction accompanied by a new deadline - 2012), but stressed that it would really focus on *unnecessary* burdens (European Commission 2007). It also organised a new group (a High-Level Expert Group on Administrative Burdens) chaired by Edmund Stoiber. One interviewee remarked that it was ‘a tool in the hands of the Commission, to show outside support for this reduction of administrative burdens agenda’ (Interview: Environment NGO 11.2014). Inside support beginning to grow in the higher echelons of the Commission and in DG Enterprise too. Its Commissioner Günter Verheugen was placed in charge of burden reduction (European Voice 2006), but he struggled to construct a political coalition (note, Explanation 1) as he had no direct authority over the legislative activities of other DGs (Interview: Business Lobby 02.2015). Verheugen’s effort to limit policy expansion similarly floundered when Verheugen and Barroso’s joint attempt to prevent the adoption of new environmental policy strategies failed in the College of Commissioners when the then Environment Commissioner, Stavros Dimas, won the support of his fellow Commissioners (ENDS Report 2005).

Despite supporting Verheugen during his first term, Barroso’s focus on better regulation greatly increased in his second term (when he ‘suddenly woke up to better regulation’ (Interview: UK Official 01.2015), and, for the environmental movement, it ‘clearly got worse under Barroso II’ (Interview: Environment NGO 11.2014b)). Barroso reformed the Commission when he launched his ‘smart regulation’ initiative in 2010, bringing all better regulation activities together in the Secretariat General, under his ‘direct responsibility’ (European Commission, 2010, p. 2). This changed the dynamic because the body overseeing policy dismantling now had

‘some formal power and a lot of informal power’ (Interview: Commission official 02.2015) – and used it to enforce the Barroso’s political priorities (Zaun 2014) over the legislative DGs which remained ‘not very supportive with very few exceptions’ (Interview: Commission official 11.2014). Thus pro-dismantling advocates within the Commission did not stop at venue shopping (i.e. shifting dismantling responsibilities from one DG to another) but also engaged in venue shaping and even venue creation, with the creation of numerous expert groups (from Molitor to Stoiber) and the empowerment of the Secretariat (Kassim *et al.* 2017).

The Barroso II Commission further reframed dismantling attempts – moving beyond *administrative* to also include *regulatory* burdens through its EU Regulatory Fitness (REFIT) programme. Legislation and proposals which were deemed unfit would either be revised or repealed/withdrawn. Crucially, while REFIT initially targeted ‘unnecessary’ regulatory burdens (European Commission 2012, p. 2), in 2014 this caveat was removed and pledges were made to ‘cut red tape, remove regulatory burdens’ (European Commission 2014b, p. 2).

Although EU environmental policy was not expanding significantly around this time (ENDS Europe 2013), existing policies nonetheless still ranked high on many stakeholder hit-lists (Business Taskforce 2013, European Commission 2013). This led a Commission official to remark that ‘when people are talking about Brussels legislation they always pick on the environment’ (Interview: Commission Official 2.2015b), and an environmentalist to contend that when it came to cutting ‘red tape’, ‘the environment is being singled out, particularly at the European level’ (Interview: Environmental NGO, 11.2014b). Out of nine active policy proposals withdrawn under REFIT (European Commission, 2014a), two were flagship

environmental proposals: one on access to justice, the other on soils. Environment Commissioner Potočník was by this point ‘very isolated inside the Commission (...) always in a minority position’ (Interview: Commission official 06.2015) and saw his proposals on plastic bags and the circular economy repeatedly delayed (ENDS Europe, 2014).

Outside of the Commission, certain member states argued that REFIT was not going far enough. In 2013, the Dutch Government re-invoked the subsidiarity framing, stating it was ‘convinced that the time of an ‘ever closer union’ in every possible policy area is behind us’ (Ministerie van Buitenlandse Zaken 2013, p. 1). Conversely, David Cameron questioned the validity of the Commission’s work, its review process, and requested Treaty change (Business Taskforce 2013; Foreign & Commonwealth Office 2012). He tried to build coalitions in the Council to upload the UK’s preferred dismantling model – a one [policy]-in, one-out rule. While such a move was supported by the Stoiber group (High Level Group on Administrative Burdens 2014) and business (Business Europe 2014), it only received support from seven other member states. In France, President Hollande decried ‘blind regulation’ (L’Expansion 2013) while in Germany, Chancellor Merkel extolled the ‘exceptional contribution’ of the Commission’s REFIT plan (Bundesregierung.de 2013). Thus, by the end of the Barroso II Commission, and recalling Explanation 1, there was still no EU-wide dismantling coalition capable of bridging the gap between Commission-led reform efforts and the alliance of states demanding radical dismantling.

While Barroso II had already put greater emphasis on better regulation and dismantling than Barroso I, the early years of the Juncker Commission marked ‘a change from “saying to doing”

(Interview: Commission Official 02.2015). Inside the College of Commissioners, Juncker furthered Barroso's centralisation of power and created the position of First Vice President of the European Commission, with the responsibility for better regulation. These changes sought to strengthen the ability of central services 'to shut down whatever they don't find politically convenient' (Interview, Environment NGO 11.2014c). Juncker, echoing Santer, also severely reduced the Commission's future work programme – there were only 23 proposals in the 2015 programme compared to an average of 150 p.a. under Barroso. This went hand in hand with a conscious effort not to automatically carry forward proposals from the previous Commission (under a new principle of political discontinuity) which resulted in the removal of 80 proposals. This attempt to reduce policy expansion was strongly criticised by environmental NGOs, the European Parliament and 11 member states. Subsequently, the Commission was forced to partially back-track (Politico.EU 2014). In addition, Juncker wrote in the Environment Commissioner Karmenu Vella's appointment letter that his main priority was to 'overhaul the existing environmental legislative framework to make it fit for purpose' (Juncker 2014, p. 4), including undertaking fitness check on the 1979 Birds and 1991 Habitats Directives. These two directives had recently been attacked by the UK government for 'placing ridiculous costs on British businesses' – claims later contradicted by the UK government's own review (The Guardian 2012).

Once again, policy dismantling was being framed as pro-EU, a way to 'make sure the overall project is not going to be fundamentally threatened by a relatively negative discussion that we now see in a number of member states' (Interview: European Commission 11.2014). But this time, pushing for dismantling was perceived as being specifically linked to 'the UK...

referendum and the opt-outs' (*Ibid.*). Hence, Cameron's renegotiation letter requested the Commission to continue its work of 'scaling back unnecessary legislation', asking specifically for 'a target to cut the total burden on business.' (2015, p.3). Environmentalists argued that cutting EU red tape was Cameron's 'only strategy to keep the UK in the EU' (Interview: Environment NGO 11.2014c), and that 'the most rational explanation for Juncker's extreme deregulation agenda is the need to keep the UK in' (Interview: Environment NGO 11.2014b).

Critically, the REFIT of the Birds and Habitats Directives did not proceed smoothly, for the UK or the Commission. Environmental NGOs across the EU mobilized their supporters to respond to the Commission's consultation; eventually over 500,000 respondents sided with the NGOs, thus illustrating the relevance of our Explanation 2. This mobilization (the largest ever to a Commission consultation) included around 100,000 respondents from the UK (The Guardian, 2016). Eventually, Cameron changed tactics and instead argued that both directives were a reason to vote for Remain in the EU referendum (Birdlife.org 2016). The Commission finally confirmed that the directives were 'fit for purpose' in December 2016.

Dismantling strategies at EU level: analysis and conclusions

Between 1992 and 2016, there has been an ongoing debate amongst a growing cast of actors about when, why and how to dismantle environmental policy. Yet recent studies (Gravey & Jordan 2016; Steinebach & Knill 2017; Burns *et al.* 2019) have shown that large scale policy dismantling has not actually taken place. Building on Pierson (1996) and Bauer and Knill (2014), we have argued that there are potentially three explanations for this failure to dismantle:

1. a failure to assemble a sufficiently large winning coalition on what and how to dismantle; 2. a

failure to implement an agreement to dismantle because of opposition from interest groups and/or voters; or 3. symbolic dismantling where dismantling was never seriously intended by politicians. We tested these explanations by examining the various dismantling strategies deployed by various actors at EU level. We did so by taking Bauer & Knill's (2014) distinction between active and symbolic dismantling strategies and reconceptualising them as representing two ends of a continuum of types. We argued that analysts can determine whether a dismantling strategy is indeed 'active' or simply 'symbolic' by investigating the number and type of policy initiatives (such as attempts to reframe dismantling or change venue).

We found notable changes in the dismantling strategies employed over time. The strategies deployed in the 1990s tended towards the 'symbolic' end of the continuum (i.e. Explanation 3); they could be described as either paying lip service to dismantling (such as the yearly reports from the Commission), or as short-lived and unable to summon majority support (e.g. hit lists from a handful of member states). In the 2000s and 2010s, the dismantling strategies moved away from the 'symbolic' to the more 'active' end of our continuum. They were sustained over longer periods of time and, one by one, the institutional obstacles to dismantling in the Council and the Commission were challenged. Within the Council, the idea of dismantling became less controversial: by 2004, the Dutch Presidency had managed to unite states around a single hit list. Moreover, by coordinating *across* Presidencies member states were able to pursue dismantling beyond their own 6-month term of office. Convincing a sufficiently large number of member states to dismantle a particular policy output nevertheless remained exceedingly difficult, given the vagaries of the issue attention cycle (Explanation 1). But certain frames – namely furthering competitiveness (especially after the Eurozone crisis) and pro-EU reform –

and certain venues (Competitiveness Council, Commission Secretariat General), appeared much more conducive to successful coalition-building than others. The Juncker Commission marked a further step change – both in its increasingly active support for dismantling (aiming to ‘cut red tape and remove regulatory burdens’ (European Commission 2014c)) and in terms of public opposition to dismantling. Significantly, the Nature Alert campaign against the REFIT of the Birds and Habitats Directives marked the first and thus far only failure to implement dismantle due to opposition from interest groups and, in that case, civil society (i.e. corresponding to Explanation 2).

This finding coupled with new research showing how policy expansion at EU level has levelled off (Kassim *et al.* 2017; Steinebach & Knill 2017; Burns *et al.* 2019) vindicates Vogel’s (2003) core prediction, namely that EU environmental policy would follow the same path as the US and become steadily more gridlocked, with the environmental movement devoting more of its time and energy to playing a defensive game. Time will tell whether this marks the beginning of the end of the steady transition to what Weale *et al.* termed an ‘ever closer ecological union’ (2002) or is a temporary hiatus. However, it definitely casts doubt on one of Vogel’s more recent claims, namely that the ‘American policy tools of cost-benefit analyses and regulatory impact assessment’ have had ‘little impact on the actual regulatory policies adopted by the EU’ (Vogel, 2013, p. 321).

What do our finding tell us about the more general phenomenon of policy dismantling? Bauer *et al.* (2012) hypothesized that dismantling advocates would pursue open ‘credit claiming’ strategies instead of more hidden ‘blame avoidance’ strategies to dismantle green rules.

Although the dismantling strategies we detected were open, actors often framed their arguments to avoid blame, stressing that dismantling was *not* deregulation, or arguing dismantling would strengthen European integration. In that respect, environmental policy dismantling at EU level is an example of the ongoing politicization of the EU level, which has ‘affected all EU actors’ actions and interactions, making for a ‘new’ dynamics of EU governance that is more political in every way’ (Schmidt 2018, p.1548). Our findings show that the politicization of policies at EU level can also be used by some to defend the EU’s polity. This defence can be linked both to Explanation 1 – some member states struggling to build a sufficiently large coalition because their peers view dismantling as anti-EU – but also, gradually, under Explanation 2, where civil society becomes more involved in shaping the implementation of dismantling ‘on the ground’. The Nature Alert campaign in 2016 prevented the Commission from dismantling the nature directives; time will tell whether this campaign was an anomaly or a harbinger of things to come.

Our central focus in this paper has been on the strategies used by actors to achieve or to block dismantling. More research is needed into the preferences driving policy dismantling – and on how opposition to the EU interacts with policy preferences. For example, are the greener member states favouring local over EU level action, lest the latter succumbs to dismantling? The Commission’s policy preferences certainly warrant further attention. Since the Danish ‘no’ vote, a profound culture change appears to have taken place inside that organisation. The dominant frame in EU policy making now appears to be that of ‘self-restraint’, but it has taken a long time to take root (it was first espoused by Sir Leon Brittan back in 1992 (Agence Europe 1992c)). The US experience of dismantling provides some possible explanations for this change. Layzer has argued that US Conservatives had built ‘a compelling antiregulatory storyline to counter the

environmentalist narrative’ (Layzer, 2012 p. 4). A similar framing has become pervasive in Brussels: ‘[e]verybody is talking the language of red tape (...) [it] has become the dominant narrative to the point that even the people who disagree with it are using the same language, like the left-wing parties in the Parliament or the NGOs’ (Interview - Environment NGO, 11.2014b). This suggests that the Commission may have changed from actively opposing and/or delaying dismantling through symbolic measures (Explanations 1 and 3) to openly supporting more active dismantling. This finding is significant because it goes against standard assumptions that the Commission is hard-wired to oppose dismantling as it is a threat to its *raison d’être* – advancing European integration (Löfstedt 2007). It is also not the case that (c.f. Steinebach and Knill 2017) the Commission has simply engaged in ‘dismantling by default’, i.e. allowing a *de facto* reduction of environmental standards by failing to update them to changing environmental conditions (Bauer & Knill 2014). It is also different to the argument that the environmental *acquis* has reached such a mature stage that the Commission’s main task is to revise and update existing policies (Burns *et al.* 2019). Rather, our research reveals something new – the Commission is actively engaging in a sustained campaign to limit new and dismantle existing regulations as part of an explicit *pro*-European integration strategy. It extends to all areas of its work, not just DG Environment (Kassim *et al.* 2017).

The changes in the Commission may change policy dynamics at EU level. In the past, dismantling was advocated by states but opposed by the Commission and the Parliament (Explanation 1). However, if the Commission henceforth moves from opposing to supporting dismantling, then the remaining opponents will be the greener member states and the Parliament – a much-diminished coalition. It is also worth remembering that as well as making policy

dismantling more likely at EU level, the Commission's complete control over the legislative agenda also means that its change of attitude may also make the risk of gridlock much more likely – and give it a particularly European flavour. Thus, unlike the US, gridlock would not come from opposing forces during the legislative stage (Explanation 1) – but through the removal of policy proposals at the pre-legislative stage, making it difficult for green states and the European Parliament to prevent it:

‘if the Commission wants to withdraw a proposal, it withdraws a proposal and that's it. Parliament can show they are unhappy about it but they can't do anything.’ (Interview: Environment NGO 11.2014c).

Finally, the growing support for dismantling within the European Commission raises questions not only about the future of the *acquis* but about the very nature of the EU itself. Should the EU even be considered a regulatory state if the Commission actively dismantles the regulatory *acquis*, perhaps heralding the start of a new era of European *disintegration* by stealth?

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Table 1. Four Ideal-Types of Dismantling strategy

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

Source: based on Bauer and Knill (2014, p. 39-40)

Table 2. Indicative Example of Symbolic/Active dismantling continuum

Symbolic dismantling		Active Dismantling	
←		→	
Member state commissions report on dismantling policy	Report is supported by other member states	Report topic is put on the Council's agenda by the rotating Council presidency	Report recommendations are supported in Council meeting conclusions
European Commission sets up advisory panel to study policy ambition in a given policy area	Advisory panel recommends policy dismantling in given policy area	European Commission communication echoes advisory panel recommendations	European Commission yearly work plan includes dismantling specific policy instrument
Member of European Parliament calls for policy dismantling	Rapporteur calls for dismantling of precise instrument	Parliamentary Committee supports Rapporteur call for dismantling	Parliamentary plenary supports it