

Changes in European Union environmental policy-making; multi-level governance from a local urban perspective

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Abstract:

Currently the influence of European Union (EU) environmental policy with regard to the urban environment is growing significantly. As a result urban environmental governance is increasingly functioning within institutional frameworks strongly influenced by the EU. Consequences of this extending framework differ strongly. Among them are consequences that can undermine the potential for urban governance to result in effective and practicable environmental policies. This relates to differences between the EU environmental policy arrangement and the arrangements that address the often quite complex and specific issues in urban areas.

On a *EU level* generic targets or obligations that are little or not at all sensitive to local variations are not uncommon. Instead, *local environmental policy* is increasingly focused on taking the specific local circumstances into account by developing situation-specific policies. Given the flexibility needed for these policies, conflicts between EU issued uniform environmental obligations and local environmental planning are rather obvious. This is being shown by the example of the current local implementation and use of EU air-quality standards on nitrogen oxides and small particles. This shows how EU environmental policies can have far-reaching consequences locally. From cases in Dutch and Flemish practice it is shown that there is an actual risk of paralyzing local urban development due a strict implementation of EU air-quality standards.

Finally examples are given as to how the tensions between EU environmental policies and local urban governance can be alleviated. The concept of *multi-level governance* – as a concept that illustrates how different levels of government and a variety of stakeholders function together in policy-making – is used to give a theoretical framework in this. The concepts of proportionality and subsidiarity are used to show opportunities that exist to alleviate the tensions mentioned while working in a multi-level governance structure.

“The view from the top is exhilarating. Divorced from the problems of implementation, federal bureau heads, leaders of international agencies think great thoughts together. But they have trouble imaging the sequence of ideas that will bring their ideas to fruition People appear to think that implementation should be easy; they are, therefore, upset when expected events do not occur or turn out badly” (Pressman and Wildavsky 1974).

1. Environmental stress

In the last decades there has been a dramatic improvement of air quality in most parts of the European Union (EU). Currently the quality of the air is as good as it has been for several decades. This makes it quite surprising that air pollution issues are currently among the most promptly visible environmental issues in the EU. In countries such as Germany, France and Belgium (Flanders) concerns for not meeting EU air quality standards are high (e.g. Bakker, 2004). In The Netherlands things are even worse. The consequences of not meeting air quality standards have resulted in mere ‘panic’. Among the consequences experienced is a stop on spatial developments on many locations all over The Netherlands. Financial estimates of the potential costs of this are as high as 7 billion Euro’s! And in countries such as Sweden and Austria things begin to look rather similar. One wonders how such severe problems can exist in a time when air quality is not at all that dramatic anymore.

The main reason for the current high profile of air quality issues relates to new EU air quality standards. In 1996 the EU adopted a new framework directive ‘on ambient air quality assessment and management’ (1996/62/EC). This directive was soon followed by several framework directives. Together these make the current body of EU air policies. One of the daughter directives was the 1999 directive on nitrogen oxides (NO_x), sulphur oxides (SO₂) and small particles (PM₁₀) in ambient air (1999/30/EC). Its implementation started in 2001 and is currently the directive that poses great challenges to many EU authorities.

The 1999/30/EC directive states that all over the EU limit values have to be met for nitrogen oxides (NO_x), sulphur oxides (SO₂) and small particles (PM₁₀). In almost all countries there are difficulties to meet the rather ambitious limit values on quite a few problematic locations. These ‘hot spots’ are often found in urban areas where industry and traffic cause relatively high levels of pollution. The EU directives state that limit values have to be met everywhere which includes these hot spots. The EU has thus developed policies that set *a-priori* objectives that have to be met all over the EU. Understandably this can be quite problematic in the most severely affected areas. And these areas are exactly those where about 80% of all EU citizens live: urban areas.

Urban governance challenged

The intense mixture of varying land uses makes urban areas to be among the most environmentally stressed areas in the EU. Environmentally sensitive land uses are often in close proximity to environmentally straining uses. Residential areas can be found next to factories or refineries. Busy roads cross parks and neighbourhoods. And many areas formally used for industrial functions are nowadays focal points for urban regeneration. This mixture of functions in time and space makes it hardly surprising that the effects of many environmental problems are felt most strongly in urbanized areas. These effects – such as noise, poor air quality, bad odour and safety risks – all contribute to a lower quality of life in urban areas. As such, urban environmental issues pose considerable challenges for authorities to deal with.

The degree of environmental stress is not the only reason for the difficulty to deal with environmental issues. Also the *complex nature* of many urban environmental issues poses challenges (e.a. De Roo, 2003). Environmentally straining land uses such as mobility, transport or industry are just as crucial to the function of urban areas as are sensitive land uses such as residential or recreational. Simply shutting down factories or closing roads would imply a paralysis of urban areas. Also, economic development is hardly possible without putting some stress on the environment. Solving urban environmental issues therefore has to take the diversity of interests and claims that surround urban policy-making into account. And this typically results in the need to set-up local policy arrangements that are sensitive to the specific local circumstances and interest (e.g. De Roo, 2003; Liefferink e.a., 2001).

Taking the specific local circumstances into account implies that there has to be the a willingness to *balance* and *integrate* interests and objectives so as to build solutions that are tailor-made to the problem at hand. Any actor – including formal government – that intends to have a-priori objectives that do not allow for any bargaining, will place a potential bomb under a process that is to produce such a solution. After all, this a-priori objective need to be met *before* any other priority can be dealt with. What is needed is ample ‘policy room’ to balance and combine objectives that results in tailor-made solutions. As such, there is little or no room for strict generic standards or strict centralistic policies. The current generic air quality standards might thus undermine the potential of urban governance to produce effective and attractive solutions.

Towards a diagnosis

The current air quality standards aren’t the only generic policies recently issued by the EU. In fact, generic environmental policies are among the common instruments used by the EU. This follows that formal EU environmental policies are *traditionally technocratic* in nature and are typically *uniform policies* that apply all over the EU (e.g. Hildebrand, 2002; Barnes & Barnes, 1999). This makes that a tension can be recognized between urban governance and EU environmental policies. This follows a *mismatch* between the EU environmental policy arrangement that produces generic environmental policies and the arrangements that address the often quite intricate, complex and specific issues in urban areas (also Liefferink e.a., 2001). This mismatch is the central topic of this paper. As such it will first try to understand the different motives, power relations and rules that make that EU policies have different intentions than local actors would ideally like to experience (paragraph two). Next this paper will try to understand the potential consequences of this mismatch in some more detail, again using the example of air quality (paragraph three). Possible strategies to deal with the mismatch are dealt with next (paragraph four), which will result in concluding that changing either EU or urban policies is not the most realistic way forward. Instead, a successful fit should be accommodated.

2. An EU environmental policy

The EU produces a wide array of different environmental policies. Many of these are mere advises and informative documents. Also the EU is active in things such as knowledge development, sharing of best practices or the sponsoring and setting up of networks to facilitate this. The most promptly visible are however those that set a-priori objectives lower authorities have to deal with. And among these are some that seriously delimit local policy room to develop tailor-made solutions as the example of the air quality standards shows.

The EU's tendency to draft uniform policies and its technocratic nature make the existence of generic environmental standards quite natural. Both characteristics of EU environmental policy making can be traced back to the functioning of the *policy arrangement* that produces these policies. These policy arrangement can be considered "the temporary stabilisation of the organisation and substance of a policy domain at a specific level of policy making" (Van Tatenhove e.a., 2000; p. 54). Such a stabilization follows the complex interplay of actors and coalitions that act within a context decided by power and resources, policy discourses and different rules of the game that are in place (Van Tatenhove e.a., 2000). In the case of the EU environmental policy arrangement this interplay has made it to stabilize into its uniform and technocratic tendency. This comes forward both in the *rationale for developing environmental policies* (discourse) and in the *game of drafting environmental policies* (rules, power and actors), which are both described here.

A rationale for environmental policies

Following the report of the Club of Rome in 1972 and the United Nations Conference on the Human Environment in the same year, environmental protection reached the political agenda all over the world. In the EU this resulted in a rapid development of environmental policies. Surprisingly though, it took until the adoption of the Single European Act (SEA) in 1987 before protecting the environment became a EU objective in itself. As such, for a long time EU environmental policy found its legal basis in other motives than environmental protection. This makes that the rationale behind the current body of EU environmental policies consists of a combination of motives that go beyond just protecting the environment.

A motive that provided a good legal basis for developing of EU environmental policy in the early days is that of *harmonizing* member-state legislation in view of a European common market (e.g. Barnes & Barnes, 1999; Hildebrand, 2002; Jordan, 2002). Differences in environmental laws could result in unequal competition between member-states which might undermine a European common market. And with the common market as one of the most crucial *raison de etre* of the EU, such variations were not tolerated. This motive of harmonizing also makes that environmental policies were typically shaped by rejecting differentiation in environmental targets and standards throughout the EU (also see Jordan 2002). Understandably, the drafting of uniform policies is a natural consequence of such a rejection.

Up until today the development of EU environmental policies cannot be isolated from harmonization (e.g. Barnes & Barnes, 1999). After the adoption of the SEA it was however possible for the *protection of the environment* to become a subsequent formal motive. Before 1987 this motive was especially used as an important political background motive. For example Zito (2000) and Andersen & Liefferink (1997) show how numerous groups – both within and outside the European Commission (EC) – and 'green' member states have been involved in pushing the EC to considerable efforts in making environmental policies. After 1987 it was possible to use the protection of the environment more extensively. One of the reasons to do so relates to the protection of human health. Just as with the motive of harmonization this health motive can also stimulate the use of uniform policies. As it is quite unacceptable to treat people in different areas differently, the same standards should apply to everyone regardless of where they live. This makes a convincing argument for uniform policies and the use of standards, which are typical examples of technocratic policies.

Drafting environmental policies

The rationale for drafting environmental policies is input to the actual processes of decision making in the EU. Just as this rationale, the institutional characteristics of the EU policy arrangement make uniform and technocratic policies prone to occur. A first characteristic is the procedure of decision making in the EU. Decisions on environmental issues have to be taken by either *full* or *at least 2/3 majority vote* by the member states depending on the topic (e.g. Barnes & Barnes, 1999; Jordan, 1998). This implies that policies proposed need to be general enough for a sufficient number of countries to agree to. This typically results in *common denominator bargaining* (e.g. Zito, 2000; Jordan, 1998). To find these common denominators, the coherency of policies, the prevention of free riding and treating member states equally are important (Barnes & Barnes, 1999). And consequently, uniform policies are more prone to be accepted than differentiated policies.

Common denominator bargaining is one of the reactions to the complex political climate that exists with regard to EU policy making. Such a climate is a rather natural consequence of a Union of different sovereign states. Especially in the early years, many actors – both inside and outside of EU institutions – were keen on building environmental policies in light of the experienced urgency of the issues at hand. This meant that it was

attractive to avoid political debates and try and proceed with growing ‘by stealth’ (Jordan, 1999). A tactic to do so is the so called ‘*Monnet method*’ (Jordan, 1999). The method in effect means that integration gets pushed further then separate member states would in principle prefer by hiding policy implications in taking a *technocratic focus* in policies.

The ‘*Monnet method*’ suits rather well with environmental policies, that are often already quite technical in itself. Also, it suited well with the ambitions of pro-environmental officers in the EC, such as the Directorate General (DG) Environment. It firstly helped to accommodate the growth of environmental policies. And secondly it also helped to enlarge the *powerbase* of the EU environmental policy arrangement. Each new piece of environmental policy can potentially give the environment a stronger voice in light of other EU objectives and of domestic objectives of each member state. Given the fact that the financial benefits of environmental policies are hard to measure or indicate, this is a very attractive tactic to develop a strong powerbase. And as any organisation DG environment was and is keen on protecting and enlarging its powerbase. As such, “the Commission’s tactic was to concentrate on seemingly ‘technical’ issues such as environmental standards and avoid ‘political’ debates about the surrender of sovereignty” (Jordan, 1999; p.3). Such a tactic not only results in technocratic policies in itself, it also contributes to the grow of a technocratic *culture* that indeed exists within DG Environment (e.g. Barnes & Barnes, 1999; Jordan, 1998). And with the EC being the only institution to draft policies, its technocratic culture has much leverage on the policies that issued by the EU.

The focus following the arrangement

The current air quality standards make an excellent example of technocratic and uniform policies. They pose clear limiting obligations, even to local authorities. As such, situation-specific approaches – defined as setting objectives based on the local situation – will only be possible if air quality standards are no limitation. Quite crucial though, they do pose such limitations in many urban areas. This has rather serious consequences. Instead of balancing these air quality objectives to other local priorities, local authorities thus have to put air quality first before they can look to other priorities. This makes that what is considered the best solution locally will not always be possible to achieve. The next paragraph will show this in some more detail.

3. No air to breathe for urban governance

The limit values that are set within the daughter directive 1999/30/EC on nitrogen oxides (NO_x), sulphur oxides (SO₂) and small particles (PM₁₀) are based on World Health Organization (WHO) guidelines. As from 2001 onward the different limit values apply. Many are set in such a way that they become more stringent over time so as to give authorities time to meet them (table I). Currently limit values on sulphur oxides pose rather limited challenges. The problems with meeting the standards on nitrogen oxides and small particles however tells a quite different story.

Table I: Air quality standards of nitrogen oxides (No₂ and No_x) and small particles (PM10) in ambient air over the period 2001-2010 (including margins of tolerance)

		Limit value	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
		(µg/m ³)										
NO ₂	1 hour	200	290	280	270	260	250	240	230	220	210	200
NO ₂	1 year	40	58	56	54	52	50	48	46	44	42	40
NO _x	1 year	30										
PM10	day (24h)	50 ¹	70	65	60	55	50					
PM10	1 year	40	46	45	43	42	40					

¹: to be exceeded a maximum of 35 times a year

A picture of urban stress

With regard to small particles it is already clear that standards will be difficult to meet in many urban area’s all over the EU. In 2005 the limit value of 50 µg/m³ for day averages may be exceeded 35 times a year (table 2). In the German cities of Stuttgart and München this had already been the case as soon as Easter 2005! In the town of Roeselare (Flanders/Belgium) this number was exceeded by the end of May 2005 and many cities are sure to follow in the next few months (‘Vlaamse Milieumaatschappij’, www.vmm.be). And in The Netherlands there were 12 out of all 55 (22%) of the stations where the limit values were exceeded more than 35 times in the year 2004 (‘Rijksinstituut voor Volksgezondheid en Milieu’, www.rivm.nl). These examples convincingly show the difficulties to meet limit values in urban areas.

Attempting to meet limit values for NO_x's in many urban area's is just as challenging as in the case of small particles. Most crucial is to meet the value of 40 µg/m³ for NO₂ by 2010. In 2004 a total of 13 out of the 22 Dutch stations measuring within cities however still exceeded the year average of 40 µg/m³. In large urban areas such as Berlin things are even worse. Out of all 42 measure stations, in 2003 a total of 38 exceeded the 2010 year average limit value of 40 µg/m³ for NO₂. A total of 10 station had levels even above 60 µg/m³. And although technological developments – especially with regard to traffic related emissions – are expected to pay of in the next couple of years meeting the limit values in 2010 seems difficult indeed (e.g. Berlin Umwelt, 2004).

Consequences

EU legislation dictates that plans have to be drawn up that will result in compliance with the limit values in the near future if there is a real risk of not meeting them. It is the responsibility of member states to make sure this happens. This makes the translation of both the EU directive and the consequences of not meeting its requirements into national legislation crucial to understand the actual local implications of the standards. EU member state interpretations indeed vary, as do the consequences (e.g. Bakker, 2004). Some good examples of the consequences of the new air quality standards are however already there. Highly interesting is the case of The Netherlands, which as one of the most urbanized EU countries might well be exemplary to many urban areas in the EU. The Dutch have in recent decades developed a method to deal with local pollution. This is exactly the kind of mechanism that makes room for situation-specific approaches and hence is threatened by EU policies.

A first strategy that The Dutch find attractive to follow is the idea to avert peaks in pollutions to locations where no people live (box I). The peaks are averted to areas such as rural land, brownfields or industrial areas. Although not always easy to control, the reallocation of traffic is often a good way to achieve this. This means that the Dutch try to conceive of different *degrees of sensitivity* to pollution of different areas. From a public health point of view this seems an attractive approach. Given the ideal that everyone should be exposed to levels that don't exceed limit values – which the EU supports – this becomes more difficult. It is probable that few people will live close to where pollution is diverted too and might suffer some extra pollution. And even if this is not the case, EU air quality directives dictate that standards have to be met *everywhere*. This approach – an example of making policy room for situation-specific solutions – is therefore rather impossible.

A second strategy is the so called City & Environment approach (VROM, 2004). This approach is based on the idea that if environmental standards stand in the way of important developments of land uses locally, they can be deviated from. This approach – currently under construction to be part of Dutch environmental law – contains three crucial premises before deviations are tolerated. First, all reasonable efforts have to be made to comply with all standards. Second, deviations are tolerated only if good motives exist. And third, there has to be compensation to the people suffering extra pollution, which is compensation on ideally the same theme or at least other environmental themes. This strategy results in different limit values in special areas. Again an example of making policy room for situation-specific policies.

Box I: Dutch examples

Amsterdam: Close to the Amsterdam central train station a new tunnel is projected. It is meant to reduce traffic in few residential streets in the city centre. This will reduce pollution and will benefit public health. The tunnel however makes that air pollution near the end of the tunnel will be high and above EU limit values. As no people live there, this is no public health issue. However, a strict interpretation of EU legislation – as the Dutch do – will not allow this project. It has thus been discarded by the Dutch Council of State. So in practice strict standards might result in frustrating exactly that what they ought to stimulate achieving!

Aalsmeer: To avoid busy traffic in the town-centre, the municipality of Aalsmeer planned to build a new ring road. This would seriously reduce pollution in the town itself. It would however also result in increased air pollution in the rural area right outside of the town. The municipality could not convince that EU limit values would be met in this rural area. Although it meant a serious improvement of public health, this again made that the Dutch Council of State dismissed the proposal.

The Dutch philosophy does not fit with the current Dutch interpretation of the EU legislation. Also, the Dutch state that any spatial plan that doesn't fit the EU air quality standards should not be accepted to avoid problems in the future. This combination makes that spatial developments in places where limit values are exceeded or prone to be exceeded are not tolerated. Several spatial plans have thus been cancelled by the Dutch Council of State (box I). This shows how the air quality standards have the potential to stop spatial development in polluted areas. And with much urban areas being among those polluted areas, this is no pretty picture...

Prospects

The Dutch example is still extreme in the EU. This surely follows the rather stringent interpretation of the EU air quality directives by the Dutch (e.g. Bouwman & Visser, 2005). In many other countries there is no link yet between spatial plans and air quality requirements which implies that these plans can just proceed as long as no limit values are yet exceeded. It is only in cases where limit values are indeed exceeded – in newly build or existing situations – that authorities will be forced to make plans to deal with the air quality. Still, the Dutch case might also be exemplary for the problems other countries are to experience in the future. Bakker (2004)

describes that cases in countries such as Austria and Sweden are already showing similarities. Also the Flemish ‘Bond voor een Beter Leefmilieu’ is threatening to take the Flemish government to court if it doesn’t increase its efforts to meet the standards. And who knows what will happen if plans in other countries that result in more pollution or more people being exposed to too high levels of air pollution are taken to court. EU legislation simply states that standards must be met. Even if national legislation doesn’t literally state the same, this might still be relevant to judges...

4 Walking the streets of multi-level governance

The example of the air quality directive shows how the mismatch between different policy arrangements can have quite intense consequences. This makes it relevant to see how such mismatches can be dealt with. One might be tempted to decide in favour of either one of the arrangements. This is somewhat naïve however. They are both powerful bodies of existing practices that are difficult to change. Furthermore, they exist for good reasons and changing either would compromise these. As such the question is not who is right or who is wrong. There is more reason to investigate how both policy arrangements can be *combined*.

A first idea is to regard local urban policy arrangements as supplementary to the EU environmental policy arrangement. This follows the argument that situation-specific policies should not replace generic policies, but rather supplement these (e.g. De Roo, 2004). Such a combination in effect means uniting both – at least to some degree - into one more general arrangement. This would imply a “complicated and fluid sharing of policy competences between actors across different administrative levels which such an arrangement entails”, exactly what Jordan (1998;15) understands as *multi-level governance*.

The EU as multi-level governance system

Multi-level governance typically builds on situations of mutual dependency within and between different levels of authority (e.g. Benz & Eberlein 1999, Lyall and Tait 2004, Svedin et al. 2001). Zito (2000) describes how in recent decades EU environmental policy has grown into such a multi-level governance system (also see Bernard, 2001). In this system shared governance occurs between different levels of government and between different actors that exert influence on environmental policies such as NGO’s, lobby groups or semi-governmental organizations. This has resulted in what is now “a far-reaching multi-level governance system in which policy-making powers are shared between supranational, national and sub-national actors” (Jordan, 1998; p.1).

For a successful functioning of a multi-level governance system there needs to be a good system of communication and synchronizing between different levels and departments (e.g. Zuidema, 2004). In *horizontal* terms – that is between different departments and actors on one level of authority – this implies synchronizing objectives and interests and the sharing of power and responsibility on one level of authority. In *vertical* terms – that is between different levels of authority – this entails both top-down and bottom-up processes. Currently the systems of communication and synchronizing mostly seem to apply to the horizontal communication and synchronizing within both separate policy arrangements. Both function on separate levels of authority, thus the way to combine both is to try and facilitate communication and synchronizing *between* these levels.

Two arrangements as one

When it comes to most EU environmental policies – such as the examples mentioned of informal policies or the many projects – both policy arrangements go well together and tensions don’t emerge. When it comes to much formal policies we have seen that generic environmental policies makes that tensions do emerge. So it’s only with part of the functioning of the EU as multi-level governance system that the mismatch between the two arrangements causes problems. To try and bridge the gap that exists with regard to many generic policies, both the concepts of subsidiarity and proportionality can be of help.

Subsidiarity refers to the idea that decisions need to be taken at the lowest possible level of authority so as to be closest to the actual problem (e.g. Barnes & Barnes, 1999; Jordan, 1999; Zito, 2000). It is often used as a reaction to a strong interference of the EU in matters that are conceived of as being typically domestic, regional or even local. In effect this means that national, regional and local authorities can use the idea of subsidiarity to defend their administrative and political powers. Also, it means that subsidiarity is a strong concept in defending the idea that different areas need different policies.

In EU debates subsidiarity gets confronted with idea of harmonization and the motive of equal chances and qualities EU wide. In fact, subsidiarity seems to go against the basic trend of EU integration that can be seen as “the shifting upwards of decision-making powers to supranational bodies” (Jordan, 2002; p.3). This makes it difficult to relate subsidiarity to the EU environmental policy arrangement. When it comes to setting different levels of ambition in different areas subsidiarity thus seems inadequate to be addressed. However, when it concerns more informal policies or the implementing of policies, subsidiarity can be successfully referred to.

Subsidiarity is a tool that lower level authorities can use to try and gain more room to make their own decision. As such it helps to facilitate a bottom-up process of communicating local requirements to higher levels

of authority. In this context Börzel (2001) shows how a *push* to comply with EU policies and a *pull* from local authorities would be a successful means to stimulate an efficient fit between EU and local policies. In the case of generic environmental policies the push is already strong. Within member states the pull can also be strong. In The Netherlands the current problems with the air quality are severe and urgent enough to produce such a pull. It is however important that *national authorities* are also able to make this pull be relevant within a EU context. Subsidiarity is a strong means to do this. In other words, although subsidiarity might not bring a differentiation in EU standards, it can still be used. It can especially be *an attractive argument in defence of a more flexible interpretation of generic policies*. And this brings us to the concept of *proportionality*.

Proportionality is the idea that every member-state can decide the way in which they intent to meet the requirements set by the EU (Pelkmans, 1997). In this a member-state is also able to relate the intentions that underlie EU requirements to the potential costs. This can imply that member-states look for more leverage to facilitate a better fit between generic EU policies and national, regional and local practices. From a theoretical perspective this would mean an advanced 'mutual adjustment', which is a way to make top-down policies to get more substance locally by embedding them in the local context (e.g. Rydin, 1997; Healey, 2004). This context is not just made up of specific spatial or environmental circumstances. It involves the local policy network, society and related objectives and interest as well. In effect this is supplementing generic policies with specific policies. However, the translation of EU environmental policies from the top down needs to allow for ample room.

In the case of the Dutch air quality problem flexible interpretation could imply (example) that the Dutch are able to interpret the EU air quality directive in such a way that they can prioritize public health above the requirement that limit values must be met everywhere (i.e. even where no people reside). This is indeed part of what the Dutch are currently trying to do. If this works they will be successful in using the principle of proportionality to alleviate the tensions between EU policies and local requirements. Also, the current interpretation by other countries already show that problems are of a lesser degree than the Dutch are currently experiencing due to their strict interpretation (e.g. Bakker, 2004). In Germany the first cities have been asked to draft plans to deal with air pollution (e.g. Stuttgart). This does imply that they need to be active in working on the issue, but there is no reason yet for spatial plans to be disapproved by law! As such they have at least bought time and possibly also instruments to attack the problem without stopping spatial developments altogether.

Flexible interpretation

Using both subsidiarity and proportionality can help to alleviate tensions between EU environmental policies and urban requirements to deal with specific – and often quite complex – issues. Especially the role of national governments in using both concepts is now crucial. They have the opportunity to make the two arrangements that currently seem to clash, work together. Both can provide the push and pull that Börzel refers to. Ideally this will result in urban governance being strongly stimulated to work on environmental issues without being *forced* to do away with all tailor-made solutions they might prefer. This implies that EU environmental policies will have the required effect, but that on occasions – due to flexible interpretation – also other local priorities to be met. This comes very close to the current Dutch City & Environment approach. Deviations when well motivated that are only allowed within the interpretative room EU policies leave. Indeed, situation-specific policies now supplement generic policies.

5. Great ideas result in great consequences

Although we might have to accept that a mismatch between the two policy arrangements discussed will linger on, there is no reason that this would have to be problematic. Using the flexibility of multi-level governance and stimulating the EU to evaluate the spatial consequences of new legislation can be offer good prospects. Indeed changing either the EU environmental policy arrangement or the typical arrangements that are set up to address urban environmental issues hardly seems smart. Both exist for good reasons. Also, for both practical and political reasons, one would have a difficult time changing either one. As such there is much reason to try and use more 'fuzzy' means such as flexible interpretation when applying EU policies in a national and ultimately local context. The concepts of proportionality and subsidiarity indeed provide ways to do so. This however does not prevent more fundamental changes from being sought after.

The potential consequences of strong generic standards can be quite severe. The Dutch example of the implementation of 1999/30/EC air directive gives us a peek at how severe these can be. Its quite possible that the EU never saw these severe consequences coming. Indeed, the EU hardly considers the actual spatial consequences of the policies it issues. Where it is already obligatory for much legislation to make financial, economic or sometimes even environmental assessments, it seems quite logical to do spatial assessment in a number of cases as well. Strict generic environmental policies certainly seem to fit the bill.

A check on possible spatial consequences is a means to improve the communication from the bottom (local authorities) to the top (EU). Before decisions are made at the top, knowledge of the consequences at the bottom are taken into account. This indeed resembles the ideas of multi-level governance. Also, it can take the

mutual adjustment of the two arrangements a step further than just flexible interpretation. It might well help to raise awareness that a great idea such as protecting public health can have great consequences, which are not all that attractive.

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