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Does the European Union have a reverse gear? Policy dismantling in a hyperconsensual polity

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ABSTRACT
The financial crisis has triggered demands to halt and even reverse the expansion of European Union (EU) policies. But have these and previous demands actually resulted in policy dismantling? The existing literature has charted the rise of dismantling discourses such as subsidiarity and better regulation, but has not examined the net effect on the *acquis*. For the first time, this contribution addresses this gap in the literature through an empirical study of policy change between 1992 and 2014. It is guided by a coding framework which captures the direction of policy change. It reveals that, despite its disposition towards consensualism, the EU has become a new locus of policy dismantling. However, not all policies targeted have been cut; many have stayed the same and some have even expanded. It concludes by identifying new directions for research on a topic that has continually fallen into the analytical blind spot of EU scholars.

KEY WORDS Austerity; blame avoidance; deregulation; environmental policy; European Union; policy dismantling

Introduction

From the Dutch declaration on the end of an 'ever closer union' (Ministerie van Buitenlandse Zaken 2013) to British demands for 'red tape' to be cut (Business Taskforce 2013), recent years have witnessed repeated calls for the pace of European Union (EU) policy expansion to be slowed and for some policies to be removed or dismantled. Yet such calls appear somewhat counterintuitive, as dismantling has long been dismissed as not simply improbable at EU level but philosophically incompatible with the idea of an 'ever closer union'. Given this context, how could policy dismantling, defined as the 'cutting, diminution or removal of existing policy' (Jordan *et al.* 2013: 795), even take place?

Policy dismantling is certainly not a new concept, but it has been identified as a means to bring together older debates. Questions of retrenchment were,

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of course, initially raised in relation to national welfare states (e.g., Green-Pedersen 2004). Around the same time, related concepts such as deregulation, regulatory reform and the regulatory state were developed by scholars studying regulation (see e.g., Majone 1994). Writing in the pages of the *Journal of European Public Policy*, Jordan *et al.* (2013) claimed that dismantling could be used as an umbrella term to bring together these and other strands of the literature. As it is not yet strongly linked to a particular policy sector, policy type or level of governance, the concept of dismantling certainly appears open enough to be applied to a new locus, namely the EU level, where for a long time it has been assumed that EU policies can and indeed must only ever expand *ad infinitum*. Yet, in their recent research agenda contribution, in which they argued strongly for a renewed focus on policy dismantling, Jordan *et al.* (2013) made little reference to the EU as either an agent or a locus of dismantling.

Studies of policy dismantling in many settings – such as the welfare state (Pierson 1994) – have usefully revealed the difficulties encountered by politicians trying to dismantle policies in contexts of distributed power. Thus, Pierson (1994: 177) famously argued that whilst distributed power makes it easier for politicians to 'duck accountability' (and hence blame) for cutting policies, a greater number of potential veto players can also be expected to bedevil attempts at retrenchment. In one of the world's most consensual – perhaps even hyperconsensual (Hix 2007: 145) – political systems, would-be dismantlers can be expected to face significant obstacles at EU level. Consequently, repeated recourse to dismantling rhetoric may not necessarily translate into (and indeed may be a symbolic substitute for) policy change. Yet, without empirical research on how far dismantling discourses translate into concrete instances of policy dismantling, it is impossible to know whether dismantling has actually occurred at EU level.

To explore whether the EU has a 'reverse gear', this contribution investigates for the first time how far political demands for dismantling have fed through to empirical instances of dismantling at EU level. To do so, it unpacks and tests for many different forms of dismantling, ranging from a diminution in 'the number of policies in a particular area' or in 'the number of policy instruments used', through to a reduction in their 'intensity' (Jordan *et al.* 2013: 802). In order to capture these many different forms, this contribution treats dismantling as a relative concept measured in respect to changes to the *status quo*. Furthermore, dismantling is treated as one of three possible directions of policy change – alongside expansion and a continuation of the *status quo*. Crucially, a single reform can in principle witness changes in and across multiple directions. Bonoli (2001: 240), for example, argued that in consensual political systems in particular, policy change could be an amalgam of expansion, stasis and

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dismantling, with two instruments of the same policy possibly moving in different directions.

This contribution explores dismantling at EU level, as this constitutes a significant gap in the emerging literature. Given space constraints we have elected to focus only on dismantling through legislative reform, although dismantling can also occur during the implementation and enforcement stages (Bauer *et al.* 2012). To maintain a manageable focus, it adopts a 22-year (1992–2014) perspective on policy change in one particular policy area – environmental protection. As dismantling is often empirically difficult to capture (among other reasons because of the well know political motivation to hide it from target groups [Pierson 1994; Jordan *et al.* 2013]), we focus on the environmental sector because it has witnessed the use of many active and open dismantling strategies and discourses in the past (e.g., Golub 1996; Jordan and Turnpenny 2012).

The next section begins by exploring why dismantling at EU level has not received more scholarly attention. The third section identifies examples of active and observable dismantling pressure over 22 years. We pinpoint the environmental directives and regulations that were targeted for dismantling and discuss the methods used to measure resulting policy changes. In particular, we explain how our coding scheme builds on an approach to dismantling developed by Bauer *et al.* (2012) and Knill *et al.* (2014), although it codes policy change in a significantly different manner. We then summarize our results. Empirically, we reveal that in spite of its inherent hyperconsensuality (and hence presumed bias towards policy stability), the EU has become a significant locus of both dismantling discourse and action. However, not all the policies targeted have actually been cut; many have stayed the same and/or have even expanded. Next we discusse these puzzling findings in the light of growing political demands for much more dismantling in a context of austerity, and offer some tentative explanations. We conclude by identifying new directions for research on a topic that has continually fallen into an analytical blind spot of EU scholars.

The EU: a new locus of policy dismantling?

Political calls for policy dismantling at EU level are running well ahead of policy research. Early work on subsidiarity and deregulation in the mid-1990s (Golub 1996; Jeppesen 2000) failed to translate into a comprehensive research programme. Consequently, we lack systematic studies of dismantling at EU level that address fundamental questions such as what drives actors to dismantle European policies, what strategies they deploy and whether these activities translate into cuts to the *acquis*. Their absence is particularly surprising, given that policy dismantling research in general is experiencing a renaissance on both sides of the Atlantic (Bauer *et al.* 2012; Berry *et al.* 2010; Jordan

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et al. 2013). This section identifies possible reasons for the paucity of dismantling research at EU level.

As policy dismantling researchers in Europe and America focused on welfare state retrenchment in the 1990s (Green-Pedersen 2004; Pierson 1994), the EU – at the time, widely portrayed as a highly active 'regulatory state' (Majone 1994) – seemed an altogether unpromising locus of dismantling research. The EU was expanding, both spatially and in its policy competences. Redistributive policies – an area where the EU's competences were still inchoate – were deemed to be the key target for retrenchment at the national level. In his landmark study, Pierson (1994) made virtually no reference to the EU. The rare retrenchment studies that did encompass the EU were concerned with changes made to the Common Agricultural Policy (CAP), one of the EU's few redistributive policies (e.g., Coleman *et al.* 1997). But in the 2000s, research on both sides of the Atlantic began investigating cuts, retrenchment or rollback across all policy areas. In the United States (US), Berry *et al.* (2010) produced cross-sectoral comparison of the 'lives and deaths of federal programs'. In Europe, Bauer *et al.* (2012: 34) worked across a mixture of environmental and social cases in order 'to develop and apply concepts that travel across different policy areas'.

Yet research still remains heavily focused on a single level of governance – the nation state (but see Leibfried [2010]; Jordan and Turnpenny [2012]). Given that European integration has repeatedly involved transferring to the EU level a wide array of policy competences (Pollack 1994), why has dismantling at EU level not received more scholarly attention? Rosamond argues that analysts should critically reflect on the focus of EU studies from two perspectives. From an internal perspective, the trajectory of a field is 'a function of the changing nature of the EU over time' (Rosamond 2007: 20). Hence, growing discourses of dismantling – whether through debates about subsidiarity or better regulation – should have triggered more research on the topic. Yet, while the launch of the better regulation agenda in the 2000s did lead to some research, EU scholars mostly focused on the discourses of change and/or the more expansionary aspects of change (e.g., the emergence of the processes and institutions of impact assessment [Turnpenny *et al.* 2009]), rather than dismantling (i.e., the cutting of the *acquis*).

An explanation for this analytical response may be found in Rosamond's second (i.e. external), perspective, where he argues that 'how we read the evolution of the EU is a function of the intellectual lenses we use' (Rosamond 2007: 21). Could dominant theoretical approaches have blinded scholars to the possibility of policy dismantling at EU level? EU theories are, of course, multitudinous (Pollack 2005: 357) and certainly are not all are totally blind to the possibility of dismantling; dismantling has even been associated with neofunctionalist concepts such as spillback (Malamud 2010).

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Yet two features of EU scholarship have arguably militated against dismantling research. First, policy dismantling has long been assumed to be something that happens to other levels of governance – with the EU understood as an external force, enabling (Knill *et al.* 2009) or hindering (Jordan and Turnpenny 2012), domestic dismantling. More specifically, dismantling has been seen as an *effect* of Europeanization, i.e., of the EU's impact on its member states. Hence, thirdly, the key Treaty commitment to achieve an 'ever closer union among the peoples of Europe' has been interpreted as entailing an increase in EU level policies and the dismantling of some national rules – 'positive integration' (Scharpf 1996) going hand in hand with 'creeping competence' (Pollack 1994).

Once competences were relocated at the EU level, two further obstacles emerged: the perceived default preferences of key EU institutions – in particular the Commission and Parliament – and the EU's hyperconsensual nature. Taking the first of these, the policy-dismantling literature has tended to assume a 'meta-preference for re-election' amongst key dismantling actors (namely elected politicians [Bauer and Knill 2012: 32]). Yet, in the EU, the instigator of most policy changes – the non-elected European Commission – is often assumed to be hardwired with a preference to *increase* its powers. Consider the following, for example: 'the Commission's primary organizational goals are (a) to expand the scope of Community competence to new areas and (b) to increase its own competence and influence within the policy process' (Pollack 1994: 102). Meanwhile, the European Parliament has long been presented as a natural ally of the Commission, taking 'the most pro-integration and harmonisation position' (Thomson *et al.* 2004: 250). Hence, when considering actors directly engaged in the decision-making process, only member states appear likely to favour dismantling at EU level, although they may be supported by advocacy and/or civil society groups.

If all this were true, policy dismantling at EU level would be very difficult: not only would the Commission have to act against its presumed self-interest, but any member states that were pro-dismantling would have to convince both their peers inside the Council as well as the Parliament, now a co-legislator, to support dismantling. Given the hyperconsensual nature of the EU, one can immediately understand why so many scholars have so readily discounted the mere possibility of dismantling.

But these assumptions are now being challenged. More actors seem willing to countenance – and even actively seek – 'less Europe'. It is no longer tenable to assume that the Commission and the Parliament are forever tied to an 'ever closer' and ever deeper union. As Dimitrakopoulos (2004) argues, the Commission should be considered both as an actor and as an arena in which different Directorate Generals (DGs) vie for attention and support for their sectoral policies. Thus, DG Environment may oppose environmental policy dismantling, even though the rest of the Commission supports it. Similarly, different committees within the Parliament have different policy expertise and may support

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different political priorities (Burns 2013). Furthermore, the EU level is becoming increasingly politicized. Thus, members of the European Parliament (MEPs) increasingly vote on ideological lines (Scully *et al*. 2012) and the Commission itself has shifted to the right in the 2000s (Wille 2012). Political debate at EU level implies discussions and disagreement between actors on the degree and scope of public intervention, which in turn has included some calls for dismantling. Although alien to the EU's traditions, these are precisely the conditions in which politicians in the US have long engaged in fierce partisan battles to dismantle one another's policies (Berry *et al.* 2010).

Related to that – and again working from Rosamond's (2007) external perspective – the entry of comparative politics approaches and ontologies has led to the questioning of old orthodoxies in EU studies. This has opened up many new avenues of research. For example – and going back to Pierson (1994) – the hyperconsensual nature of EU decision-making may mean that dismantling is difficult, but (by blurring responsibilities and making blame avoidance comparatively easier) by no means entirely impossible. Indeed, the limited development of a European public sphere – with greater salience for certain policies in certain member states (Viehrig and Oppermann 2008) – could be regarded as facilitating blame avoidance at EU level. Moreover, blame avoidance may not be a significant factor in all attempts made to dismantle. While proposals to dismantle the CAP, a redistributive policy with concentred benefits to well-organized farmers' interests and diffuse costs, are likely to generate opposition in certain member states, the dismantling of EU environmental policies (with their diffuse, long-term benefits) may easily escape the notice of voters. In fact Jordan *et al.* (2013: 803) contend that environmental policy dismantling could conceivably be motivated by a credit-claiming rationale, and hence be pursued through more open and active dismantling strategies. At EU level, many very powerful actors devote their energies to eroding the ambition level of new policies – a struggle that does not necessarily end after a policy has been adopted (Jacobs and Weaver 2015).

The attempted dismantling of EU policy

This section provides a short history of efforts to dismantle the environmental *acquis*. It identifies the directives and regulations that have been openly and directly targeted for dismantling by member states and/or the Commission between 1992 and 2014. It then describes the methods used to code the observed policy changes.

Mounting dismantling pressures in the 1990s

The early 1990s, a period centred on the adoption of the Maastricht Treaty, are commonly perceived as marking the end of the 'permissive consensus' on

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European integration (Hooghe and Marks 2008). In the aftermath of the Danish 'no' vote, subsidiarity was seized upon as a principle around which a new distribution of EU competences could be organized. It imposed on the Commission a need to more fully justify new EU-level action, and led to demands for many existing pieces of legislation and proposals for new ones to be rethought (Jeppesen 2000). A number of member states (the United Kingdom [UK], France and Germany) and the Commission assembled 'hit lists' of items for reform (Golub 1996; Wurzel 2002). Water and air pollution directives featured prominently on them (Jordan and Turnpenny 2012).

A decade later, the Commission launched an agenda of 'better regulation' at EU level in parallel with its Lisbon strategy (Radaelli 2007). While deregulation is about legislative quantity, better regulation is supposed to be about legislative quality (Tombs and Whyte 2013). Compared to the early 1990s, the focus of the discourse had therefore shifted from subsidiarity – questioning the merits for EU action – to proportionality – making EU action more efficient (Jeppesen 2000: 99). After the 2005 review of the Lisbon Strategy, better regulation was relaunched with a primary focus on creating growth and jobs (forcefully supported by the use of impact assessments), and a secondary focus on reducing administrative burdens (Radaelli 2007; Van Den Abeele 2010). Prominent supporters included the UK, the Netherlands, as well as DG Enterprise, then under the leadership of Günter Verheugen (Löfsted 2007). The focus on the 'growth and jobs' dimensions of sustainable development made environmental policy an obvious target: the Commission's better regulation initiative targeted waste legislation (Hjerp *et al.* 2010), whilst environment was one of 13 priority areas for administrative burden reduction (European Commission 2009).

Finally, the years following the 2008 banking crisis saw a further strengthening of the dismantling discourse within the Commission (European Commission 2014; Van Den Abeele 2010). Environment Commissioner Potočnik feared that environmental policies were increasingly being seen as a 'luxury' (Potočnik 2012: xvii) as the Commission's Regulatory Fitness and Performance Programme (REFIT) launched fitness checks on freshwater, waste and nature policy. In parallel, member states such as the UK and the Netherlands launched national reviews of the *acquis* (Business Taskforce 2013 Ministerie van Buitenlandse Zaken 2013), in which environmental policies (such as the Air Quality and Environmental Impact Assessment Directives) featured prominently.

Thus, several actors at EU level – notably some large member states and even the Commission – increasingly promoted a discourse of dismantling. This confirms Jordan *et al.*'s (2013: 803) contention that attempts to achieve environmental policy dismantling are likely to be active and visible, underpinned by a credit-claiming logic. As for the biggest presumed obstacle to EU level dismantling – the hyperconsensual nature of the

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European polity – there appears to be a growing consensus among key actors on the value of better regulation. In the words of the then Commission President Barroso (2014: 1, 5), better regulation had changed from being 'something for specialists, for gourmets' to being 'common wisdom in European circles'. But have these shifts in discourse culminated in changes to the *acquis*?

Policies targeted

In order to ascertain whether the *acquis* has experienced dismantling, a subset of the vast corpus of legislation adopted by the EU was selected. Our research design was pragmatic, reflecting a wish to make an initial foray into what is a new subfield of EU policy analysis. Consequently, we focused on a policy area – the environment – which has, as noted above, been repeatedly targeted for dismantling.

Environmental policies comprise a sizeable portion of the EU *acquis*. This environmental *acquis* goes beyond the '200 major legal acts' discussed in enlargement procedures (European Commission 2013) and is routinely expanded, with between 20 and 100 new directives and regulations adopted per year between 1994 and 2010 (Farmer 2012). In order to narrow down the number of cases to a manageable number, we only coded the directives and regulations that have been actively and openly targeted by politicians for dismantling, i.e., those listed either in the Commission's reports on simplification and/or the member states' 'hit lists'. Moreover, as dismantling scholars remind us, dismantling should be explored by carefully comparing different generations of the same legislative text. Thus, we chose cases that were reformed at least once through the legislative process after being initially targeted up to the end of the Barroso II Commission in 2014.

Applying these criteria produced a list of 19 environmental directives and regulations, spread across seven sectors of environmental policy. In turn, these have been reformed at least once (often multiple times), leading to 47 reforms in total. These reforms culminated in a much longer list of 75 directives and regulations, which are summarized in Table 1. Whilst the 19 directives and regulations were chosen at first because they were *openly* targeted for dismantling, including all 47 reforms (18 of which occurred before, or between two calls for dismantling) accounts for both *overt* and *covert* dismantling attempts.

To be clear, our sampling criteria imply that some of the environmental directives and regulations targeted for reform in the period 1992–2014 are not included in Table 1. For example, most environmental policies targeted by REFIT have yet to be reformed and therefore do not appear (European Commission 2014: 70–7). The sample size and criteria applied also mean that the directives and regulations coded are not necessarily representative

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Table 1. Different generations of directives and regulations targeted for dismantling.

Sector	Legislation	Generations					
		1	2	3	4	5	6
Water	Drinking Water Directive	1980	1998				
	Groundwater Directive	1980	2006				
	Bathing Water Directive	1976	2006				
	Shellfish Waters Directive	1979	2006				
Waste	Titanium Dioxide Industry (TDI) Directive	1978	1982	1992	2010		
	Waste Electrical & Electronic Equipment (WEEE) Directive	2000	2012				
	Packaging Waste Directive	1985	1994	2004			
	Waste Framework Directive	3 dir. 1975–1978	2 dir. 1991	2006	2008		
	Shipment of Waste Directive/ Regulation	1984	1986	1993	2006	2014	
	Restriction of the use of certain Hazardous Substances (RoHS) Directive	2002	2011				
Air	Air Quality Directive	5 dir. 1980–1992	5 dir. 1996–2004	2008			
	Sulphur Content (marine fuels) Directive	1975	1987	1993	1999	2005	2012
Industry	Eco-label Regulation	1992	2000	2010			
	Eco-Management and Audit scheme (EMAS) Regulation	1993	2001	2009			
	SEVESO Directive	1982	1996	2003	2012		
	Integrated Pollution Prevention and Control (IPPC) Directive	1984	1996	2003	2008	2010	
Environmental assessment	Environmental Impact Assessment (EIA) Directive	1982	1997	2003	2009	2012	2014
Nature & biodiversity	Birds Directive	1979	1994	2009			
Chemicals	Ozone (Montreal Protocol) Regulation	1988	1991	1994	2000	2009	

Source: European Commission (1993, 2003, 2014); Golub (1996); Hjerp *et al.* (2010); Wilkinson *et al.* (2005).

of the entire *acquis* – but representativeness is not needed to investigate whether policy dismantling even occurs at EU level.

Methods to capture the direction of policy change

After developing the coding scheme, the successive legislative reforms presented in Table 1 were analysed to identify whether dismantling took place. The scheme builds on the approach developed in the FP7 CONSENSUS project and discussed in Bauer *et al.* (2012) and Knill *et al.* (2014). Crucially, while we and Knill *et al.* adopt the same broad approach to understanding dismantling, we employ different coding frameworks. Thus, while the Knill *et al.* (2014) coding scheme was developed to capture changes to environmental and social policies across 30 years and multiple countries – hence requiring a coding approach applicable to multiple policy settings and jurisdictional contexts – we employ a more fine-grained approach to capture very small changes to environmental policies in a single political system (the EU).

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By trading breadth for depth, our analysis exhibits two key advances on the existing literature. First, in the number of dismantling dimensions studied, this article distinguishes between changes to instrument scope and changes to instrument settings, which Knill *et al.* combine within 'substantial intensity'. Second, in the type of policy instruments coded, as our coding scheme considers changes within each directive or regulation, such as information sharing, reporting duties etc. – not simply regulatory standards. But in line with Knill *et al.* (2014), we chose not to code for formal intensity, the last dismantling dimension identified in Bauer *et al.* (2012: 35), which includes administrative capacities and enforcement procedures. Changes to this dimension can be very difficult to interpret without an in depth knowledge of the implementation traditions of different member states.

In summary, our coding scheme rests on the following key principles. First, it measures the direction of policy change (expansion, *status quo* or dismantling) in legislative outputs, not changes in environmental outcomes or impacts. Second, it measures change across three dimensions – density, scope and settings – and two levels – the legislation as a whole but also its constituting instruments – thereby producing six potential dismantling dimensions (see Table 2). Third, changes were coded with the following values: 0 for no change; 1 for expansion; −1 for dismantling; and n/a for mixed change (i.e., if changes were unclear, or both expansion and dismantling occurred simultaneously).

Results: widespread yet limited dismantling

This section presents the results of coding policy change across multiple generations of the policies targeted for dismantling over a 22-year period. It does so by measuring changes across six potential dismantling dimensions. Out of

Table 2. Six dimensions of policy change.

Dimension	Definition	Dismantling Examples
Legislative density	Number of pieces of legislation in a given policy area.	One framework directive replacing 6 directives.
Legislative scope	Number of topics covered, or recipients targeted by an item of legislation.	Revising pollution rules to exclude smaller factories.
Legislative settings	Ambition of an item of legislation.	Removing mentions of high standard of environmental protection in legislative objectives.
Instrument density	Number of instruments within an item of legislation.	Reducing instrument numbers.
Instrument scope	Number of topics covered or recipients targeted by instrument.	Revising to cover less environmental issues.
Instrument settings	An instrument's strictness or leniency.	Raising the acceptable level of a pollutant.

Source: Own compilation.

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the 19 families of directives and regulations, three experienced no dismantling at all when reformed (Shellfish Waters, Reduction of Hazardous Waste [RoHS], Eco-management and audit scheme [EMAS]). The remaining 16 cases all experienced policy dismantling across a different number of dimensions. Overall, policy dismantling was recorded in all dimensions except legislative settings. Furthermore, Table 3 indicates a strong difference in frequency along the different dimensions, with 28 occurrences of dismantling at the instrument level compared to only five at the legislative level. These data show that dismantling has occurred unevenly over multiple dimensions.

But how important has dismantling been *vis-à-vis* the other two possible directions of reform, namely continuation of the *status quo* and expansion? As most instances of dismantling appeared at the instrument level, the rest of this section focuses on changes to instrument density, scope and settings.

Instrument density

For an instrument to be coded as dismantled, it had to have either been completely removed or been replaced by a different type of instrument. Figure 1 sums changes across all generations of a directive or regulation. Thus, for a directive (such as the Seveso Directive) spanning multiple generations (in this case, four), the density changes cover all changes that occurred (i.e., between 1982 and 2012). Figure 1 shows that of the 10 cases which experienced a dismantling of instrument density, the Groundwater and Bathing Water Directives are the only cases where dismantling was a more frequent pattern of policy change than continuity and expansion combined.

Dismantling is particularly important for the 2006 Bathing Water Directive (2006/7/EC): 26 instruments were removed – such as mandatory values on pH, phenols or dissolved oxygen in water – 10 instruments were added, with only six remaining from the original (1976) directive (76/160/EEC). Conversely, between 1984 (84/631/EEC) and 2006 (1013/2006/EU), Shipment of Waste legislation lost four instruments and gained 30 new ones.

Instrument scope

Changes in scope and settings can be analysed for a subset of instruments (i.e., maintained for more than one generation), as the direction of change regarding both scope and settings is determined by comparing two generations of the same instrument.

Figure 2 shows that of the 19 pieces of legislation targeted for dismantling, nine experienced a reduction in instrument scope. These took the form, for example in the Eco-label Regulation, of changes in requirements governing

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Table 3. Instances of policy dismantling amongst selected environmental directives and regulations.

	Legislative density	Legislative scope	Legislative settings	Instrument density	Instrument scope	Instrument settings
Drinking Water Directive		X		X		
Groundwater Directive				X		X
Bathing Water Directive		X		X		
Shellfish Waters Directive						
Titanium Dioxide Industry (TDI) Directive				X	X	X
Waste Electrical & Electronic Equipment (WEEE) Directive					X	X
Packaging Waste Directive				X	X	X
Waste Framework Directive		X		X	X	
Shipment of Waste Directive/Regulation					X	
Restriction of the use of certain Hazardous Substances (RoHS) Directive						
Air Quality Directive	X			X	X	X
Sulphur Content (Marine Fuels) Directive				X	X	
Eco-label Regulation					X	
Eco-Management and Audit scheme (EMAS) Regulation						
SEVESO Directive					X	X
Integrated Pollution Prevention and Control (IPPC) Directive				X		X
Environmental Impact Assessment (EIA) Directive	X					X
Birds Directive					X	
Ozone (Montreal Protocol) Regulation				X	X	

Source: Own data.

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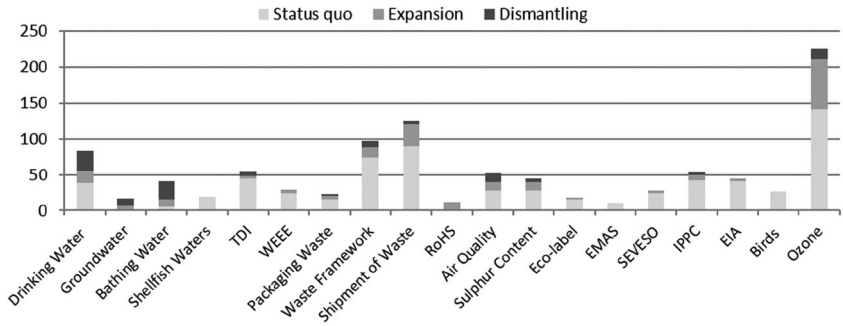

Figure 1. Changes to instrument density amongst selected environmental directives and regulations.
Source: Own data.

the type of information to be made available to the public (Regulation 1980/2000/EC) or the interest groups that had to be consulted (trade unions were henceforth excluded) (Regulation 66/2010/EU). Of these nine, Shipment of Waste (1013/2006/EU) was the only case in which dismantling was more frequently observed than expansion.

Figure 2 further shows a significant difference in the number of change events coded for each piece of legislation. This difference is owing to two factors. First, certain pieces of legislation employ a much greater number of instruments than others (e.g., water pollution regulations have a large number of standards). Second, changes to instrument density from one generation to another reduce the pool of instruments existing over multiple generations of the same piece of legislation. Hence, changes to instrument scope and settings in the Bathing Water Directive could only be coded for the five original instruments maintained in the 2006 directive.

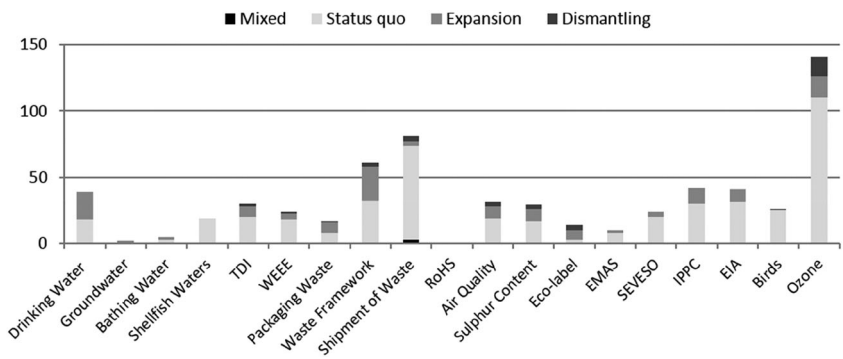

Figure 2. Changes to instrument scope amongst selected environmental directives and regulations.
Source: Own data.

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Instrument settings

Concerning instrument settings, as shown in Figure 3, 11 of the 19 directives and regulations escaped dismantling completely, and eight experienced limited dismantling. These dismantling events took the form of increasing the number of exemptions under a prohibition to export control substances (the Ozone [Montreal Protocol] Regulations 2037/2000/EC and 1005/2009/EC), or of reducing Commission involvement in combatting leakages (Regulation 1005/2009/EC).

Once again, expansion and/or the continuation of the *status quo* were more frequent directions of policy change than dismantling. The Drinking Water Directive (98/83/EC) was the only case where dismantling, expressed in terms of weaker standards for chloride, nitrites or sodium, occurred more frequently than expansion.

Figure 4 compares the directions of change across all three instrument dimensions, for all 47 reforms. Even though 29 of these 47 reforms occurred after open calls for dismantling, the continuation of the *status quo* prevailed. It further highlights differences across instrument dimensions: dismantling rates were higher for instrument density (12 per cent) compared to scope and set-

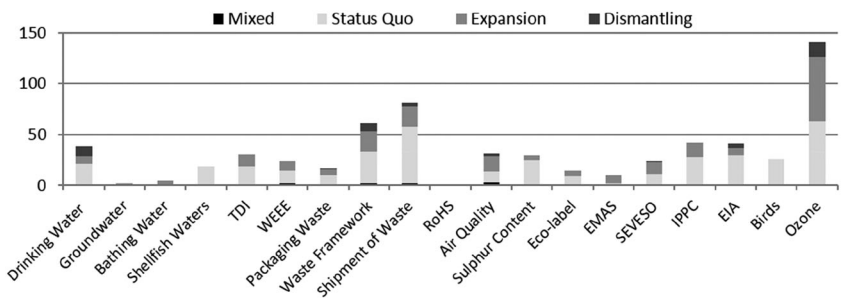

Figure 3. Changes to instrument settings amongst selected environmental directives and regulations.
Source: Own data.

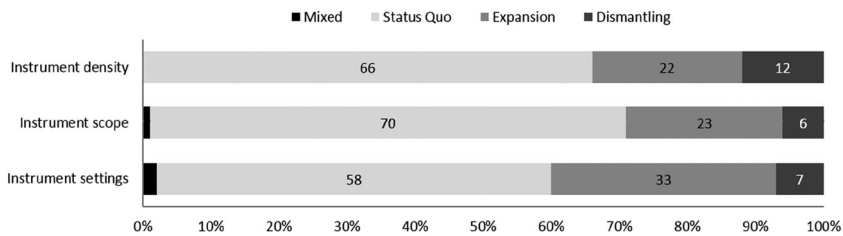

Figure 4. Comparison of changes across instrument density, scope and settings.
Source: Own data.

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tings. The 18 reforms which did *not* take place after open calls for dismantling had even lower dismantling rates – ranging from 6 per cent for instrument density to 2 per cent for scope.

Conclusion: does the EU have a reverse gear?

This contribution has presented an original analysis of EU level policy dismantling. Starting from the assumption, which is common in both EU studies and dismantling research, that policy dismantling is highly unlikely to occur at EU level, it searched for dismantling in parts of the EU environmental *acquis* that have been openly targeted for dismantling over a 22-year period. It investigated whether these calls for dismantling were followed by changes to policy outputs. Our coding exercise revealed that whilst dismantling has taken place, the overall picture of policy change is a rather complex one.

Dismantling was the least frequent direction of policy change – behind expansion and continuation of the *status quo*. This was the case for the 29 reforms which followed open calls for dismantling as well as for the 18 which did not, for which dismantling was even less frequent. Furthermore, different dimensions of the same item of policy – scope, settings and density – changed in different directions, often simultaneously, thus confirming Pierson's (2001: 427) earlier point about testing and accounting for the 'multidimensionality' of change.

These results confirm that policy dismantling is taking place – that the EU has a reverse gear. In other words, the EU is not only a driver of policy dismantling in its member states; it has become a new locus of dismantling in its own right. These results, along with growing calls for austerity and cutting 'red tape' at EU level, underline the need for more research to be undertaken. First, how significant is policy dismantling? How dismantling is defined, how it is measured and what type of dimensions is taken into consideration (Green-Pedersen 2004) will determine how this question is answered.

The new coding scheme we have employed sought to capture multiple directions of change across multiple internal dimensions of policy. But this begs some additional questions. For example, is a change in scope more important than a change in settings? When the same environmental policy instrument experiences an expansion in scope but the settings are made less ambitious, does one direction, or dimension, prevail over the other, and under which conditions? Is dismantling in one instrument outweighed by expansion in another? Our coding scheme was agnostic about the relative importance of scope, settings or density changes. All change events were given the same value, i.e., expansion in one dimension was not deemed to compensate for dismantling in another. Alternative options exist – for example, grading the environmental ambition of a measure (Burns *et al.* 2012) – but this raises other issues of scale and generalization, while requiring

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expert knowledge of each item of legislation. More work is also needed on how dismantling discourses and changes in policy play out in and across other policy sectors.

Second, what of the politics of dismantling? Why (and how) is dismantling taking place at EU level? This contribution has provided the building blocks for eventual explanations. Hence, it has shown that dismantling attempts are not new at EU level. In fact, they predate recent calls for austerity by some 20 years. The observed mix of expansion, *status quo* and dismantling appears to confirm Bonoli's (2001: 240) contention that political systems with a high number of veto players are likely to witness dismantling being pursued alongside attempts at expansion. The highly public nature of the 'hit lists' in the 1990s and the better regulation programmes of the 2010s do point towards a tendency for 'credit-claiming' motivations to exceed blame-avoidance ones when it comes to dismantling environmental policies (Jordan *et al.* 2013: 803). And finally, examples of policy dismantling occurring through the EU legislative process appear to confirm that supranational institutions, namely the European Commission and the Parliament, are not 'hard-wired to seek ever closer union' through policy expansion or even in favour of maintaining the *status quo* (Bickerton, *et al.* 2015: 712). More research is needed to understand their respective roles and rationale in pursuing policy dismantling. Addressing these and other questions, such as the role of non-state actors, constitute a rich and promising research agenda for EU level dismantling research (*cf.* Jordan *et al.* 2013) that promises not only to move the topic out of the analytical blind spot of EU scholars, but to add to the rapidly developing literature on dismantling in other contexts and time periods.

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