

Passing the Scepter, not the Buck

Long Arms in EU Climate Politics

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Abstract

This paper investigates power dynamics between and within the core institutions of the European Union (EU) in the development of the 2030 EU climate & energy framework. Starting from the widely studied change in the EU's climate policy from "leadership by example" to "slow motion", it integrates a specific focus on power dynamics between the core EU institutions and non-state actors. Interestingly, perspectives on power relations between and within EU institutions and the power of non-state actors in EU governance are rarely integrated explicitly in analyses of the EU's shift in its stance on climate policy. In this article, we aim to draw together the analyses of institutional power dynamics in EU climate policy with analyses of the exercise of power by non-state actors to explain the dynamics leading to the change in EU climate politics. Using data from document research, secondary literature and interviews conducted with members of EU institutions as well as non-state actors, we show that an absence of clear leadership from the European Council in the end furthered an extended influence of business actors via the strengthening of the Commission as well as particular DGs. The results show how inadequate guidance from the Council and divisions within the Commission facilitated the informal passing of the scepter of EU climate policy to business, even as EU institutions retained formal responsibility, thus not passing the buck in a corresponding manner. The analysis further reveals strong reasons for doubt towards future EU ambitions in global climate change politics.

Keywords: business, climate change, European Union, power

1. Introduction

The 2009 climate summit in Copenhagen marks a perceptible shift in the EU's policy efforts on climate. Before 2009, the EU seemed to pursue a global leadership role in climate policy, pledging carbon emission reductions beyond what other countries were promising. With its "2020 Climate & Energy Package", the European Union set the 20-20-20 targets, referring to a 20% cut in greenhouse gas emissions from 1990 levels, 20% of EU energy being produced via renewables, and an improvement in energy efficiency of 20%. Moreover, the EU member states agreed on binding annual targets for the reduction of emissions that were not yet included in the Emissions Trading System (ETS). (Note 1) The dominant mindset in Europe seemed to be to "lead by example," thereby aiming to motivate other countries to follow suit (Oberthür & Dupont, 2011). The literature has categorized such intentions under the term of "normative power Europe" (Diez, 2005; Manners, 2002).

After 2009, such commitment seemed largely absent. The disappointment from the failure of the Copenhagen summit alongside the rise of competing issues drawing the full attention of member state governments contributed to a tangible shift in European climate policy. As a result, the new climate objectives the EU formulated for 2030 and the COP in Paris did not go far beyond what would be reached with existing policies and, most importantly, were (partly) defined as "non binding". The targets were set at 40% cuts in greenhouse gas emissions from 1990 levels, a 27% share for renewable energy and 27% improvement in energy efficiency. (Note 2)

This change in the EU's climate change policy from "leadership by example" to "slow motion" has received considerable attention in the scientific literature. Beyond the enabling conditions of disappointment with Copenhagen and competition with other issues, particularly the financial crisis, scholars have attributed this shift to an internal division within the European member states, notably between northern/western and eastern

member countries on concerns like costs, competition, and the EU's competencies (Unbehaun, 2016). In an excellent analysis, Bürgin (2015) added attention to the power dynamics within the Commission to this picture. He argued that the ebbing attention of the Council made room for a strengthened role of the Commission and that divergent interests within the Commission enabled actors opposed to more ambitious goals to demand a compromise.

Behind many of the analyses of the dynamics leading to the change in EU climate politics lies an – at times more, at times less observable – argument about the political power of business interests. It is visible, for instance, in Bürgin's (2015) reference to Commissioner Oettinger's close ties to the car industry. Similarly, recent studies emphasize the impact that the lobbying by trade associations has on EU climate policy (Fagan-Watson, Elliott & Watson, 2015) as well as the general role that the European industry plays as a central stakeholder, target group, lobbyist, and implementer of policies (Boasson & Wettestad, 2013). Interestingly, though, perspectives on power relations between and within EU institutions and the power of non-state actors in EU governance are rarely explicitly and comprehensively integrated into analyses of the EU's shift in its stance on climate policy. In this article, we therefore aim to draw together the analyses of institutional power dynamics in EU climate policy with analyses of the exercise of power by non-state actors. Specifically, we argue that the Council's lack of attention strengthened the role of the Commission vis-à-vis the Council and the Parliament. In turn, divisions within the Commission fortified certain DGs and Commissioners. These changes, finally, were crucial for enabling business interests to play a pivotal role in EU climate politics. We demonstrate that only an understanding of institutional change in terms of its impact on stakeholder influence will reveal core drivers of the EU's climate policy, specifically the long arm of business interests.

Our argument supports and complements the work by Bürgin (2015) on the institutional dynamics behind the change in the EU's stance on climate policy and adds further pieces to that picture. Similarly, our findings correspond to and expand upon research on lobbying in the EU. Most importantly, the integration of these aspects contributes to our understanding of the political and scientific implications of the EU's climate policy shift. More specifically, it allows us to gain a clearer idea of what the future of EU climate policy may look like. Moreover, it highlights reasons for continued concerns about the asymmetric influence of stakeholders on EU politics and policy, and thus, about the democratic deficit in the EU (Fuchs, Gumbert, Schlipphak forthcoming). Both climate change as a continued challenge to the future of human kind and the rise of anti-EU sentiments within Europe, most notable in the Brexit vote, should draw our attention to these concerns.

Power is a core concept in political science. Yet, it is extremely complex. Scholars work on relative or productive, potential or actual, de facto or de jure, agenda-setting or decisional power (Baldwin, 2002; Barnett & Duvall, 2005; Fuchs & Graf 2015; Partzsch & Fuchs 2012; Shepsle, 1979). When it comes to (inter)governmental organizations, one can attribute power to their legislative competencies, their ability to sanction "misbehavior", their procedural role, or their resources in terms of finances, manpower and expertise, among others (Barnett & Finnemore, 1999; Karns & Mingst, 2004). In terms of the power of non-state actors, scholars tend to work with frameworks differentiating between dimensions of power, such as instrumental, structural, and discursive power (Arts, 2003; Fuchs 2007; Levy & Newell, 2005). In such conceptualizations, instrumental power refers to the influence on policy output that non-state actors gain via lobbying, sponsoring or campaign finance. Structural power points to the influence non-state actors gain via "exit" threats (agenda-setting power) or private standards (rule-setting power). Discursive power indicates efforts to exercise influence on the public discourse via norms, frames and ideas (Fuchs 2013).

Given the broad focus of our analysis in terms of the actors involved, we cannot carry out a differentiated review of all the specifics of the types, sources, and dimensions of power involved for all of the actors. Therefore, we restrict our consideration of power to the following aspects. First and foremost, we focus on relative power, as we study the relationship between the EU institutions, parts of the EU institutions, as well as between the EU institutions and external stakeholders in the classical political sense of competition and contest. As we are looking at specific developments, we also focus on the actual power exercised rather than the potential power of the actors, i.e. take aspects such as attention and salience into account. In terms of the EU institutions, we consider their procedural role and their resources highly relevant which is in line with much of EU politics scholarship and which translates into questions of agenda-setting and decisional power. Finally, we consider the instrumental, structural (agenda-setting), and discursive dimensions of power when looking at the role non-state actors have played in the processes analyzed. We base our analysis on a triangulation of analyses of official EU documents and stakeholder position papers, media reports, secondary literature, and structured interviews on the EU's climate and energy policy. We conducted semi-structured interviews with members and staff of the European Parliament, of the Commission, as well as with non-state actors.

The article proceeds as follows. In the next section, we consider the first layer of the picture, focusing on the role of power dynamics between and within the EU institutions in shaping climate policy outcomes. Section 3 then examines the layer beneath this picture, describing the long arm of business influence on the EU's 2030 targets. Finally, section 4 summarizes our analysis and lays out implications for science and politics.

2. The 2030 Targets as a Result of Power Dynamics between and within the EU's Core Institutions

2.1 Power between and within the EU's Institutions

The EU politics and policy literature has long emphasized the different roles that the EU's core institutions play in the policy-making process (see Tsebelis & Garrett, 1996; Crombez, 1997; Thomson & Hosli, 2006; König, Lindberg, Lechner & Pohlmeier, 2007). The central actors in the traditional policy-making process are the Commission, the Council of Ministers, and the European Parliament. (Note 3) They form the so-called institutional triangle and are interdependently linked (Delreux & Happaerts, 2016). Although the European Council is not part of this triangle, it is equally important for understanding EU policy-making. In providing political direction and determining the broad strategies for future EU policies, it has a decisive role in the proceedings prior to the actual policy-making process that takes place within the institutional triangle, a role that - as studies show - has actually increased in recent years (Costello & Thomson, 2013; Thomson, 2015; Bocquillon & Dobbels, 2014), and that was particularly important in EU climate politics before and after Copenhagen. Hereafter, we will focus on the Commission, the European Council, and the Parliament, and discuss their relative power in the EU policy-making process leading up to the decision about the 2030 targets.

The supranational European Commission is the institution which, at least formally, has exclusive agenda-setting power, i.e. the power to propose new EU legislation, which makes it a pivotal actor in EU environmental governance (Selin & VanDeveer, 2015). However, its formal agenda-setting power may be challenged by internal dynamics that originate from the informal distribution of power between the EU institutions. Since environmental issues, such as the decision on long-term goals for energy and climate policy, are highly politicized topics, relevant debates have increasingly shifted to the level of the heads of state and government. Therefore, the agenda-setting power in environmental governance is "in practice often the result of a ping-pong game between the Commission and the European Council" (Delreux & Happaerts, 2016: 64), going hand in hand with an increase in the European Council's powers as *de facto* agenda-setter (Bailer, 2014; Bocquillon & Dobbels, 2014). Some studies argue that the Commission's structural agenda-setting power has, in fact, been eroded by the European Council (Wessels & Höing, 2013).

Research has shown that the European Council is the most powerful agenda-setter when the state leaders in the Council are united (Bürgin, 2015; Bocquillon & Dobbels, 2014; Skovgaard, 2014). Conversely, "the discretion level of the Commission President, but also the individual commissioners, increases in absence of strong signals from the Council in favour of a certain policy" (Bürgin 2015: 704). The implication is that the interest constellations in the Council are pivotal. Whereas the interests were quite homogenous during the drafting of the 2020 climate and energy package with the strong personal engagement of the political leaders of core member states, the Council sent much more ambivalent signals during negotiations for the 2030 framework (op.cit.). Since the failure of the COP 15 in Copenhagen in 2009, more and more EU member state governments have voiced skepticism regarding the Commission's ambitious targets (Phillips, 2010; Fischer & Geden, 2015). Scholars document a "trend towards polarization on most energy and climate related topics in the EU with two camps facing off against one other" (Fischer, 2014:2). On the one hand, there are the more proactive member states with Sweden and Denmark at the front. On the other hand, there are the Visegrád countries (Poland, Slovakia, the Czech Republic, Hungary) as well as Lithuania, Bulgaria and Romania, who tend to be very reluctant and are often described as hampering the process (Interviews 1, 2 and 3; Fischer & Geden, 2015; Teffer, 2014). Scholars attribute their reluctance regarding ambitious climate targets to "their still weak overall economic performance, their energy-inefficient industries and their political sensitivities vis-à-vis energy dependence on Russia" (Delreux & Happaerts, 2016: 224). Poland, which draws its electricity primarily from coal, emerged as the most vocal representative of the interests of the Central and Eastern European member states in the Council (Interview 3; see also Fischer, 2014: 2; Evans, 2014). Moreover, in the case of the negotiations for the 2030 framework, even core member states like France and Germany, once considered to be strong supporters of ambitious climate targets, failed to provide the leadership necessary for a proactive agreement (Interviews 1, 2 and 3; Fischer & Geden, 2015; van Renssen, 2014). Between the proactive and the reluctant member states were countries such as the UK and the Netherlands who, "while advocating for an ambitious climate target, ... wanted to prevent the EU from expanding its powers in the fields of energy efficiency and initiating another round of binding targets for renewable energies" (Fischer, 2014: 2). One interviewee observed that the Eastern European countries may publicly oppose proposals, but that states like the

Netherlands like to hide behind such opposition (Interview 1). Not surprisingly, then, several interviewees perceived getting all the member countries of the EU ‘on board’ as one of the main challenges for future EU climate governance (most strongly Interviews 1 and 3). The heterogeneity of interests in the Council, then, encouraged member states opposing strict targets to voice their opposition even more vehemently (Bürgin 2015: 699f.). With the European Council split over the desirable level of ambition for the 2030 energy targets, it exerted little restraint on the agenda-setting role of the Commission (op.cit.).

As climate politics requires a high degree of technical expertise, it is important to also consider the Commission’s cognitive powers. Through the development of technical and political expertise, the Commission has become a “key institutional actor, operating at the heart of EU environmental policy” (Schön-Quinlivan, 2013: 96). The Commission’s competencies are difficult to compare with those of the European Council, due to the latter’s ability to rely on national bureaucracies (Thomson 2015: 203). There is a clear difference to the resources of the EP, however. The MEPs are only modestly resourced in comparison to the Commission and the European Council. Taking into account that “institutions require resources to give meaning to formal powers” (Thomson, 2015: 207), the cognitive powers of the Commission provide it with more power in practice than formal rules suggest (op.cit.: 201). In contrast, the “EP oftentimes does not or cannot make full use of the power granted to it in the rules of procedures” (op.cit.: 199). Indeed, the EP perceives itself as rather dependent on adequate proposals by the Commission (see below).

Importantly, the Commission applies its cognitive powers not only in the agenda-setting process, where it has a formal role. The introduction of the co-decision procedure and the increased heterogeneity and workload between and within the EU’s core institutions led to an intensification of direct informal relations between the Council, the EP and the Commission. Today, so called informal trialogues, typically between the rapporteur, the relevant committee chair, delegation chairs from the Council and the EP, and a representative of the Commission tend to be used when seeking a compromise (Burns, 2013: 140f). (Note 4) Due to its participation in these trialogues, the Commission etches closer to exercising decisional power, even though formal rules do not provide for that (Thomson, 2015: 199).

In contrast to the Commission, the EP has gained formal decisional power over an increasing range of policy areas over the last decades. The consequences of this development, however, are not as straightforward as one may think. The EP used to be considered the green voice in European politics that “forced its way into the traditional bipartite relationship between the Commission and Council” (Burns, 2013: 147). At least partly, the EP still perceives itself as THE environmental actor (Interviews 1, 2, and 3). In particular, the “Committee of Environment, Public Health and Food Safety” (ENVI), the main committee dealing with environmental and climate change policies, had developed a reputation of often favoring environmental over industry concerns (Rasmussen, 2012: 249).

Now, however, there is also the perception of a certain weakness, of the EP alone being powerless and dependent, as pointed out above (Interview 2). An interviewee specifically stated that the MEPs have to wait for a proposal of the Commission, as well as then adjust their positions to the ones of the Council (ibid.). The traditionally most environmentally progressive actor is forced into a waiting position (ibid.). Interviewees also noted that there is a certain pressure within the EP to produce results (Interview 4). This increases the need to find compromises in order to maintain the EP’s reputation as an effective institution, even if that means that a lot of MEPs will not be 100 % content with the result (Interview 1). These findings are in line with Rasmussen’s (2012) argument that the EP has increasingly been departing from its traditional role and has turned into an “environmental pragmatist”, due to asymmetric lobbying from the industry (see also below), a strategic use of “realistic” negotiating positions towards the Council, and increasing cooperation and coordination between EP committees. Similarly, other scholars argue that an increase in the Parliament’s formal power, namely the co-decision procedure, has led to a decline in its willingness and ability to adopt radical environmental amendments and to set the wider EU environmental policy agenda (Burns & Carter, 2010; Burns, Carter & Worsfold, 2012).

2.2 The 2030 Targets

With respect to the 2030 targets, we detect a struggle in the EP between its traditional ambition in environmental leadership and the wish to adopt “pragmatic” positions. In February 2014, the EP adopted a non-legislative resolution on the 2030 framework demanding three binding targets: one for the reduction of greenhouse gas emissions by at least 40 %, one of producing at least 30 % of total final energy consumption from renewable energy sources, and an energy efficiency target of 40 % (European Parliament, 2014). The debate surrounding these targets can be illustrated in the roles of ENVI rapporteur Delvaux, who supported the decision even against her own group, and ITRE [Committee on Industry, Research and Energy] rapporteur Szymanski, who withdrew

his name from the report arguing that binding targets do not sufficiently consider the different capacities of member states as well as individual sectors. In the end, the proposal from the Commission reflected these targets, but not the EP's wish for their binding nature.

As the above discussion illustrates, dynamics in the Council, resource asymmetries between the EU's core institutions, and informal procedures in the EU institutional interplay strengthened the power of the Commission in the political process leading up to the definition and adoption of the 2030 targets. Therefore, it is appropriate to pay special attention to the power dynamics within the Commission during that phase.

Delreux and Happaerts describe the Commission as a "hybrid institution insofar as it is partly political (the College of the Commissioners) and partly bureaucratic (the administrative services and Directorate-Generals)" (Delreux & Happaerts, 2016: 59). The Commission's President can potentially deploy considerable structural, entrepreneurial or cognitive leadership, which, however, depends on each individual Commission President and on the support of the Council and/or EP (*ibid.*). The College of Commissioners, in turn, consists of twenty-eight Commissioners who each hold a special portfolio. The autonomy of individual Commissioners is restricted, however, as the College strives for consensus decision-making. (Note 5) Yet, Bürgin convincingly argues that in the absence of a clear position of the European Council, the influence of an individual Commissioner can be noteworthy (Bürgin, 2015: 703f.). The Commissioners are considered to represent the EU as a whole. Thus, they should not represent the national interests of their home countries (Selin & VanDeveer, 2015: 53). However, it is widely acknowledged that Commissioners can assume multiple roles, the 'country role' being one of them (Delreux & Happaerts, 2016: 59; Egeberg, 2006).

Next to the Commission's political component, which we described above, its bureaucratic element is crucial for understanding the power dynamics within the Commission. The Commission's bureaucracy consists of horizontal services (Publication Office, Legal Service etc.) and vertical Directorates-General (DGs). The DGs support the College of Commissioners and the relevant DGs typically become the "lead service" for the drafting of proposals. When a DG is in the 'lead' for a policy proposal, it may, in theory, promote its own interests in the drafting process, which is why "the appointment of the lead service can sometimes be heavily disputed" (Delreux & Happaerts, 2016: 65). Apart from the lead, the staff size of the individual DGs influences their relative power in the intra-Commission dynamics (Delreux & Happaerts, 2016). In the case of cross-sectoral policy issues, the DGs having the lead need to consult other relevant DGs. However, the institutional fragmentation of the Commission as well as the inadequate willingness for inter-DG cooperation frequently hamper the coordination of policy areas (Smith, 2014; Knill & Liefferink, 2007). Instead, "[r]ivalries between DGs and the interests related to their policy domain often characterize the internal decision-making process in the Commission" (Delreux & Happaerts, 2016: 66). One initiative to ameliorate the intra-Commission coordination was the strengthening of the role of the Secretariat-General (SG), which Barroso converted into a personal service to the President and thereby enabled "to turn from the guardian of procedure into an interventionist body, with an involvement in policy, and able to force DGs to co-operate more effectively with each other" (Kassim et al., 2016: 8).

Against this institutional context, two factors can help explain the change in the ambitiousness of EU climate policy from pre- to post-Copenhagen: a reduction in climate leadership by the President and divisions within the Commission creating a window of opportunity for Commissioners opposed to stringent targets. Turning to the President's role first, we find that Barroso reduced his efforts at EU climate leadership in his second term. As Barnes (2011) notes, however, "effective and/or radical climate policy proposals cannot come from the Commission without some measure of commitment from the President" (43). The global economic and financial crises and its aftershocks may be cited as a legitimate stumbling block for the Commission's attention to environmental issues (Čavoški, 2015). However, scholars also argue that the strengthened role of the Commission Presidency contributed to these changes in environmental activism (Steinebach & Knill, 2016). "[S]ince 2004, Commission Presidents have centralized decision-making authority and used the power of the office to control policy activism in the organization" (Kassim et al. 2016: 2). Kassim et al. claim that Barroso, first, and then Juncker used this control to reduce the Commission's production of legislative proposals in all policy areas (*op.cit.*: 13f). (Note 6) Interviewees from different institutional backgrounds also made note of this strengthened role of the presidency and the simultaneous reduction in attention to environmental objectives when discussing the prospects for environmental policy ambitions in the EU (Interviews 1 and 2). With regards to the apparent ineffectiveness of the EU's leadership norm up to Copenhagen, however, a strong Presidential agenda would have been more necessary than ever to internally and externally promote ambitious EU climate and energy targets (Bürgin, 2015; Steinebach & Knill, 2016).

The weakening of presidential leadership, in turn, allowed divisions in the Commission to become more

prominent and influential. While a close collaboration between the Environment Commissioner and the Energy Commissioner developed during the first Barroso Commission and led to the further integration of energy and climate change issues (Barnes, 2011: 49f.), the post-Copenhagen situation looked much different. In particular, the lead DGs, DG Energy and DG Climate Action, were divided – even internally – on questions like the number of climate targets (one or three) as well as the level and the bindingness of the targets (Bürgin, 2015: 700f.). In addition, the inclusion of many representatives from other DGs in the drafting process diluted the agenda-setting power of the lead DGs. In this context, energy Commissioner Günther Oettinger took a particular active role, promoting a 35% GHG reduction target and nationally non-binding renewables targets (ibid.). The negotiations on the 2030 framework in the Commission ended with a compromise agreement put forward by Barroso that retained the 40% GHG reduction goal in exchange for the abandonment of the national binding renewable energy targets (Bürgin, 2015: 703). Commissioner Oettinger's role in this drafting process was especially interesting because of his “more pronounced business orientation compared to his precursor, Piebalgs” (op.cit.: 702; Hall, 2012), which we will discuss in more detail below.

3. Non-State Actors and the 2030 Targets

3.1 Non-state Actors in EU Politics

Interest groups are omnipresent in European policy processes. The EU, in particular, is notorious for both huge numbers of lobbyists in general as well as a particularly large presence of business lobbies (Beyers, 2004; Bouwen, 2002; 2004; Eising, 2007; Greenwood, 2011; Knodt, Quittkat & Greenwood, 2012). Moreover, critical observers have noted that regulations trying to reign in lobbying activities have been mostly ineffective (Greenwood, 1998).

Formal and informal lobbying (including the sponsorship of events) is the primary form of the exercise of instrumental power in the EU, reflecting attempts to influence political output via communication with politicians and bureaucrats (Fuchs 2007). (Note 7) As early as the 1990s, scholars and activists pointed out the sheer numbers of lobbyists in Brussels. While these lobbyists and interest groups represent business as well as civil society interests, lobbying research on the EU has generally found that there is a stark imbalance in the numbers in the representation of business interests versus civil society interests (Nollert, 1997; Ronit & Schneider, 2000): “business groups are the predominant category of European interest group” (Grant, Matthews & Newell, 2000: 46).

This is partly because business actors lobby via European and national associations, as well as – in the case of large business actors - individually or in small groups (see below). Moreover, business associations and large business actors tend to have staffed offices in Brussels but also hire professional lobbyists there. They also bring in personnel from headquarters if necessary. Business actors, particularly large business actors, are advantaged because the higher costs of interest representation at the supranational level work to the benefit of resource rich actors relative to those with lesser financial resources, such as smaller businesses or NGOs. Given that most business actors lobby on rather specific issues affecting their sector or company, while most environmental organizations cover a multitude of issues and legislative proposals at any one time, the effect of this imbalance tends to be felt even more strongly. Official efforts to create a more balanced playing field by strengthening civil society representation in the EU, however, have mostly been failures (Geiger, 2005, Hüller, 2010).

One should not assume that this preponderance in “heads” and money always translates into a similar preponderance in the successful exercise of influence, of course. As some scholars have pointed out, citizen groups can at times successfully attain their desired policy outcomes despite strong opposition from business actors (Dür, Bernhagen & Marshall, 2015: 24). One condition that increases the chances of such outcomes is a lack of cohesion among business interests, as Falkner (2008) suggests.

The asymmetric relationship between civil society and business is paralleled by an asymmetry in the representation of the interests of small versus large and especially corporate business actors. Next to their individual presence in terms of offices, hired lobbyists and support from headquarters, many corporate actors lobby through “several different types of organization at the European level through which [they] can represent [their] views” (Grant et al., 2000: 47), ranging from large associations to informal dining clubs. They generally draw on the club strategy because of the lower organizational costs and greater flexibility of this organizational form, and in particular, in cases where corporate interests diverge from the interests of smaller business actors (Coen, 2005, Grande, 2001, 2003). (Note 8) In this context, scholars have drawn particular attention to the role of the European Roundtable of Industrialists (ERT), founded in 1983 as an informal group of around 50 CEOs of the largest European multinational companies. While the public may know little about this organization, it has been identified as the most influential lobby organization in the EU (Brand et al., 2000: 147; see also Nollert,

2016). Another type of exclusive club, which constitutes a grey area between private lobbying associations and intergovernmental organizations, is the ‘Transatlantic Business Dialogue (TABD)’, created in 1995 by the EU Commission, the US Ministry of Commerce, and the ERT. It consists of chief executive officers and executives from leading American and European companies. The TABD was established to facilitate intergovernmental negotiations between the EU and the US and, thus, is granted favoured access to the State Department and the European Commission (Coen & Grant, 2001). Because of the TABD’s ability to provide quick and focused policy responses, it has evolved “into a business-government policy-making body” (op.cit: 37).

Importantly, the exercise of instrumental power in European politics is a multi-level game, which again underlines the advantages of resource rich actors:

Europe-wide business groupings such as the European Roundtable of Industrialists of the Union of Industrial and Employers' Confederations of Europe (UNICE) assist the European Commission in agenda setting. However, the ratification process in Europe is conducted by national governments, so lobbies must focus at this stage on national capitals. The Europe-wide industry groupings noted above tend to flexibly dissolve into domestic constituents when necessary, and to reconstitute at the European level when pressure needs to be applied on the European Commission or the European Council (Walter, 2001: 55).

Lobbying plays a peculiar role in European politics also due to the European Commission’s need for expertise as well as for democratic legitimacy and political support (Broscheid & Coen, 2003; Delreux & Happaerts, 2016; Grant, 2013). (Note 9) Due to the Commission’s limited resources and the complexities involved in creating regulation for 28 member countries, the Commission regularly asks for input and invites especially business representatives to contribute to working groups and committees if not the drafting of regulatory proposals (Eising, 2001), a process that contributes to the development of clientelist relationships (Nollert, 1997). (Note 10) In consequence, scholars consider the interests and views of business lobby groups to be deeply embedded within the Commission (Coen, 2007). ENGOs have been making conscious efforts to improve their situation and skills in this respect, especially through the creation of a loose but coordinated network called the Green 10, which consists of the ten largest environmental organizations and networks active on the European level (Grant, 2013). (Note 11) Through the Green 10, the ENGO community has managed to foster the development of a “network of informal contacts” and regular meetings with Commission officials (Delreux & Happaerts, 2016: 133).

Structural forms of power present a second way for non-state actors to exercise power in European politics. The form of structural power that is relevant for our analysis is agenda-setting power, i.e. it allows non-state actors to get issues on political agendas or just as importantly to keep issues off political agendas (Note 12). The source of this power is business’ ability to threaten the moving of investments and jobs to other countries with more attractive policy environments (Frank, 1978). In environmental contexts, scholars developed and debated the concept of “pollution havens”, allowing for a race to the bottom in environmental standards, or at least barriers to improvements due to competitiveness concerns in political debates (Braithwaite & Drahos, 2000). Today, such competitiveness concerns still frequently influence political debates and agendas, even as subnational units compete with each other for investments (Altvater & Mahnkopf, 1996; Amooore, 2006; Brand et al., 2000; Gill, 1995; Newell & Levy, 2006; Strange, 1998). Moreover, capital has become ever more flexible in its movements over the last decades, as firms frequently work with subcontracting in production rather than the ownership of production sites. Debates about the constraints that global competition imposes on policy choices are also well known in the EU (Mazey & Richardson, 1997; Marazzi, 1995) and scholars have identified the ERT, in particular, as influential in the corresponding framing of political debates (van Apeldoorn, 2002).

Finally, non-state actors exercise discursive power in attempts to influence the policy process, i.e. aim to shape policy via the framing of policy problems, solutions, political actors and contexts. To this end, they reference and strategically use norms and ideas in efforts to influence public opinion (Levy & Newell, 2005). Discursive power can intervene in the policy process at the earliest possibility, i.e. before identities and interests are even formed. Therefore, it is the most subtle form of political power, but also the most difficult to contest (Graf & Fuchs 2014). Given that discursive power depends on the perceived legitimacy of the speaker, it is considered one of the strong points of NGOs, who tend to benefit from ascriptions of non-profit interests (Auer, 2000; Holzscheiter, 2005). At the EU level, however, the lack of transparency of policy processes and cognitive distance to the population renders traditional discursive civil society instruments in terms of protest and public debate less useful (Nollert, 1997). At the same time, in the era of mediatized politics, discursive power also relies on financial resources, which further advantages business actors (Fuchs 2007). Still, scholars of interest group politics in the EU point out that NGOs have been relatively successful in framing and influencing environmental policy debates,

in particular (Dür et al., 2015).

3.2 Non-state Actors and the EU's 2030 Targets

When it comes to the 2030 targets, our interviews show evidence of the exercise of instrumental, structural, and discursive power by non-state actors as well as coordinated multi-level activities (see also Boasson & Wettestad, 2013; Fagan-Watson et al., 2015; Grant, 2013). Moreover, the predominance of business becomes visible again. In the public consultation, which was launched after the Commission's adoption of a Green Paper on the 2030 framework in March 2013, 59% of submissions came from business (industry associations 41%, individual power sector companies 10%, other individual companies 8%) compared to 8% from NGOs. When asked for the ten most influential individuals in EU climate policy, several of our interviewees pointed out the extensive influence of business and their associations. While they noted the simultaneous presence of NGOs, some interviewees saw the industry lobbies as more influential, in the end, especially because of their influence on the Commission and the member states (Interview 2). According to the interviewees, the pressure created in such situations may become so strong that the Commission feels almost forced to react in proposing corresponding legislation (ibid.).

Likewise, several studies document the predominance of business in lobbying on EU environmental policy in general and EU climate policy in particular (Bunea, 2013; Coen, 2007; Greenwood, 2011; Knill & Liefferink, 2007; Rasmussen, 2012). Fagan-Watson et al. (2015) show how industry associations such as Business Europe, Fuels Europe (formerly known as EUROPIA), the International Association of Oil and Gas Producers (IOGP), the Confederation of European Paper Industries (CEPI) and the European Steel Association (EUROFER), established formal and informal relationships with policymakers, submitted position papers and policy proposals, and stayed engaged in every subsequent stage of the policy process, also functioning as a "revolving door" between the public and the private sectors. While acting as associations, they also brought in their members at important points in the policy process. Fagan-Watson et al. conclude that the extent of the associations' engagement with the EU policy process is "both impressive and (to some commentators) a source of serious concern" (op.cit.: 73). Similarly, Ydersbond (2016) finds the energy-intensive industry and Business Europe to have been very influential in lobbying the Commission in the multi-stakeholder negotiations leading up to the 2030 framework (98).

At the same time, the Commission also proved particularly open to business in the negotiation process. Given their comparatively small staff as well as the importance of technical expertise, DG ENV and DG CLIMA are considered particularly accessible to business from the onset (Coen & Katsaitis, 2013). In fact, Coen and Katsaitis consider DG Environment to be the most intensely lobbied DG in the entire Commission (op.cit.: 1113). In the negotiations for the 2030 targets, moreover, other DGs and Commissioners with close ties to industry took on a pivotal role (Bürgin, 2015). Indeed, the role of Energy Commissioner Oettinger in the drafting process deserves particular attention. Critical observers connect him to the German car industry, large energy utilities, and the oil industry, specifically BP (Hall, 2012; Nelsen, 2016). In 2012, Oettinger, himself, argued that "Europe is at a competitive disadvantage because of a reluctance to take risks on offshore oil drilling and tar sands, and a failure to fully explore its shale gas options" (Neslen, 2012). This situation supports recent lobbying research suggesting that business exercises its influence not necessarily by swaying politicians but by cultivating "industry champions" among them.

Business associations and individual companies also relied extensively on the use of structural power in this phase. The lobbies of the energy-intensive industry, in particular, all emphasized the threat of a loss in competitiveness and jobs and the risk of 'carbon leakage' in their position papers (Business Europe, 2013; CEPI, 2013; ERT, 2013; EUROFER, 2013; Fuels Europe, 2013; IOGP, 2013): "These concerns were then frequently used to support calls for a 'rebalancing' of the three headline policy objectives of security of supply, climate mitigation and cost-effectiveness" (Fagan-Watson et al., 2015: 34). Next to the position papers, letters to Barroso as well as individual Commissioners emphasized the same frames. In an open letter to Commission President Barroso in January 2014, for instance, Business Europe warned of the likelihood of carbon leakage: "After a series of wrong signals, [...], we must strengthen carbon leakage protection otherwise this would have immediate and serious consequences for industrial investments in Europe" (Business Europe, 2014). Likewise, BP warned Energy Commissioner Oettinger that an exodus of the oil industry from Europe would occur if the proposed laws to regulate tar sands, cut power plant pollution and accelerate the uptake of renewable energy were passed (Nelsen, 2016).

Given that business' campaigns in the negotiation of the 2030 targets included open letters, the briefing of journalists as well as the hosting of relevant events, we can also note business' attempts to exercise discursive

power in the process. Indeed, the case is particularly illustrative of how the different types of power – which we have conceptually separated for analytical purposes – tend to work jointly in practice. Thus, business associations combined the provision of “technical” information to the Commission and submission of position papers with discursive strategies aiming at lobbying the public.

Importantly, the above discussion neither aims to suggest that business should be considered as a monolithic bloc when it comes to climate policy (see also Falkner, 2008; Grant, 2013) nor that the eventual outcome was exactly what business had asked for. Business associations representing renewable energies were also present in the process and lobbying both the European as well as national actors, and had different interests than the energy intensive industries, for example (Interview 5). Yet, we find a clear predominance of business interests on the side of non-binding national targets. Many of the associations sought an overarching GHG target rather than three targets, furthermore, citing inefficiencies resulting from multiple, overlapping targets in the 2020 package (Business Europe, 2013; CEPI, 2013; Fuels Europe, 2013; IOGP, 2013). They opposed the energy efficiency and renewable energy targets, in particular. However, in the end, they were not able to achieve these goals. According to our interviews, this was, to a large extent, a result of the influence of the EP.

NGOs, especially the Green 10, also participated in the consultation process for the 2030 targets, though to a quantitatively lesser extent than business actors. As documented by their position papers, the majority of NGOs supported three ambitious and binding targets, but failed to agree on the specifics of them. (Note 13) Moreover, they tried to use their discursive power to oppose business structural agenda-setting power by framing climate policy in terms of job growth rather than loss and by deconstructing the supposed contradiction between environmental policy and economic growth (see also Ydersbond, 2016). WWF (2013) emphasized that ambitious 2030 renewable energy targets as well as investing in energy efficiency in buildings can create jobs. FoEE (2013) called measures of reducing energy consumption and developing renewables a “huge stimulus for European businesses and jobs” and the EEB (2013) argued that ambitious targets will “boost Europe’s competitiveness”.

NGOs also tried to exercise power jointly with business actors that were closer to their positions. The ‘Broad Green Community’, an alliance between the Coalition for Energy Savings (CoE) (Note 14), CAN Europe and the European Renewable Energy Council (EREC) (Note 15), campaigned for three legally binding climate and energy targets and tried to coordinate the lobbying activities of its members on the European as well as national level (Ydersbond 2016). Again, they exercised discursive power, in particular, publishing scientific analyses, and arranging dinner debates and other events (op.cit.: 62).

Our interviewees found business to be more influential during the development of the proposal, however. One interviewee stated that NGOs may be good in moving and mobilizing civil society and public opinion but that they were not able to influence politicians’ opinions (Interview 2). In the ‘battle’ with the industry lobbies, NGOs tended to lose, whereas industry lobbies successfully exercised influence on member states and the Commission (ibid.). Yet, some influence can be attributed to NGOs in the development of the 2030 targets after all. Scholars argue that, “[t]heir actions helped to pave the way for the more radical recommendations of the Parliament and enhanced the legitimacy of a triptych approach with targets that could be adjusted upwards, and for setting targets that were higher than the ‘business-as-usual’ scenarios” (Ydersbond, 2016: 97).

The predominance of business interests continued beyond the proposal development stage, however. This should not come as a surprise. The European Commission may still be understood as the most important target for lobbying strategies in Brussels, but the European Parliament and its committees have increasingly entered into the limelight of interest groups as well (Adelle & Anderson, 2013: 165). Even in the EP, the actor traditionally more open to NGOs influence than the Commission (Interview 1), the powerful and intense lobbying by business, both by associations and individual companies, was noteworthy, according to almost all interviewees. One interviewee described business lobbying on the 2030 targets as sort of aggressive, with position papers approaching political declarations and fervent attempts to get these positions into the EP’s papers (Interview 3). Interviewees also commented on the nature of the process, pointing out numerous requests for meetings with nine out of ten of them taking place, followed by subsequent email exchanges and frequently the submission of proposals for text passages for legislation (Interview 4). Not surprisingly, one interviewee noted a particularly strong lobby on the part of companies with a lot at stake in European environmental negotiations (Interview 1), while another considered the negative lobby from many businesses as one of the main obstacles to reaching more ambitious climate targets (Interview 3).

These indications of business’ predominance in the lobbying of the EP on the 2030 targets correspond to Rasmussen’s (2015) general findings on non-state actors’ access to and influence on the EP. In the past, the European Parliament was considered a “lobbying sideshow” (op.cit.: 365) targeted by interest groups that were

unsuccessful in lobbying the European Commission. According to Rasmussen, however, today the European Parliament is targeted by a plethora of interest groups with business interests becoming more and more influential. As with the Commission, an asymmetry in lobbying does not mean that business will get all it wants. Indeed, the chances of business winning legislative contests at the EP depend on the extent of consensus among business actors, the degree of technicality of an issue, and the handling of dossiers by mainstream committees (op.cit.: 380). Yet, the asymmetry in lobbying does have an impact according to Rasmussen (see also Smith, 2008): “when MEPs are exposed asymmetrically to industry lobbying on a specific dossier, they are less likely to support ambitious environmental provisions than those who are more evenly exposed to lobbying from opposing interest groups” (253).

An analysis of the role of non-state actors in the EU’s development of its 2030 climate targets shows a strong presence of non-state actors, but particularly the predominance of business. Given the nature of multi-level governance in the EU, non-state actors simultaneously targeted policy at the European and the national level. At the European level, both the Commission and the Parliament were the focus of attempts to exercise instrumental, and – in the case of business – also structural power, while discursive power was exercised in efforts to sway public opinion. In this context, the Commission, especially individual Commissioners, proved particularly accessible to business lobbies. Accordingly, business interests opposed to ambitious targets were able to exploit and foster the divergence in positions in the Commission and the Parliament.

4. The Future of the EU’s Climate Policy?

In this article, we investigated power dynamics between and within the EU institutions as well as between the EU institutions and non-state actors engaged in the development of the 2030 climate & energy framework. Employing an analysis of official documents, stakeholder position papers, interviews with representatives of the EU institutions and non-state actors, and secondary literature, this paper highlighted the central role the Commission and, in turn, individual DGs and Commissioners were able to play, given the heterogeneity of positions in the Council and the influence that that situation awarded to business interests. Moreover, unveiling the power dynamics between and within the EU institutions in terms of their implications for the influence of non-state actors on EU climate policy serves to identify different layers of the picture. Most importantly, it reveals how inadequate guidance from the Council and divisions within the Commission facilitated the informal passing of the scepter of EU climate policy to business, even as EU institutions officially retained responsibility.

Our findings speak to the future of EU climate policy as well as future political dynamics in the EU, in general. In terms of EU climate policy, they demonstrate that we should not expect too much ambition with regards to environmental policy from the EU in the future. As long as climate action is not in the focus of and desired by a majority of the member states, the Commission will continue to play a core role. Within the Commission, in turn, power dynamics have shifted against environmental interests. Given Juncker’s ‘Agenda for Jobs and Growth’, in particular, scholars consider it unlikely “that we will experience a reinvigoration of environmental policy in the near future” (Steinebach & Knill, 2016: 15). Interestingly, many public statements by EU officials and heads of the large member states after the Brexit vote emphasized the need for jobs and growth rather than fairness and democratic change, thereby further underscoring the priorities of the relevant political elites. Furthermore, the number of Commissioners for the core environment-related portfolios (environment, maritime affairs and fisheries, climate, and energy) has been reduced from four to two from the second Barroso Commission to the Juncker Commission. In the Juncker Commission, the Environment Commissioner is also in charge of maritime affairs and fisheries, while the Climate Action Commissioner also has energy in his portfolio (Delreux & Hapports, 2016: 59f). (Note 16) Juncker’s merging of these portfolios had immediately raised “concerns among environmental NGOs and members of the European Parliament about a downgrading of environmental issues in the Juncker Commission” (op.cit.: 60), a concern the above discussion seems to justify. Interviewees, similarly, attributed changes in the Commission’s environmental ambitions to such structural changes. One interviewee stated a clear hierarchy in the Juncker Commission, with the Commission President at the top, DG ENV increasingly losing influence, and DG Growth more and more taking the lead on climate related issues, even overruling what DG ENV is doing (Interview 1). Furthermore, the interviewee pointed out a strong influence of the SG arguing that the SG is increasingly doing things that should ‘normally’ be done by DG ENV. (Note 17) Another interviewee echoed these concerns about the relative importance of environmental objectives in the Juncker Commission, seeing the Commission as much more sensitive to economic and financial interests than to environmental policies, also pointing out its long-time failure to reference sustainability issues at all (Interview 2). (Note 18) Interviewees further noted that the current Commission’s proposals on EU climate policy closely resemble the European Council’s conclusions, indeed, that the Commission seemingly just ‘copies and pastes’ those conclusions, having given up on any ambition (Interview 1). Finally, interviewees also stated that industrial

associations are especially influential in the Juncker Commission, thus underlining reasons for continued concern about the democratic deficit in the EU (Interview 2).

These developments in the Commission occur at a time, when we are also witnessing the change in the EP from an ‘environmental champion’ to an ‘environmental pragmatist’. This change has gone hand in hand with a decline in the privileged position of diffuse interests, such as environmental ones, and provided “concentrated interests with a more favorable European parliamentary arena in which they can advance their demands” (Rasmussen, 2012: 257). Moreover, this transition is in line with a general change in the EU’s environmental regulatory discourse: “Environmental legislation is increasingly viewed through a competitive lens – rather than merely being embedded in an environmental frame – with closer attention paid to the competitive implications of environmental policies” (op.cit.: 255).

Overall then, there is little reason to be optimistic for the future of EU climate policy and its ambitions. Upcoming negotiations of strategies to pursue the adopted targets including revisions of the ETS are likely to show core actors dragging their feet rather than pushing ahead. On a broader level, there is also little reason to expect serious efforts to reduce the democratic deficit in EU politics. Current developments in terms of the predominance of certain ideas and actors point in the opposite direction.

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Notes

Note 1. Retrieved July 07, 2016, from http://ec.europa.eu/clima/policies/strategies/2020/index_en.htm

Note 2. Retrieved July 07, 2016, from http://ec.europa.eu/clima/policies/strategies/2030/index_en.htm. The energy efficiency target is not binding on either the European or the national level, and the renewables target only on the European level, but not on the national level.

Note 3. These actors also include the European Court of Justice as well as a range of other institutions, of course, which are not central to our case but have received substantial attention in the literature in general (e.g. Wasserfallen, 2008; De Waele, 2010; Krämer, 2013).

Note 4. Burns underlines that the augmented practice of informal meetings potentially excludes smaller groups such as the Greens in the EP or marginalized interests such as environmental NGOs: “[...], if committee meetings and plenaries are increasingly used to rubber stamp agreements negotiated by a few actors behind closed doors, the scope to have one’s views considered during the legislative process is much lower” (Burns, 2013: 143). This, in fact, has great ramifications for the often mentioned democratic deficit in the EU, considering that the EP should also represent the views of small groups.

Note 5. Furthermore, the principle of collegiality implies that “each decision made has to be endorsed and defended publicly by all Commissioners” (Barnes, 2011: 98).

Note 6. Steinebach and Knill (2016) analyze the EU’s policy outputs from 1980 to 2014 in the area of clean air and water protection and find that the EU “has entered a period of almost complete regulatory inactivity after the year 2010” (11).

Note 7. Levy and Newell (2005) also include the “revolving door”, i.e. (often high ranking) politicians and bureaucrats moving to the private sector and vice versa, in their concept of instrumental power.

Note 8. Scholars speak of “single issue maximizing” as a strategy in this context, i.e. the creation of temporary, issue based coalitions accompanied by professional campaigns (Kohler-Koch, 2000).

Note 9. Considering different policy domains, different types of legitimacy (input/output) and different types of information (technical/political), Coen and Katsaitis (2013) conclude that “policy domains that place higher utility on output legitimacy demand more technical expertise and as a result show a stronger presence of business interests and associations” (1117).

Note 10. This, in turn, means that special interests have continued access to and get involved in the policy process much earlier than traditionally thought and with much more room for shaping the pursuing policy process (Grande 2001).

Note 11. The Green 10 consist of i.a. the World Wide Fund for Nature European Policy Office (WWF EPO), European Environment Bureau (EEB), Friends of the Earth Europe (FoEE), Greenpeace European Unit, Climate Action Network Europe (CAN-E) and Birdlife International. It is important to mention that all members of the Green 10, except for Greenpeace, receive financial support from the European Commission. For a further understanding of the effects of the Commission’s funding on the EU system of interest representation see Sanchez-Salgado (2014).

Note 12. Structural power can also result in rule-setting power, in so far as an actor’s resources and/or competencies may put it in the position to create collectively binding rules for others. This latter form of structural power has come to be associated with business actors in the context of private governance initiatives, which the EU also has encouraged and relied on in a range of policy fields. Given that the focus of the present analysis is on climate targets set by the EU institutions, business’ rule-setting power will not be further discussed here.

Note 13. The WWF wanted a reduction of GHG emissions of at least 55 %, a renewables target of 45 % and an energy efficiency target of 40 % (WWF, 2013). EEB demanded a 60%-45%-50%-trias (EEB, 2013a), FoEE a 80%-marked increase-50%-trias (FoEE, 2013).

Note 14. CoE is the overarching coalition for the groups working for greater energy efficiency in Europe (Ydersbond, 2016: 61).

Note 15. EREC is the umbrella organization for the European renewables industry.

Note 16. In the Barroso-Kommission II (2009-2014) there was a separate Environment Commissioner, Energy Commissioner, Climate Action Commissioner and Maritime Affairs and Fisheries Commissioner.

Note 17. This is particularly noteworthy, as DG ENV and DG CLIMA are considered relatively small to begin

with. The staff numbers of DG ENV and DG CLIMA relative to the output in this domain and in comparison to other DGs are limited and scholars view their administrative capacity, therefore, as restricted (Delreux and Happaerts, 2016: 63). Whereas DG ENV employs 500 officials and DG CLIMA 154 officials, DGs like Enterprise and Industry employ 900 officials and DG Agriculture and Rural Development 1000 officials (ibid.). Delreux and Happaerts argue that human and financial resources equate to institutional power in an institution like the Commission and that DG ENV and DG CLIMA therefore have an inferior status (Schön-Quinlivan, 2013: 104).

Note 18. The interviewee linked these developments also to a subsequent deterioration in the relationship between the Commission and the Environment Committee in the European Parliament resulting from the fact that the Juncker Commission only started talking about sustainable development after pressure from the Environment Committee.

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