Towards harder soft governance? Monitoring climate policy in the EU

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Published online: 13 Jul 2020.

Routledge
Taylor & Francis Group

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ABSTRACT

In the emerging debate on 'harder soft governance,' the relationship between hard and soft elements has not been fully explored. This paper addresses this gap by looking at the changing nature of policy monitoring, a quintessentially soft governance mechanism. It focuses on climate change, a dynamic site of policy expansion and experimentation in which the EU has historically been an international frontrunner. This paper finds that a range of 'harder' elements have been added to the EU's climate policy monitoring over time, including more explicit legal provisions, greater external publicity, and more concrete links to other policy processes. These changes have emerged from politically sensitive negotiations between many actors, principally the European Commission, the European Parliament and the European Environment Agency (who together have generally favoured greater hardening), and Member States (some of whom preferred softer governance) in the context of changing international opportunities and constraints. Moving forward, this paper highlights the need for more research on the efficacy of policy monitoring, especially with respect to the EU's significantly more ambitious long-term decarbonisation targets.

1. Introduction

Debates on soft governance are by no means new, particularly in the context of the European Union (EU) (see Graziano & Halpern, 2016). Brandsen et al. (2006, p. 546) define soft governance as a form of steering where:

> central government directs local authorities and agencies, not by hierarchically imposing what should be done but by providing unofficial guidelines on how to improve the quality of local practice. These guidelines contain information on the state of the art and best practices, as well as advice on what level of quality should be regarded as the professional standard.

There have been numerous efforts to coordinate policy-making among the EU Member States by softer means, especially when there are limited European competences. A prominent example is the Open Method of Coordination (OMC), which first began in the area of social and employment policy (de la Porte & Stiller, 2020; Tholoniat, 2010), but was since extended to other areas such as the environment (see Twena, 2012). In addition, scholars have highlighted a range of 'governing tools' with soft characteristics (see Blomqvist, 2016). Given the existence of many softer forms of governance, a new question arises: what do actors do to ensure some level of adherence to softer guidelines when they are not achieved, the aim being to reach policy targets?

Among the various forms of soft governance, variants of (policy) monitoring play an important role (see Knodt & Schoenefeld, 2020). This article starts from the premise that many soft governance arrangements such as the OMC or the European Semester (Brooks et al., 2020) incorporate (with varying degrees of

explicitness) policy monitoring, sometimes flanked by other elements such as peer review (e.g. Tholoniat, 2010). Unfortunately, at present there is no authoritative definition of policy monitoring, and scholars debate whether it includes only data collection, or also entails evaluative judgements (Schoenefeld & Rayner, 2019). A baseline definition put forward by the Organisation for Economic Co-operation and Development (OECD) suggests that policy monitoring is 'a continuous process of collecting and analysing data to compare how well a project, programme, or policy is being implemented against expected results' (OECD-DAC, 2002, p. 30). Policy monitoring could in principle address policy process as well as policy outputs and outcomes (Rossi et al., 2018). While policy monitoring was highlighted as particularly important to the Commission as long ago as the mid-1990s (see Haigh, 2016, pp. 166–175), what is new is the increasing willingness to imbue policy monitoring (and therefore soft governance) with 'harder' elements, such as greater publicity, peer review, and even indirect sanctioning mechanisms (Knodt & Ringel, 2018; Schoenefeld & Knodt, 2020). We demonstrate that the addition of harder elements would amount to a shift from classic soft governance towards harder soft governance (HSG), but such a transformation – and especially its causes – has been insufficiently empiricised and explained in the existing literature.

Lack of attention to emerging HSG is especially true in the area of climate policy monitoring, where despite considerable research efforts (e.g. Aldy, 2018; European Environment Agency, 2016; Fransen & Cronin, 2013; Schoenefeld et al., 2018), the hardening elements remain by and large unknown. This state of affairs is surprising because, as Schoenefeld and Rayner (2019) highlight, '[n]ever has policy monitoring been as extensive, complex and at times politicised as today' (p. 18). While some scholars have produced general descriptions of harder and softer elements in climate policy (e.g. Oberthür, 2019), few have attempted to work towards explanations of how and why the observed harder elements become institutionalised and how they function (but see Knodt & Ringel, 2018).

This paper begins to address these gaps. Climate policy in the EU is a particularly suitable place to look for and explain HSG, because the Energy Union has placed a strong emphasis on policy monitoring in order to deliver on European targets to reduce greenhouse gas emissions, implement the 2015 UN Paris Agreement and thus limit climate change to 'well below' two and preferably 1.5 degrees Celsius of warming, through achieving net zero emissions by 2050. We focus on the development of the EU's Monitoring Mechanism for greenhouse gases and climate policies and measures, starting with the 2004 Monitoring Mechanism Decision (MMD – No 280/2004/EC), including its revision in 2013 (when it became the Monitoring Mechanism Regulation [MMR – No 525/2013]). The analysis centres on the monitoring of *public policies*, that is, the programmes that *public* actors introduce to address climate change (see Schoenefeld & Rayner, 2019). The Monitoring Mechanism has existed for decades (see Bodansky, 1993; Hyvarinen, 1999), has evolved alongside a significant expansion in EU climate policy-making, and is thus a good place to investigate how and why harder and softer elements interact over a longer time period (see Jenkins-Smith et al., 2014).

The remainder of the paper proceeds as follows: Section 2 explains our analytical framework, followed by our methods (Section 3), and the analysis of the interaction between harder and softer elements in climate policy monitoring (Section 4). Section 5 explores the main actors behind this development, namely the European Commission, the Parliament, the Member States, and the European Environment Agency (EEA), and their desire to harden climate policy monitoring. The final section concludes and identifies future research priorities.

2. How to identify and explain harder soft governance

This section fulfils two critical tasks. First, it presents a framework to clearly identify HSG and distinguish it from other governance approaches. Second, it proposes an analytical approach to explain such developments.

2.1. Identifying harder soft governance

The theoretical possibility of HSG was originally suggested by Abbott et al. (2000), who argued that soft law would over time change and potentially be supplemented with harder elements. HSG necessitates the

presence of a core soft governance approach. Policy makers may insert harder elements from the beginning, but more typically they are added over time in response to a perceived ineffectiveness of the soft governance mechanism (Knodt & Ringel, 2018; Saurugger & Terpan, 2020; Schoenefeld & Knodt, 2020). Consequently, hardening elements are then applied in order to strengthen the soft governance mechanism and stimulate effectiveness. The specific availability and possibility of hardening elements depends on the specific policy area in question, but Knodt and Schoenefeld (2020) have introduced a range of possible elements. These include, for example, strengthening the degree of obligation to adhere, asking for more justification (e.g. states need to explain why they do (not) respond to recommendations), increasing the precision of policy targets, applying new blaming and shaming opportunities, or strengthening the role of third party actors. All of these factors may, in isolation or in combination, contribute to the hardening of policy monitoring.

2.2. Explaining harder soft governance

In seeking to explain the introduction of hardening elements to policy monitoring, and thus the emergence of HSG, we assume that this is a process that is largely driven by particular actors, who seek to reach specific goals (see Peters, 2011; Saurugger & Terpan, 2020). HSG is unlikely to emerge as an (unintended) side effect of other governance activities, or evolve organically as a function of contextual changes, because it implies actively changing the incentives that actors face in engaging with soft governance. Those subject to soft governance will closely watch such developments and will likely resist any accidental developments in the direction of HSG. Accordingly, existing efforts to harden soft governance have been duly noted (Lehtonen, 2020; Schäfer, 2006). The core motivation to employ hardening elements is a (growing) sense of discontentment with soft governance. Actors need to perceive the soft governance as inadequate, ineffective, and in need of change in order to move towards HSG. Such perceptions are not only a function of actor attributes, but may also emerge from the (shifting) context in which these actors operate, such as for example a changing international environment (Saurugger & Terpan, 2020; Schoenefeld & Knodt, 2020). To sum up, explaining HSG in any given policy area requires (1) identifying the critical actors with an interest in the original soft governance mechanism; (2) assessing their perceived discontent with that mechanism; (3) exploring how actors seek to apply certain elements in order to harden soft governance.

3. Methods

Applying the analytical framework of identifying and explaining HSG requires careful process tracing and triangulation of different data sources and information (see Beach & Pedersen, 2019). Drawing on Knodt and Schoenefeld (2020), this paper explores the inclusion of 'harder elements' mainly in a deductive way (i.e. starting from the framework of hardening elements, including legislative changes, publicity, linking), but also remains open to others that emerge inductively in the analysis of EU climate policy. Building on the growing knowledge base on the EU's Monitoring Mechanism (Hildén et al., 2014; Schoenefeld et al., 2018, 2019), our analysis draws on a mixture of primary document and video analysis of a European Parliament debate (including relevant legislation and policy documentation), as well as key informant interviews with four experts from the EEA. Because the EEA manages the Monitoring Mechanism in practice, its staff have intimate knowledge of its operation. Furthermore, the paper draws on additional, original evidence, including website usage data, in order to explore the application of different hardening elements.

4. Hardening soft climate and energy policy monitoring in Europe

Analysing HSG necessitates an understanding of both the substance of climate policy monitoring; that is, the legal texts that underwrite it, what is actually being monitored, as well as the context in which the monitoring takes place, including the envisioned or actual use (and potential users) of the monitoring information. This section addresses each aspect in turn.

4.1. Hardening by adapting the legal underpinning of monitoring

The biggest change in the Monitoring Mechanism's recent history has been its shifting legal nature from a Commission 'Decision' (MMD – No 280/2004/EC) to a 'Regulation' (MMR – No 525/2013). It should be noted that that this modification took place over the course of a treaty change (from the Treaty of Nice in 2001 to the Treaty of Lisbon in 2009). While both treaties contain the category of decision as a legally binding act, the Treaty of Nice defined it in a more limited form as only applying to its stated addressees (Consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community, 2002, Article 249), while the Treaty of Lisbon extended its range also to include generally applicable decisions (Consolidated version of the Treaty on the Functioning of the European Union, 2012, Article 288). Legal scholars debate the extent to which the new, broader category of decisions creates overlap with regulations (see Best, 2007). However, in either case decisions are taken by the Commission alone, while regulations emerge through the ordinary legislative procedure from negotiations between the European Parliament and the Council; both apply directly. In the case of the Monitoring Mechanism, the change of the legal instrument manifested as a form of hardening in the shift from a Decision to a Regulation. Thus, the new legal form in 2013 adds additional legitimacy and broader application to all Member States of the EU.

Correspondingly, the preamble of Regulation (EU) No 525/2013, p. L 165/13 reads that

[…] Decision No 280/2004/EC should be replaced by a Regulation on account of the broader scope of Union law, the inclusion of additional categories of persons to which obligations are addressed, the more complex and highly technical

Table 1. A comparison of the Monitoring Mechanism Decision (2004) and Regulation (2013).

Aspect	Decision No 280/2004/EC (MMD)	Regulation (EU) No 525/2013 (MMR)
Focus		
Length	7 pages.	18 pages (plus 11 pages of Annexes).
Quality assurance	Contains provisions for a quality assurance (Article 4 [2a]).	Marginally more detailed provisions (Article 6).
Low carbon strategies	No reporting required.	Requires the EU Member States to report on their low carbon development strategies (Article 4).
Reporting on policies	Reporting on policies included in Article 3(2).	Separate article related to reporting on policies (Article 13), but also weakening key provisions on quantitative ex-ante and ex-post reporting ('where available' clauses).
Projections	Included in other articles (see above).	Separate article (14) on reporting projections.
Adaptation and financial/ technology report to developing countries	No reporting required.	Specific new provisions on reporting on national adaptation actions (Article 15) and on reporting on financial and technology support to developing countries (Article 16).
Expert review	Relies on the United Nations Framework Convention on Climate Change (UNFCCC) review mechanisms (Article 8b).	Creates a new, EU-based expert review on greenhouse gas emissions, to be organised by the Commission (Article 19).
Monitoring outputs: publicity		
Monitoring data availability	Data publicised on the Öko-Institute Website; later through EIONET; summary EEA reports on the data from 2011 onwards.	Data publicised on EIONET website, in the EEA PAMs database, and in the EEA PAMs data viewer; summary EEA reports from 2013; from 2017 comparisons between different reporting rounds.
Links with existing EU and international reporting cycles		
Links with other reporting streams	Links to international reporting (UNFCCC, Kyoto).	Links to international reporting (UNFCCC, Kyoto), but also to the effort sharing decision in Article 1(d/g) [Decision No 406/2009/EC] as well as to auctioning revenue from the EU ETS in Article 1(e).
Incorporating monitoring into other policy planning processes		
Incorporation in policy planning	None.	Included in the State of the Energy Union Reports and the National Energy and Climate Plans (NECPs)

Source: Draws on Knodt and Schoenefeld (2020); interviews, document analysis.

nature of provisions introduced, the increased need for uniform rules applicable throughout the Union, and in order to facilitate implementation.

The shift to a more broadly applicable legal instrument to underwrite the Monitoring Mechanism entails hardening by legalisation (see Abbott et al., 2000). However, EEA officials reported that this had a limited effect in practice.[1] Table 1 summarises the different ways in which the Monitoring Mechanism has been hardened over time.

4.2. Hardening by increasing the focus of monitoring

The new Regulation contains a greater level of detailed provisions than the previous Decision. One indicator of this is the length of the legal text, which has increased from 7 pages in the MMD to 18 pages (plus 11 pages of annexes) in the MMR. The MMR provides more details on quality assurance, and introduces new reporting streams, such as on low-carbon development strategies, on adaptation actions, as well as on financial and technological assistance to developing countries (see Table 1). Providing more detailed legal provisions is one of the ways of hardening softer governance approaches (see Knodt & Schoenefeld, 2020). The new regulation also instigates a new, EU/domestic expert review of GHG emissions reporting in addition to the review conducted by the international institutions. Our interviews revealed that this has improved the timing of monitoring data, given that international procedures are often lengthy and therefore sometimes too slow to support policy development.[2] In sum, this evidence indicates that the legislative revision has hardened the Monitoring Mechanism by providing more extensive and detailed rules. Evidence from our interviews suggests that the new rules have improved the quality of climate policy monitoring.[3]

4.3. Hardening by publicising the outputs of monitoring

One of the most significant developments in terms of 'hardening' the Monitoring Mechanism has been to increase its publicity (see Knodt & Schoenefeld, 2020). As Furubo and Vestman (2011, p. 21) have highlighted, an important element of evaluative activities is '[t]he power to decide how the findings should be disseminated and who should be informed about the findings.' Increased publicity leads to the (possibility) of increasing the public pressure on policy-makers, particularly when policies are not working as planned. Raising the public visibility of monitoring data is thought to increase transparency, and therefore enable mechanisms of 'naming and shaming', which has been identified as one HSG element (Knodt & Schoenefeld, 2020).

Our interviews revealed that from 2005, information on national climate change mitigation policies were first published by the ko-Institut, which was a member of a consortium (the European Topic Centre on Air and Climate Change) contracted by the EEA to assist with the monitoring. In the late-2000s, the data publication was moved to the EEA, which first published the data through the EIONET website,[4] but later generated a much more visible and user-friendly database for climate change policies and measures (PaMs Database for short),[5] which aims to further increase the visibility and usability of the climate change data (European Environment Agency, 2018a).[6] While the data had in principle already been reported on the EIONET website previously, in practice locating and using them required significant technical expertise. Following the existence of this database and downloadable datasets, the EEA took further steps in order to increase data usability by launching a so-called 'EEA PaMs Viewer' in December 2018.[7] This viewer offers summary diagrams which users can customise to suit their needs.

But to what extent have these elements already been used? While precise usage data are difficult to obtain, website views and document downloads can be one proxy to understand the extent to which this information has been utilised. According to the EEA, in the period between 1 January 2017 and 30 June 2020, there were 558 downloads of the PaMs dataset from the PaMs database website (we assume that downloads are a better indicator of usage than page views, which tend to be more numerous, but potentially also more ephemeral).[8] On average, these data translate into 0.44 downloads per day. Compared to about 40 million views of the EEA website[9] and its sub-pages and more than 2 million document downloads over the same time period, this only represents a tiny fraction. However, Monitoring Mechanism data will most likely interest specialists who aim to

understand the EU's or individual Member States' climate policy efforts, potentially use the data in subsequent analysis and reporting, and – crucially – put pressure on policy-makers. The new PaMs Viewer experienced a total of 4582 page views since its launch between 1 December 2018 and 30 June 2020. While there has been some demonstrable interest, it is too soon to tell the efficacy of this tool, as well as its use compared to the PaMs database.[10]

Another way to understand the efforts to publicise the Monitoring Mechanism data is to consider follow-up publications. The EEA has published summary reports following most reporting cycles (ETC/ACC, 2012; European Environment Agency, 2013, 2015, 2018b; European Topic Centre on Climate Change Mitigation and Energy, 2019). These publications represent additional attempts to make the data accessible, report on their quality and conduct more detailed analyses. These endeavours link with the broader efforts made by EEA staff to strengthen and extend climate and environment monitoring and evaluation in Europe (European Environment Agency, 2016). However, as Schoenefeld and Rayner (2019) explain, relatively little else is known about the use of monitoring data and how doing so may effect policy change. Too much publicity may also be counterproductive. As scholars working on governance transparency have long noted, information overload could potentially reduce the hardening effect (see Gupta & Mason, 2016).

Taken together, we thus observed more concerted efforts by the EEA to make climate policy-related monitoring data available, starting in the late 2000s. There are two new online tools, as well as a growing number of dedicated reports. These endeavours may be understood as part of a broader effort to harden monitoring by transparency (Gupta & Mason, 2016), because the public data availability increases the possibility for putting pressure on policy-makers, especially in the case of policy under-achievement. The moderate usage of these tools that we identified by the use of proxies suggests that this may be happening in a limited, but potentially powerful circle of individuals.

4.4. Hardening by linking monitoring with existing EU and international reporting cycles

The introduction of the MMR also meant that reporting connected more with existing climate change targets, and in particular, the effort sharing system (Decision No 406/2009/EC) which the EU had put into place in order to define individual Member State contributions to the overall climate targets of the EU (Haug & Jordan, 2010). Table 1 (see above) describes this change in the legal text. Discussing the practical implications of this change, one EEA staff member explained:

> What has changed with the MMR is the introduction for example of this annual compliance cycle under the effort sharing decision, where new targets have been set for Member States and there is an annual compliance cycle which was not there in the MMD. So there the effort sharing decision combined with the Monitoring Mechanism Regulation have set up this compliance cycle whereby we monitor, but we also review the Member States' emissions and the Commission then checks compliance with their annual targets. This annual compliance cycle started in 2015 (with the review of 2013 emissions). With a few years' experience with this annual review and compliance cycle, we can see that it functions well and allows us to monitor how Member States perform against their annual targets. For example, we can see that some Member States have more and more difficulty following their reduction path to their 2020 targets.[11]

Given that compliance checking is one of the core tasks of the European Commission – and one of the areas where it has strong competence, backed up by the European Court system, linking the Monitoring Mechanism with compliance checking under the effort sharing decision significantly strengthens, or hardens, the former. This approach works with binding, national-level targets, which is the case for greenhouse gas emissions reductions in both the EU's 2020 and the 2030 climate and energy frameworks. The existence of binding targets and an iterative checking device through the Monitoring Mechanism raises the spectre of compliance cases before the Court of Justice of the European Union (CJEU). The CJEU has indeed already taken action with a view to the Monitoring Mechanism: in the late 2000s, the CJEU found that Luxembourg had reported on its climate policies in an untimely manner in two separate court cases (Schoenefeld et al., 2018). The compliance checking against the effort sharing target now increases the possibilities that additional infringement procedures may be opened. In sum, this change involves the Monitoring Mechanism much more in the delivery

of climate policies – thus seeking to enable a monitoring function (in the shadow of the Court) that has often been highlighted as one of the key success factors of policy implementation (see Aldy, 2014; Tosun, 2012).

However, the checking is done mainly against national greenhouse gas inventories,[12] while the policy-based, bottom-up emissions reductions data have not been used to check delivery against extant targets to date. In fact, matching the top-down emissions data with the bottom-up per-policy emissions has been a long-term issue that the EEA has attempted, but never managed to resolve (see also Schoenefeld et al., 2019).[13] Furthermore, better linking ex-ante and ex-post reporting – which is one of the stated aims of the EU in light of its better regulation agenda of the European Commission (see Radaelli, 2018) – is something that remains an immense challenge, given the strong focus on ex-ante reporting and the severely limited level of ex-post data provided through the Monitoring Mechanism (see Schoenefeld et al., 2018).

4.5. Hardening by incorporating monitoring into other policy planning processes

The Monitoring Mechanism has been incorporated in the emerging Energy Union, since the vast majority of its articles now form part of the new governance regulation, as the relevant legislative impact assessment explained (European Commission, 2016, see also the governance regulation text, (EU)2018_1999). The Monitoring Mechanism's outputs are now being 'hardened' by inclusion in the national energy and climate plans (see also Knodt et al., 2020; Ringel & Knodt, 2018). This inclusion amounts to hardening because the Energy Union has been elevated to a Commission priority at the highest level, with one of the former vice presidents (Maroš Šefčovič) specifically in charge. The Commission Vice President produces regular 'State of the Energy Union Reports.' The name of this exercise alone reveals much about the importance attached to it by the European Commission because it alludes to the much longer-standing tradition of the State of the Union addresses by US Presidents, as well as to the newer State of the European Union addresses by the Presidents of the European Commission (since the 2009 Lisbon Treaty introduced them). Central political speeches of this kind have been shown to be influential (Stüwe, 2013), for example in terms of media agenda-setting (Wanta et al., 1989). By rhetorically linking the Energy Union reporting to such high-level events and placing it in the hands of a Commission Vice-President, the regular reports were elevated in terms of their political significance. Through this route, monitoring climate and energy policy has gradually morphed from what may have been perceived as an arcane practice conducted in back rooms of environment ministries to a front-and-centre activity that lies at the very core of climate and energy governance in Europe (see also Schoenefeld & Knodt, 2020). In essence, the new Energy Union is an attempt to strengthen energy governance by monitoring to a significant degree.

Four 'State of the Energy Union Reports' have been published to date (see European Commission, 2015, 2017a, 2017b, 2019). Careful analysis reveals that Monitoring Mechanism data features in all four, albeit to different degrees. The most common way is reporting on national greenhouse gas emissions and their development, especially in relation to GDP (decoupling). The second report specifically mentions the 2015 Monitoring Mechanism inventory (European Commission, 2017a, p. 4); the fourth report mentions the inventories (between 1990 and 2016) in a footnote (European Commission, 2019, p. 3). Usage of the data produced by the Monitoring Mechanism became more detailed over time, pointing to further hardening. For example, the fourth report for the first time introduced sectoral decomposition of greenhouse gas emissions from 1990 to 2016 (European Commission, 2019, p. 4). However, it should also be noted that new aspects have emerged in some of the reports, such as a stronger focus on investments, as well as diplomacy, fairness, or energy poverty in the third report (European Commission, 2017a). Monitoring Mechanism data does not exist in these areas, thus a shifting focus to other salient topics may also indicate the limits of the hardening of Monitoring Mechanism data by incorporation in the Energy Union. Especially the reporting on more comprehensive strategies, as opposed to singular climate policies, is a novel and strengthening element, allowing the Commission much more insight into Member State policy thinking and aims, and potentially influencing the strategic direction of climate policy development. The strategic power thus obtained by the Commission through the set-up of the Energy Union is yet another, perhaps subtler but nevertheless potentially impactful

way to 'harden' what may otherwise seem relatively soft monitoring and review arrangements. While the Energy Union has incorporated the Monitoring Mechanism activities, it has not extended the latter's remit to capture more ex-post data. There are some more detailed requirements in the text, but these have been softened with 'where available' clauses.

5. The emergence of harder elements in climate policy monitoring: an explanation

Having described the hardening of climate policy monitoring, this section seeks to explain how and why it happened. Actor constellations and interests lie behind the overt efforts to harden climate policy monitoring. We focus on four particularly salient (groups of) actors with a view to understanding their influence on and interests in hardening monitoring. These are the European Commission, the European Parliament, the Member States and the EEA. We unpack the role of each actor (or actor group) individually before turning to their connections in a broader overview (see also Section 6).

5.1. The European Commission

The behaviour of the European Commission should be understood as the outcome of self-interested competence-seeking and an ambition to achieving EU-wide policy targets. In the case of the Monitoring Mechanism, the Commission has been a policy entrepreneur, pushing for greater frequency and depth of monitoring and reporting, an ambition that has at times run against the Member States who have feared too much European-level control over their climate policies (Schoenefeld et al., 2018). Back in 2013, the then Climate Change Commissioner Connie Hedegaard detailed that the Commission had not fully achieved its objectives in terms of legally demanding Member State reporting on low-carbon strategies, finance, as well as reporting frequency and on some issues related to implementation.[14]

It appears that the Energy Union – bolstered by internal and external pressure to act on climate change – has been a new opportunity for the Commission to gain more leverage over Member State strategizing by means of greater monitoring – a phenomenon that has already been well-noted by scholars, who have highlighted the Commission ambitions to become a 'policy shaper' vis-à-vis the Energy Union (Knodt & Ringel, 2018; Schoenefeld & Knodt, 2020). The Energy Union centres on monitoring activities at the insistence of the Commission (see Ringel & Knodt, 2018; Szulecki et al., 2016). It seeks to generate a pathway to achieve commonly agreed European and international climate and energy targets while the traditional targets-and-timetables approach in areas such as renewables or energy efficiency policy has become significantly more challenging at the European and international levels given Member States reluctance to share their sovereignty (Schoenefeld & Knodt, 2020). The emerging Energy Union is therefore another example of an institution that is 'interested in protecting and expanding [its] resources, autonomy, and reputation, [as] are evaluation [or monitoring] institutions' (Dahler-Larsen, 2011, p. 87).

The stronger linking of the Monitoring Mechanism with an annual compliance cycle indicates efforts in a similar direction; however, many of these activities usually focus on the reporting of greenhouse gases, as the policy-based reporting remains too patchy and too inconsistent to allow serious tracking of policy effort. The existing efforts of the Commission relate to two main objectives; one is to enable steering effects by monitoring in a difficult policy environment; the other is to expand its own policy remit and competence reach in this area, with a view to enlarging its governance role.

5.2. The European Parliament

The role of the European Parliament in hardening climate policy monitoring remains somewhat unclear. Some evidence suggests that it has pursued stronger monitoring provisions in the context of the 2013 revision of the Monitoring Mechanism (Schoenefeld et al., 2018). For example, the debate on the revision of the Monitoring Mechanism demonstrates significant political tensions that emerged in the revision process, especially over for example financial reporting (see also Schoenefeld et al., 2018). Addressing the Member States in the debate,

Rapporteur Bas Eickhout (MEP) highlighted that 'This report is just about reporting on what you're doing. If that's so difficult for you, then we have a long, long way to go I'm afraid.'[15] By contrast, the Parliament has to date been less active in pursuing a strong monitoring and evaluation agenda. Lower levels of engagement may be due to the fact that it has only recently begun to engage with policy monitoring and evaluation, activities which had hitherto been the remit of the Commission.

5.3. The Member States

The role of the Member States in hardening climate policy monitoring should be understood with a view to two countervailing forces. On the one hand, many of the climate-related activities of the EU – including its efforts to foster monitoring – originate from the ambition to lead the world on climate change (Wurzel & Connelly, 2011). As one of the instigators of monitoring at the global level (Bodansky, 1993), the EU has continually sought to develop the practice 'at home' with a view to being a role model for others.

On the other hand, this ambition has been constantly bedevilled by continuing conflict between different blocs of Member States, namely those in favour of more stringent climate action and those who prefer policies that stress security of the energy supply as well as independence from key actors, such as Russia (see Knodt, 2018; Zoll, 2020). As a result, the Member States have generally been hesitant to harden climate policy monitoring, and thus have often pushed in the opposite direction, i.e. towards softer monitoring approaches. While their justification has generally focused on the administrative burden and cost of maintaining functioning monitoring systems (Schoenefeld et al., 2018), monitoring also generates political control for higher-level actors (Schoenefeld & Rayner, 2019), something that Member States have been keen to avoid in order to retain more autonomy.

Nevertheless, the Commission and the Parliament have generally prevailed – at least in part – in hardening monitoring, as the previous section has demonstrated. This result may be explained by the activities of the Commission on the one side (see Knodt & Ringel, 2018), and by the general preference of the Parliament for ambitious climate and energy policies on the other (see Burns, 2016). In general, the ongoing alliance between the Commission and the Parliament has been strong enough to overcome Member State resistance and to secure the hardening of policy monitoring unpacked above.

5.4. The European Environment Agency

The EEA has been hesitant to strengthen its own influence over policy monitoring because strictly speaking, its legal role is to collect data, quality check it and undertake policy analysis (Martens, 2010). But in recent years it has tried to stress the benefits of policy monitoring to Member States and improve its usability, particularly amongst a wider range of interested individuals (see the previous section). Given that it is wholly impossible to specify precisely how monitoring should be conducted in advance, important aspects still depend on the capacities and goodwill of the Member States (especially in areas where reporting is to be done 'where available' or even entirely voluntarily as in the case of *ex-post* data). Nevertheless, through its direct entrepreneurial interactions with the Member States, over time the EEA has managed to develop a unique understanding of the potential – and also the difficulties – of undertaking more policy monitoring.

6. Conclusions and new directions

While a move towards HSG is apparent in many policy fields, these dynamics had so far been unexplored in the area of climate policy and especially with respect to the governance tool of policy monitoring. This gap in the literature is surprising, given the latter's role in achieving the EU's climate targets in the context of the UN Paris Agreement and the Energy Union. Overall, we found that efforts to increase the impact of climate policy monitoring through hardening it have been underway in recent years. Many harder elements have been added to monitoring, including: adapting the legal underpinnings of monitoring (*legalisation*); increasing its focus (*level of provisions*); *publicising* monitoring data in order to focus public pressure on policy-makers; *linking*

monitoring with existing EU reporting cycles; and *incorporating* monitoring in other policy planning processes. We thus empirically confirm Abbott et al.'s (2000) suggestion that an ostensibly soft governance mechanism (in our case policy monitoring) may be gradually amended over time with hardening elements to produce a new form of governance, which may be termed HSG (see also Saurugger & Terpan, 2020).

The hardening of soft governance has mainly been driven by the European Commission and the Parliament. For example, the 'State of the Energy Union Reports' produced under the auspices of a Commission Vice-President have generated an additional, high-level tool to attempt to steer EU and national climate and energy policy vis-à-vis monitoring. Placing monitoring much more centrally in EU policy processes and indeed expecting significant governance outcomes from it, may already engender a significant 'hardening' effect. However, the Member States were split on the issue, and the EEA has had a supporting role. Thus, HSG emerged as a compromise solution in order to enable EU-level governance in a highly politicised environment. The governance mix was thus not entirely designed as such, but rather emerged rather randomly, via inter-actor bargaining. Finally, it was only by process tracing events over time were we able to show that HSG is not an entirely rationally planned construct.

Policy monitoring is an important but under studied aspect of modern governance that is ripe for further analysis. Future research should focus on the real-world impacts and outcomes of policy monitoring, whether hard, soft or variants of both. Do the naming and shaming effects actually materialise or are the actors in fact too overloaded for monitoring to achieve its desired effect (see Tosun et al., 2020)? To what extent do legalisation, increasing the level of provision, publicity, as well as linking and incorporation generate tangible governance and policy effects? In other words, how successful is the hardening? Answering these and other questions will likely shed further light on the efficacy of the dynamic interactions between softer and harder elements in this changed form of governing. Our knowledge of the actual use and thus the steering efficacy of these hardened policy monitoring still remains slim. This article has provided some early estimates of its efficacy, which suggest only moderate effects. It remains to be seen to what extent additional hardening affects the emerging policy monitoring provisions in the European Green Deal (2019) and the proposed new European Climate Law (2020). Researchers engaging with these kinds of questions should remember that monitoring and evaluation maybe done for political as well as for purely instrumental reasons (see Schoenefeld & Jordan, 2019; Stephenson et al., 2019).

Notes

1. EEA Staff Member 3, Email interview 14.06.2019.
2. EEA Staff Member 3, Interview 11.01.2019.
3. EEA Staff Member 4, Interview 11.01.2019.
4. https://rod.eionet.europa.eu/instruments/652
5. http://pam.apps.eea.europa.eu
6. EEA Staff Members 3/4, Interview 11.01.2019.
7. Written interview with EEA Staff Member 4 on 18 March 2019; see https://www.eea.europa.eu/themes/climate/national-policies-and-measures/national-policies-and-measures-on
8. Using the links http://pam.apps.eea.europa.eu/tools/download or http://pam.apps.eea.europa.eu/download
9. http://www.eea.europa.eu
10. We thank the EEA staff for providing these preliminary data.
11. EEA Staff Member 3, Interview 11.01.2019
12. EEA Staff Member 3, Interview 11.01.2019
13. EEA Staff Member 3, Interview 11.01.2019
14. http://www.europarl.europa.eu/ep-live/en/plenary/video?debate=1363033384627
15. http://www.europarl.europa.eu/ep-live/en/plenary/video?debate=1363033384627 (Minute 21:31:58–21:32:08).

Acknowledgements

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

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References

Abbott, K. W., Keohane, R. O., Moravcsik, A., Slaughter, A., & Snidal, D. (2000). The concept of legalization. *International Organization*, *54*(3), 401–419. https://doi.org/10.1162/002081800551271

Aldy, J. E. (2014). The crucial role of policy surveillance in international climate policy. *Climatic Change*, *126*(3-4), 279–292. https://doi.org/10.1007/s10584-014-1238-5

Aldy, J. E. (2018). Policy surveillance: Its role in monitoring, reporting, evaluating and learning. In A. Jordan, D. Huitema, H. van Asselt, & J. Forster (Eds.), *Governing climate change: Polycentricity in action?* (pp. 210–227). Cambridge: Cambridge University Press.

Beach, D., & Pedersen, R. B. (2019). *Process tracing methods: Foundations and guidelines* (2nd ed.). Ann Arbor: University of Michigan Press.

Best, E. (2007). Legislative procedures after Lisbon: Fewer, simpler, clearer? *Maastricht Journal of European and Comparative Law*, *15*(1), 85–96. https://doi.org/10.1177/1023263X0701500109

Blomqvist, P. (2016). Soft and hard governing tools. In C. Ansell & J. Torfing (Eds.), *Handbook on theories of governance* (pp. 267–278). Cheltenham: Edward Elgar Publishing.

Bodansky, D. (1993). The United Nations Framework Convention on Climate Change: A commentary. *Yale Journal of International Law*, *18*, 451–558.

Brandsen, T., Boogers, M., & Tops, P. (2006). Soft governance, hard consequences: The ambiguous status of unofficial guidelines. *Public Administration Review*, *66*(4), 546–553. https://doi.org/10.1111/j.1540-6210.2006.00615.x

Brooks, E., Bocquillon, P., & Maltby, T. (2020). Speak softly and carry a big stick: Hardening soft governance in EU energy and health policies. *Journal of Environmental Policy and Planning*.

Burns, C. (2016). The European Parliament and climate change: A constrained leader? In R. Wurzel, J. Connelly, & D. Liefferink (Eds.), *The European Union in international climate change politics: Still taking a lead?* (pp. 52–65). London: Routledge.

Consolidated version of the Treaty on the Functioning of the European Union. (2012). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN.

Consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community. (2002). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN.

Dahler-Larsen, P. (2011). Taking one's own medicine? The self-evaluation of the Danish evaluation institute. In P. Eliadis, J. Furubo, & S. Jacob (Eds.), *Evaluation: Seeking truth or power?* (pp. 75–88). New Brunswick: Transaction Publishers.

de la Porte, C., & Stiller, S. (2020). Lessons about the 'harder' elements of OMC governance for the EU Energy Union. *Journal of Environmental Policy and Planning*. https://doi.org/10.1080/1523908X.2020.1785281 .

ETC/ACC. (2012). *Assessment of the Member States' policies and measures submitted under the EU Monitoring Mechanism in 2011* (No. ETC/ACM Technical Paper 2011/19). European Topic Centre on Air Pollution and Climate Change Mitigation. http://acm. eionet.europa.eu/reports/docs/ETCACM_TP_2011_19_assessment_GHG_PAM.pdf.

European Climate Law, 2020/0036 (COD). (2020). https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri= CELEX:52020PC0080&from=EN.

European Commission. (2015). State of the Energy Union 2015. https://eur-lex.europa.eu/resource.html?uri=cellar:ebdf266c-8eab-11e5-983e-01aa75ed71a1.0008.02/DOC_1&format=PDF.

European Commission. (2016). *Impact assessment accompanying the document proposal for a regulation of the European Parliament and the Council on the governance of the Energy Union* (No. SWD(2016) 394 final). Brussels: European Commission.

European Commission. (2017a). Second report on the state of the Energy Union. https://ec.europa.eu/commission/sites/beta-political/files/2nd-report-state-energy-union_en.pdf.

European Commission. (2017b). Third report on the state of the Energy Union. https://ec.europa.eu/commission/sites/beta-political/files/third-report-state-energy-union_en.pdf.

European Commission. (2019). Fourth report on the state of the Energy Union. https://ec.europa.eu/commission/sites/beta-political/files/fourth-report-state-of-energy-union-april2019_en_0.pdf.

European Environment Agency. (2013). *Synthesis of the data on GHG policies and measures reported by Member States under the Monitoring Mechanism Decision in 2013.*

European Environment Agency. (2015). *Overview of reported national policies and measures on climate change mitigation in Europe in 2015: Information reported by Member States under the European Union Monitoring Mechanism Regulation.* Luxembourg: Publications Office of the European Union.

European Environment Agency. (2016). *Environment and climate policy evaluation.* https://www.eea.europa.eu/publications/environment-and-climate-policy-evaluation/at_download/file.

European Environment Agency. (2018a). EEA database on climate change mitigation policies and measures in Europe. http://pam.apps.eea.europa.eu

European Environment Agency. (2018b). *National policies and measures on climate change mitigation in Europe in 2017: Technical overview of the information reported by Member States under the European Union's climate Monitoring Mechanism Regulation.* Luxembourg: Publications Office of the European Union.

The European Green Deal, COM(2019) 640 final. (2019). https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC_1&format=PDF.

European Topic Centre on Climate Change Mitigation and Energy. (2019). *Overview of reported national policies and measures on climate change mitigation in Europe in 2019.* Copenhagen: European Environment Agency.

Fransen, T., & Cronin, C. (2013). A critical decade for climate policy: Tools and initiatives to track our progress. http://www.wri.org/sites/default/files/pdf/critical_decade_for_climate_policy_tools_and_initiatives_to_track_our_progress.pdf

Furubo, J., & Vestman, K. O. (2011). Evaluation: For public good or professional power? In P. Eliadis, J. Furubo, & S. Jacob (Eds.), *Evaluation seeking truth or power?* (pp. 1–35). New Brunswick: Transaction Publishers.

Graziano, P. R., & Halpern, C. (2016). EU governance in times of crisis: Inclusiveness and effectiveness beyond the 'hard' and 'soft' law divide. *Comparative European Politics*, *14*(1), 1–19. https://doi.org/10.1057/cep.2015.6

Gupta, A., & Mason, M. (2016). Disclosing or obscuring? The politics of transparency in global climate governance. *Current Opinion in Environmental Sustainability*, *18*, 82–90. https://doi.org/10.1016/j.cosust.2015.11.004

Haigh, N. (2016). *EU environmental policy: Its journey to centre stage.* London: Routledge.

Haug, C. C., & Jordan, A. (2010). Burden sharing: Distributing burdens or sharing efforts? In A. Jordan, D. Huitema, H. van Asselt, T. Rayner, & F. Berkhout (Eds.), *Climate change policy in the European Union: Confronting the dilemmas of adaptation and mitigation?* (pp. 83–103). Cambridge: Cambridge University Press.

Hildén, M., Jordan, A. J., & Rayner, T. (2014). Climate policy innovation: Developing an evaluation perspective. *Environmental Politics*, *23*(5), 884–905. https://doi.org/10.1080/09644016.2014.924205

Hyvarinen, J. (1999). The European Community's Monitoring Mechanism for CO_2 and other greenhouse gases: The Kyoto Protocol and other recent developments. *Review of European Community & International Environmental Law*, *8*(2), 191–197. https://doi.org/10.1111/1467-9388.00197 .

Jenkins-Smith, H. C., Nohrstedt, D., Weible, C. M., & Sabatier, P. A. (2014). The advocacy coalition framework: Foundations, evolution, and ongoing research. In P. A. Sabatier & C. M. Weible (Eds.), *Theories of the Policy Process* (pp. 183–224). Boulder: Westview Press.

Knodt, M. (2018). EU energy policy. In H. Heinelt & S. Münch (Eds.), *Handbook of European policies: Interpretive approaches to the EU* (pp. 224–240). Cheltenham: Edward Elgar.

Knodt, M., & Ringel, M. (2018). The European Commission as a policy shaper–harder soft governance in the Energy Union. In J. Ege, M. W. Bauer, & S. Becker (Eds.), *The European Commission in turbulent times* (pp. 181–206). Baden-Baden: Nomos.

Knodt, M., Ringel, M., & Müller, R. (2020). 'Harder' soft governance in the European Energy Union. *Journal of Environmental Policy and Planning*. https://doi.org/10.1080/1523908X.2020.1781604 .

Knodt, M., & Schoenefeld, J. J. (2020). Harder soft governance in European climate and energy policy: Following a new trend? *Journal of Environmental Policy and Planning*.

Lehtonen, M. (2020). Harder governance built on soft foundations: Experience from OECD peer reviews. *Journal of Environmental Policy and Planning*.

Martens, M. (2010). Voice or loyalty? The evolution of the European Environment Agency (EEA). *Journal of Common Market Studies*, *48*(4), 881–901. https://doi.org/10.1111/j.1468-5965.2010.02078.x .

Oberthür, S. (2019). Hard or soft governance? The EU's climate and energy policy framework for 2030. *Politics and Governance*, *7*(1), 17–27. https://doi.org/10.17645/pag.v7i1.1796

OECD-DAC. (2002). *Glossary of key terms in evaluation and results based management*. Paris: DAC Network on Development Evaluation, OECD.

Peters, A. (2011). Soft law as a new mode of governance. In U. Diedrichs, W. Reiners, & W. Wessels (Eds.), *The dynamics of change in EU governance* (pp. 21–51). Cheltenham: Edward Elgar Publishing.

Radaelli, C. M. (2018). Halfway through the better regulation strategy of the Juncker Commission: What does the evidence say? *Journal of Common Market Studies*, *56*(S1), 85–95. https://doi.org/10.1111/jcms.12768 .

Ringel, M., & Knodt, M. (2018). The governance of the European Energy Union: Efficiency, effectiveness and acceptance of the winter package 2016. *Energy Policy*, *112*, 209–220. https://doi.org/10.1016/j.enpol.2017.09.047 .

Rossi, P. H., Lipsey, M. W., & Henry, G. T. (2018). *Evaluation: A systematic approach* (8th ed.). London: Sage Publications.

Saurugger, S., & Terpan, F. (2020). Normative transformations in the European Union: On hardening and softening law. *West European Politics*. https://doi.org/10.1080/01402382.2020.1762440 .

Schäfer, A. (2006). A new form of governance? Comparing the Open Method of Co-ordination to multilateral surveillance by the IMF and the OECD. *Journal of European Public Policy*, *13*(1), 70–88. https://doi.org/10.1080/13501760500380742 .

Schoenefeld, J. J., Hildén, M., & Jordan, A. J. (2018). The challenges of monitoring national climate policy: Learning lessons from the EU. *Climate Policy*, *18*(1), 118–128. https://doi.org/10.1080/14693062.2016.1248887

Schoenefeld, J. J., & Jordan, A. J. (2019). Environmental policy evaluation in the EU: Between learning, accountability, and political opportunities? *Environmental Politics*, *28*(2), 365–384. https://doi.org/10.1080/09644016.2019.1549782

Schoenefeld, J. J., & Knodt, M. (2020). Softening the surface but hardening the core? Governing renewable energy in the EU. *West European Politics*. https://doi.org/10.1080/01402382.2020.1761732

Schoenefeld, J. J., & Rayner, T. (2019). Monitoring energy policy. In M. Knodt & J. Kemmerzell (Eds.), *Handbook of energy governance in Europe*. Cham, Switzerland: Springer.https://doi.org/10.1007/978-3-319-73526-9_43-1 .

Schoenefeld, J. J., Schulze, K., Hildén, M., & Jordan, A. (2019). Policy monitoring in the EU: The impact of institutions, implementation and quality. *Politische Vierteljahresschrift*, *60*(4), 719–741. https://doi.org/10.1007/s11615-019-00209-2

Stephenson, P., Schoenefeld, J. J., & Leeuw, F. L. (2019). The politicisation of evaluation: Constructing and contesting EU policy performance. *Politische Vierteljahresschrift*, *60*(4), 663–679. https://doi.org/10.1007/s11615-019-00212-7 .

Stüwe, K. (2013). *Die Inszenierung des Neubeginns: Antrittsreden von Regierungschefs in den USA, Großbritannien, Frankreich und Deutschland*. Wiesbaden: VS Verlag für Sozialwissenschaften.

Szulecki, K., Fischer, S., Gullberg, A. T., & Sartor, O. (2016). Shaping the 'Energy Union': Between national positions and governance innovation in EU energy and climate policy. *Climate Policy*, *16*(5), 548–567. https://doi.org/10.1080/14693062.2015.1135100 .

Tholoniat, L. (2010). The career of the Open Method of Coordination: Lessons from a 'soft' EU instrument. *West European Politics*, *33*(1), 93–117. https://doi.org/10.1080/01402380903354122 .

Tosun, J. (2012). Environmental monitoring and enforcement in Europe: A review of empirical research. *Environmental Policy and Governance*, *22*(6), 437–448. https://doi.org/10.1002/eet.1582

Tosun, J., De Francesco, F., & Leopold, L. (2020). Distinguishing policy surveillance from policy tracking: Transnational municipal networks in climate and energy governance. *Journal of Environmental Policy and Planning*. https://doi.org/10.1080/1523908X.2020.1785280 .

Twena, M. (2012). *Networked environmental governance in the European Union: Who participates and (how) do they learn?* (Unpublished PhD). University of East Anglia. https://ueaeprints.uea.ac.uk/41973/.

Wanta, W., Stephenson, M. A., Turk, J. V., & McCombs, M. E. (1989). How president's state of union talk influenced news media agendas. *Journalism Quarterly*, *66*(3), 537–541. https://doi.org/10.1177/107769908906600301

Wurzel, R. K. W., & Connelly, J. (2011). *The European Union as a leader in international climate change politics*. London: Routledge.

Zoll, M. (2020). Energy governance in the Republic of Poland. In M. Knodt & J. Kemmerzell (Eds.), *Handbook of energy governance in Europe*. Cham, Switzerland: Springer.https://doi.org/10.1007/978-3-319-73526-9_22-1 .