Adding images to multi-level governance: making sense of differential implementation of EU Air quality policy.

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Introduction

Historically the European Union (EU) air quality policy has been addressed through industry regulation (Héritier et al. 1996; Kuklinska et al., 2015). The dominant idea was to regulate emission of pollution at source. Hence the industrial plants, large combustion plants, and the emission levels of different motor vehicles were targeted. The examples of such directives are Directive 80/779/EEC on the emission of sulphur compounds, Directive 84/360/EEC on the combating of air pollution from industrial plants, Directive 85/203/EEC on nitrogen dioxide, and Directive 88/609/EEC on the limitation of emissions of certain pollutants into the air from large combustion plants. The pollutant emissions of vehicles were initially regulated by Directives 70/220/EEC (cars) and 88/77/EEC (trucks). The aim is to gradually reduce annual pollutant emissions from existing installations, and prescribe permissible emission levels for the new industries.

Yet, the ever-high pollution levels in EU required more stringent requirements (Kuklinska et al., 2015: 133). The Fifth EU Commission Environmental Action Plan (EAP) (1993) points to the need to address air pollution from a much wider angle, in terms of responsibility allocation and the nature of policy measures. The fifth EAP allocates responsibilities to different layers of government. Hence, for the first time, the EU policy addresses other actors than industries and urges subnational levels of government to own policy problems. It does so by identifying technical industrial measures, targeting industrial and combustion plants and vehicles, to be taken *next to* more consumer behavior altering measures. Examples of the latter are measures stimulating the use of alternative ways of transportation other than cars, and discouragement of car traffic in cities. There is a focus on detrimental mobility patterns in Europe and an urge to change it. Hence, the fifth EAP moves the policy emphasis to the *quality* of environmental media, i.e. air, water, and soil, instead of the up until now common technical source-based regulation, targeting only industries and vehicles.

This adjustment of regulatory focus on air quality finds its way into the current Ambient Air Quality (AAQ) Directive 2008/50 EC. In order to shift towards the new policy image, the EU Commission suggests a new policy design, which introduces new actors into the game. This directive establishes minimum air quality objectives to be met by the member states in order to prevent and combat air pollution. The directive also calls for assessment, monitoring and sustainment of the air quality through rigorous air quality plans and obliges the member states to public communication on their air quality measures. However, the member states have considerable leeway for the selection of concrete measures for the air quality plans. At the same time, the directive obliges member states to involve subnational levels of government in the planning exercise as these plans have to

be executed at local level as well. Hence different levels of government are presupposed to work together on these plans (Bondarouk and Liefferink, 2017; Gollata and Newig, 2017, Lenschow et al. 2017). Moreover, the directive stipulates that the government should inform the public on the measures and air pollution levels in the member states. Hence, the directive also involves the public as a new actor in the policy design. Thus, the directive picks up on the shared responsibility, not by only addressing the member states but also subnational level to come up with solutions and management plans and the involvement of citizens through public information provision requirements.

Despite the high hopes vested in the involvement of subnational level and public information provision, the success of the directive is undermined by a large-scale non-compliance in the EU. The EU Commission has been issuing numerous infringement proceedings against member states due to poor implementation records (20 reported in 2018); in May 2018 six countries (France, Germany, UK, Italy, Hungary, Romania) have been taken to the Court of Justice for continuous non-compliance with the AAQ limit values of nitrogen dioxide and particulate matter. The Commission justifies its action with the failure of these member states "to respect air quality limit values and … to take appropriate measures to keep exceedance periods as short as possible" after having received "sufficient 'last chances' over the last decade to improve the situation" (PR 18 May 2018). Obviously, twenty infringement proceedings and six court cases point to a general problem in complying with the directive; at the same time the Commission is recognizing significant variance between countries – attributing this to differences in effort to come up with "appropriate measures". As evidenced in the recent draft action plan of the partnership for air quality (being part of the Urban Agenda for the EU) (2017) the primary reason for persistent air quality deficits is attributed to gaps in vertical coordination between national, regional and local levels of governance.

This diagnosis, which points to ineffective multi-level organizational structures, is contested in the academic literature, however. While Gollata and Newig (2017) indeed pinpoint ineffective multi-level governance structures in Germany as the reason for narrow, minimal and underresourced policy measures taken at local level, other governance scholars praise multi-level governance structures for the ability to address wicked problems due to "bottom-up", context-sensitive and flexible decision-making. For instance, in a Dutch study, Stigt et al. (2016) argue that devolution of environmental policy competence to local level could be the solution to environmental problems. Bondarouk (2017), reviewing 80 empirical articles on local implementation of EU directives across member states, finds that the majority points to the great potential of coordination between different levels of government in facilitating policy implementation and achieving the desired policy outcomes. These different findings point to the question of effectiveness of multi-level governance as a tool to solve environmental problems.

This theoretical puzzle is also an empirical one. In the Netherlands the multi-level governance was installed and we see overall satisfactory compliance levels, whereas Germany belongs to the six countries that are taken to the court by the EU Commission. In other words, despite its structure of cooperative federalism,

which in its evolution hardened in an institutional network of joint decision-making (Scharpf et al. 1976, Sturm 2018), Germany is one of the worst performers in implementing the AAQ directive. The Netherlands, by contrast, is one of the few compliant countries after serious initial problems. Even though famous for its centralized steering arrangement, the Netherlands has devolved AAQ policy to the decentral level and put multi-level governance structures at place. Hence, both countries adopted the multi-level governance structure the AAQ directive presupposes but still arrived at different policy outcomes. The burning question is then how can multi-level governance work in one country but be obtrusive in another? The contrasting empirical cases beg the question how the respective multi-level governance structures were used to achieve the desired outcomes. Thus, we need a deeper understanding of workings *within* the coordination structures.

In order to unpack the workings within multi-level governance structures, we propose to treat these structures as *venues* as argued by Baumgartner and Jones (1991). In turning to the notion of venues they direct attention to the policy actors. These actors may carry different ideas about what the right course of action should be, or as Baumgartner and Jones (1991) argue they carry different *policy images*. In order for policy change to happen venues have to open up to new policy actors introducing new policy images. Baumgartner and Jones (1991) get us beyond a mere organizational perspective on multi-level governance and focus more on the interaction between changes in venue and policy image and its impact on policy implementation. Such an approach opens our perspective to the politics behind the structures and the roots of variation.

Therefore, in this paper we propose a framework combining the institutional lens with an actor-centered and ideational one. For that we join the structural perspective of multi-level governance with Baumgartner and Jones' (1991) contribution on policy images and venues. With this we contribute to the literature that a mere structural perspective (and policy solutions focusing merely on introducing new structures) does not suffice to understand processes of policy coordination. Viewing structures as venues allowing the entry of different actors with different images of what the problems and possible solutions are, we move from a static to a dynamic analysis capable to understand variable compliance levels within multi-level governance structures.

Analytical Framework

With regard to the effectiveness of multi-level governance (MLG), there are two views in the literature. One argues that MLG is conducive to the delivery of EU policy. First, the devolution of policy task to sub-national level allows for more tailor-made policy solutions, that could take into account the local characteristics of the policy problem (Gollata and Newig, 2017; Newig and Fritsch, 2009). Hence, such approach is deemed more effective in tackling policy problem. Gollata and Newig (2017) also argue that "governance, as opposed to government, implies an opening up of decision-making to non-state actors" (Gollata and Newig, 2017: 1311). In this way, the consultation and information provisions can mobilize

participation of non-state actors, such as NGOs, which would allow for more specific local knowledge input. Through such inclusion, the local actors transform into policy problem owners, which positively affects the commitment to solve a particular policy problem.

The other point of view stems from classic implementation research and takes a more pessimistic angle on the effectiveness of involving more actors in policy delivery. It suggests that allowing for more actors to be involved in policy design automatically leads to more complication which could negatively impact the policy goal achievement (Pressman and Wildavsky, 1984). Pressman and Wildavsky argued in their influential seminal work that as more actors become involved in the policy delivery chain, the more clearance points there will be, i.e. the new rounds of discussion of policy objectives and tools would dilute ambitious policy objectives. Hence, allowing for discretion on local level results in poor policy delivery as the local actors face complex decision-making structures with many clearance points that might also lead to delays in implementation (Pressman and Wildavsky, 1984).

Responding to the pessimistic image of MLG portrayed in the implementation literature, Bowen (1982) points to the lack of analysis of interaction between different levels of government. As these interactions are on a repeated basis, there is high a probability of collaboration between different levels of government. When talking about implementation process, Bardach (1977) suggests that it needs to be perceived as involving 'games' between the government levels. He argues that it is not the existence and multitude of levels that is decisive, but we need to look at their interaction: how these actors are 'fixing the game'. This presupposes a closer look at the actors involved in the coordination between levels and the decision-taking strategies within these 'games'. Hence, the implementation of policies should be perceived as a continuation of decision making (Bondarouk and Mastenbroek, 2018; Hill and Hupe, 2014, Scharpf 1997). Thus, we need to look beyond structures and turn to agency.

Baumgartner and Jones (1991) offer a way how to do that. They use the lens of institutional *venues* and policy *images* to conceptualize the interaction of actors and structures. In their attempt to influence the policy design, the actors would try to control the dominant image of the policy problem by stressing the importance of their problem definition and consecutive appropriate measures to remedy the problem. At the same time, the actors would try to alter the roster of participants who are involved in the policy design by seeking out the most favorable venue for the consideration of their policy problem definition and policy solutions. Thus, Baumgartner and Jones (1991) argue that venues are mobilized by policy actors previously excluded from policy deliberation. This interaction presupposes the strategic nature of 'games' played in the policy delivery. In this process, both the institutional structures within which policies are made, i.e. policy venues, and the individual tactics of actors how to frame the policy problem, i.e. policy image, play important roles as their interaction can lead to policy change (Baumgartner and Jones, 1991: 1045).

In their analysis of venues, Baumgartner and Jones (1991) direct the attention to the *roster of participants* involved in the policy delivery. Examples are state and local governments, courts, NGOs and other interest group representatives. These participants play different roles in the policy delivery. They differ in their mandate within the policy delivery. Some could be restricted in their competences and be dependent on the policy actions of other actors. The institutional rules determine the roles of these actors and the *dependencies* among them. These dependencies could be intensified by the financial ties among the participants. Therefore, venues carry with them a decisional bias by giving access to a particular set of actors as opposed to others.

These different actors carry different ideas, i.e. policy images, about what is the right course of action to address the policy problem. As venues give favorable access to some actors, they therefore also *favor certain policy images* addressing different courses of policy action. When the venues of a public policy changes, due to for example the allocation of competences to another venue, it allows for the introduction of new policy image as is carried by the new participants. As new policy images enter the deliberation arena of policy making, a change of policy course becomes more likely. Hence, "the image of a policy and its venue are closely related" (Baumgartner and Jones, 1991: 1047).

There are two dimensions of policy images that matter: one relating to the definition of the *policy problem* and the second specifying *the role of the policy maker*. Baumgartner and Jones (1991) specify that a policy issue can be defined in terms of narrow "scientific and engineering details" as opposed to "in terms of social impacts" (Baumgartner and Jones, 1991: 1047). When the issue is portrayed in social terms, the policy solutions tend to be more encompassing than if the issue is portrayed in technical terms. "When the ethical, social or political implication of such policies assume center stage, a much broader range of participants can suddenly become involved" (Baumgartner and Jones, 1991: 1047). In this way the policy solutions tend to be more holistic in nature, as the policy benefits from various knowledge inputs.

Applied to the case of air quality, two different policy approaches can be distinguished (Héritier et al. 1996). If the focus is on the question whether certain hazardous substances are present, the regulatory approach targets sector-specific emissions requiring appropriate technologies to be put in place in order to combat pollution. If on the other hand the focus is on the extent to which pollution impairs the quality of the environment, regulation calls for flexible bundles of measures depending on the concentration of harmful substances in the environment. The latter policy approach calls for a potentially much broader range of solutions, ranging from technical solutions to choices between modes of mobility or production and to behavioral change. This also opens the way to cost-benefit arguments: in contrast to the former pollution-based approach, "the objective is not to avoid emission at (almost) any cost, but to define the 'least-cost' use of the environment (Héritier et al. 1996: 78). Accordingly, venues might differ in how they think the air quality problem should be addressed, whether the solution should be sought in a technical emission source-based approach or a more flexible and context-specific one.

Next to the policy problem image, we suggest that it is useful to include *policy role-images* to our analysis and focus on actors' perceptions of one's own role in taking care of the problem and thus contributing to the implementation of the EU directive. This might partly be linked to the policy problem image, as the technology-centered approach focusses on regulating or enabling industrial sectors to provide the necessary technology, i.e. a role not traditionally assumed by the local level, whereas the wider quality approach attributes responsibility for combatting pollution across levels of governance and other stakeholders. Hence, policy role images that actors carry vary in the sense of being part of the problem and therefore responsible to contribute to a solution, or being external to the problem.

Bardach in his work on *Getting Agencies to Work Together* (1998) already pointed out that it is important to foster problem-ownership among implementers for the policy delivery to work. The different policy role images are also evidence in a recent study on air quality policy implementation in Germany. Barbehön (2016) suggests a comparable distinction of roles in his comparison of AAQ implementation in Frankfurt and Dortmund, pointing to different European identities at local level – Frankfurt playing an active part in building Europe and Dortmund being passively subjected to EU rules (see also Fink and Ruffing, 2017). Hence, in the first case the policy role image is that of a problem-solver and in the latter that of a policy-implementer, where the bare minimum is done. Therefore, we suggest to distinguish between two role-images, namely *problem-solver* and *policy-implementer.* As new participants might get involved in the policy design, they would carry these role images and we expect that it would affect the policy change.

To sum up, we would expect to see policy change, if indeed new participants become involved in the policy delivery. At the same time, these new participants should be carrying new policy problem and policy role images in order to stimulate a policy change. If change in policy image is ruled out, the odds of effecting changes in venue are correspondingly low. If the venues continue to be tightly controlled, changes in policy images are also less likely. Therefore, in such a situation we would expect the status quo to persevere, implying that air quality will not be improved.

Research design

In order to show how a focus on the interaction of venues and images helps explaining variance in the implementation of EU AAQ policy, we will look at two countries, which show considerable variance on the side of the dependent variable (compliance with policy): Germany has been one of the outstanding cases of non-compliance with EU AAQ policy. It has been an early target of the EU Commission threatening with infringement proceedings as early as 2015. It is now (2018) one of four countries taken to the ECJ for violating the limit values for NOx in a number of cities. The Netherlands, by contrast, is one of only 5 countries the Commission considers compliant with the AAQ directive. Given that the Netherlands are a densely populated and industrialized country with conceivably very high

emission rates especially in the urban mobility hotspots, this is a remarkable result.

Apart from anticipated problem pressure there are other factors that suggest similarities on the side of the independent variables. For once, although constitutionally a centralized country the Netherlands followed the indication of the AAQ Directive and devolved responsibility for emission-reducing measures to the local level. In Germany as well formal responsibility was first devolved to the Länder-level which typically put either regional or city administrations in charge. Thus, in both countries we observe that the EU Directive resulted in newly established local venues with formal responsibility for complying with EU law. Secondly, we witness some similarity with respect to the prevailing policy image linked to ambient air pollution. Both Germany and the Netherlands traditionally regulate emission levels of industries or products (as opposed to setting air quality standards) (Héritier et al. 1996). This implies that both countries typically rely on technological advancements in relevant sectors to meet desired environmental goals and ideally aim at their harmonization at EU level to create a level playing field for the industry in question. Arguably, this image conflicts with the devolution of responsibility just mentioned and, given this mismatch, we might expect a rather hesitant usage of the new local venues in both countries and corresponding slow implementation of local measures. Yet, the Dutch compliance record suggests that some other dynamic developed in the Netherlands. It will be the objective of this analysis to explore what happened.

When analyzing *venues,* we will be looking at roster of participants and documenting any change in that. Secondly, we specifically focus on the dependencies between different venues and participants, in terms of competences, division of responsibilities and the structure of financial dependencies among the participants. In order to analyze *policy images*, we will pay attention whether the focus has been on the source-based regulation or a more quality-oriented approach was chosen. And, finally we will pay attention to whether the participants carry problem-solver or policy-implementer role images. We will trace any change in venues and images to see how that impacts policy delivery.

We therefore proceed in two steps: First, we elaborate on the implications of the AAQ directive for national air policy venues and policy images, suggesting that the EU directive has given some impulse for both, an alternation of venues and of images, in both countries. Second, we ask how these impulses have been translated at national level; i.e. how the EU policy effectively changed national venues and images creating new policy dynamics in Germany and the Netherlands. In this paper, we cannot offer a systematic, large-N comparative analysis at subnational level. Rather, in an illustrative fashion – drawing on implementation reports in the past 15 years and a several interviews specifically at sub-national level, we hope to reconstruct the interaction of venues and images in the implementation of air quality. In this way we hope to answer why multi-level governance was effective in the Netherlands and less so in Germany.

Empirical Analysis

Venues and Images implied in EU ambient air quality policy

Between 1996 and 2008 the European Parliament and Council adopted several AAQ Directives, which explicitly adopt multi-level governance principles in the field of environmental policy in the EU. Durner and Ludwig (2008) speak of a turn towards a hybrid of hierarchical and "bottom-up", more inclusive characteristics as they had been discussed as contributing towards higher policy effectiveness for example in the Fifth and Sixth Environmental Action Programs (EC 1992 No. C 138/5; 1600/2002/EC), the White Paper on European Governance (COM (2001) 428) and several publications on "Smart Regulation" (e.g. COM (2010) 543). Along these lines, the latest 2008 AAQ Directive combines strictly binding environmental quality targets with considerable leeway for the selection of concrete AAQ measures at national and subnational level, leaving room for discretionary policy making on the ground in the spirit of the principle of subsidiarity. Moreover, they combine procedural provisions aiming at effective and efficient policy outcomes (e.g. obligation to formulate effective AAQ plans and programs) with input requirements aiming at enhanced participation (e.g. information rights for the public), thus potentially empowering the general public. Arguably, this shift implied changes in the national venue constellations during the implementation phase compared to earlier EU air policy, empowering subnational levels of governance and citizens.

More specifically, with respect to national decision-making venues the 2008 EU AAQ directive allows for discretion at member state level, yet it is explicit with respect to some desired structures. The Directive calls for cross-cutting coordination, both in horizontal terms (cross-sector coordination with transport, spatial planning or housing policies in particular) and vertically (requiring close cooperation between different levels of government). Addressing governance levels ranging from the EU to subnational actors it argues that "… it is particularly important […] to identify and implement the most effective emission reduction measures at local, national and Community level" (prelim 2). As high concentrations of pollutants become manifest in local settings, the Directive explicitly calls upon the member states to designate subnational "zones and agglomerations" to contribute to problem solving and therefore potentially lifts the local venue to previously unknown responsibility and status. Air quality plans need to be developed for those zones and agglomerations where concentrations of pollutants exceed the limit values. Prior to the directive, neither in Germany nor in the Netherland subnational entities like cities or rural districts carried prime responsibility for solving air quality problems.

Viewed through a structural lens, the challenges implied in this territorial downscaling of responsibility for AAQ policies to the local level become quickly apparent (cf. Gollata & Newig 2017; Lenschow et al. 2018). While the AAQ problem is felt most strongly at local "hotspots", the origin or pollution (e.g. emissions from cars or industry, main road infrastructure) may be beyond the jurisdictional and administrative competence of local authorities. The Directive acknowledges this fact and calls for a multi-level management strategy, and even hints at "necessary Community measures reflecting the chosen ambition level…" (prelim 16). However, with revisions of EU technical regulation being only slowly forthcoming

(EEA 2016), political (and legal) attention shifts to the establishment of coordinative structures being built at member state level in order to facilitate compliance with air quality standards. In the next section, we will turn to evidence whether and how such coordinative structures have been in fact built. As indicated we aim to go beyond a static comparison of structures and rather tell the stories of how the legally binding standards and procedures set up in the Directive, namely provisions regarding publicly available information and the involvement of the subnational level, effected *new venues at member state levels* influencing their respective adaptation processes.

The AAQ Directive not only invites new venues; it is also indicative of a reemphasis in air policy images at EU level. As indicated above, air pollution abatement is a well-established environmental subfield in the EU. Starting in fact from prioritizing air quality measures during the 1980s, setting binding limit values at EU level and leaving the choice of measures to member states, the EU, in the 1990s, abandoned this approach in favor of emission control and modern-technology oriented regulation. Yet, with the 2008 AAQ Directive, building on the 1996 AAQ Framework Directive with several daughter directives, the EU appears returning to the older path, focusing on air quality. Arguably, this mirrors the "patchwork" of national styles reflected in EU policy. The new AAQ approach, however, is not simply a return to 'flexible' old times (the 1980s), it prescribes specific multi-level governance features (decentralization, task-specific jurisdictions and participation) combined with "mandated participatory planning" (cf. Newig & Koontz 2014) – or, in our terminology, a *pre-structuring of national implementation venues in favor of decentralized, public and potentially judicial venues*. With respect to the policy image, however, the AAQ Directive appears to subordinate the emission- and technology-oriented policy image to a wider quality image, allowing for a much wider range of measures, including especially measures influencing behavioral patterns. Already the 5th Environmental Action Programme (1992) offers a preview of this shift in thinking suggesting a range of environmental measures in the transport sector – i.e. the sector mostly responsible for ambient air pollution in urban centers – addressing infrastructure, technology and user behavior and assigning public and private actors at EU, national and local levels positions of responsibility (EAP 1992: 36). Interestingly though, in assigning responsibilities across the MLG governance structures, the EU level continues to place regulatory emphasis on emission levels and to some extent infrastructure (TENs), while the EAP assigns prime responsibility for user behavior to member state and local authorities.

To sum up, the 2008 EU AAQ Directive is much more than a tough set of air quality standards to be complied with in the member states at the level of designated population agglomerations. It pressures member states to invite new actors into policy making (i.e. the decision of measures capable of reaching the limit values), it shifts the locus of problem-solving responsibility to the subnational level, it calls for vertical and horizontal coordination venues and it imposes a quality rather than emission-oriented policy image on member states.

Varying degrees of venue and image shifts in Germany and the Netherlands

In this section we analyze how the venue and image shifts implied in the EU AAQ Directive was translated into national policy?

Germany

The transformation of EU air pollution policy in the 1980s had been heavily influenced by German regulatory traditions and problem perceptions, meaning that "[b]oth prevention and reactive abatement of damage that has already occurred are governed primarily by the principle that the polluter should bear the cost of pollution... Compliance with emission limit values is prescribed to achieve this end. This can be done only if the protective mechanisms utilize the state-of-art technology… in *Germany clear air policy equals 'good technology'*" (Héritier et al. 1996, 129, emphasis added). In Germany, the primary venues for air pollution policy, therefore, are the federal government and parliament with industry being the main addressees of federal law (the *Bundesimmissionsschutzgesetz* (BImSchG) with a number of associated administrative regulations). In line with the structure of cooperative federalism, subnational authorities play a role in the monitoring and enforcement. As in Germany cooperative federalism has turned into "unitary federalism" that is oriented towards achieving uniform standards of living in the country, this also means limited discretionary powers for subnational levels of governance (Sturm 2017)

After the adoption of the European AAQ Directives this venue constellation in Germany did change surprisingly little. The "old" venue focusing on dependency relations between government and industry, with the former setting the rules (many of them derived from EU legislation) and the latter offering the expertise remained dominant. Emission standards, e.g. the EURO norms for motor vehicles, continue to apply and are considered crucial for the viability of the German (car) industry. Given the size of this industry and its contributions to employment rates and economic growth, policymaking tends to be highly responsive to the interests of this sector. Yet, in line with the MLG requirements of the Directive and in contrast to previous practice, the federal states were now held responsible for allocating the competences of monitoring the AAQ situation and meeting the AAQ limit values – where necessary by planning effective measures. The majority of the federal states established plans at state-level; some allocated the competence for AAQ planning to the upper or intermediate regional authorities, a minority directly to local district authorities. Given the fragmentation of competences, numerous working groups between the Federal and the Länder level as well as between the regional and local authorities were charged with ensuring multilevel coordination. In the majority of states, at least two governance levels were directly involved in the planning. Generally, local administrations have been granted an expanded role in the implementation process through (participation in) planning and the execution of pollution abatement measures (see Gollata & Newig 2017, 1313 and table 1 in this publication).

However, Germany's complex jurisdictional structure frequently triggered uncertainties and quarrels over responsibilities between the federal state and regional or local levels of government concerning the selection and financing of AAQ measures. The venue shift towards the local level as implied in the EU directive clearly added regional and local authorities to the roster of participants

in air pollution abatement and – even though unevenly – allocated substantial policy responsibility to them. However, this happened without responding to the associated necessity of upgrading also local legal and financial capabilities. Mirroring these unbalanced interdependencies in vertical MLG structures, blame-shifts between levels of governance were a daily occurrence.

> The Land has conferred the responsibility to the local level, (…) which went everything but well and led to reciprocal accusations as to who should have acted earlier and more consistently, to the point of which documents and data have actually been handed over (City Councilor, Leipzig).

This lack of effective collaboration between central and subnational levels suggests that in the perception of national policy makers lover governance levels remained a secondary venue for securing air quality standards.

Arguably, this perception connects to the maintenance of the traditional policy image. As indicated above, the EU Directives (of 1996 and 2008) implied adaptation pressure with respect to the prevailing air policy image in Germany, which relied on source-related emission regulation rather than quality standards. Germany had long resisted the air quality approach even in light of several rulings of the ECJ (cf. Liu 2008 for detailed legal analysis) and only slowly revised its core national law [1] in line with European thinking. Both national and subnational authorities shared the idea that air quality essentially implied to set emission standards and seek appropriate technical solutions. Thus, subnational authorities informally declined responsibility for poor air quality standards in local "hotspots" in pointing to insufficient national or European standards.

> We could comply with the limit values if only the EU was stricter in regulating vehicle emissions. (Department of Environmental Protection, Stuttgart, own translation).

> Next to local measures, the provisions on compliance with the PM10 and NO2 limit values require national and international measures and decisions. As the last link in the chain, a municipality can only partly contribute to pollution reduction. About 50 percent of the urban PM10 concentration originates from outside the urban sphere of influence. For example, the municipality has no influence on vehicle emission standards, which – especially for NO2 – are not in line with the emission limit values. (Department of Environmental Protection, Leipzig, own translation).

In the terms of Baumgartner and Jones (1991), this defensive role image represents that of (unwilling) policy implementers, not that of problem solvers. There are structural reasons for that, however. The German government in the transposition of the EU Directive did not provide any funds for local governments

[1] For an overview of the entire legal package see: https://www.umweltbundesamt.de/sites/default/files/medien/370/dokumente/uebersicht_bimschg_0.pdf

– arguing that this lies in the responsibility of the federal states. Instead, the federal Government followed a suggestion of the German Association of Car Manufacturer (VDA) and introduced in 2009 an environmental premium (Umweltprämie) to individual car owners if they replaced their old by a new (max 1 year old) car. The federal government allocated, first 1,5 later 5 billion Euro and thus subsidized almost 2 million replacements of old with new car. The upgrading of old cars with new technology (e.g. particulate filters for diesel cars) did not qualify, however. The overall environmental effects turned out to be minimal, in part due to so-called rebound effects (new cars being larger and heavier thus emitting relatively more than the old car). Evidently, the policy primarily served to push consumption and intended to support economic activity during global economic crisis, using air quality as a selling point. The measure also underlined that the European obligation to meet advanced air quality standards pushed rather than questioned the traditional policy image of resolving environmental problems with technical means.

Nevertheless, the revised German law added mandatory planning as a central policy instrument and responded to the widening public information requirements, exceeding previous German practice, which had been heavily influenced by the desire to protect industrial actors. Both reforms also implied new venues for private actors either directly entering the local decision making arenas or by taking legal action in response to the (non)completion of action plans (cf. Cancik 2011: 284-285). In the short term, these new venues contributed little to policy change however, partly because the implementing law at first sight looked like an adequate response to EU law.

The 8th revision of the BImSchG and the linked 35th BImSchV had opened some options for traffic restrictions and prohibitions and made possible the introduction of emission zones by setting up emission classes for vehicles and respective stickers and traffic signs. As indicated, the *Umweltprämie* was introduced to moderate the potential effects on car owners by inducing them to invest in new technology in order to qualify with the so-called "green sticker" for entering future emission zones. In other words, although Germany was forced to adopt the air quality focus in its legal framework, national policy measures maintained its old technology-oriented policy frame inviting industrial innovation. A cynic might say, emission zones were not established to change mobility behavior, but to induce vehicle modernization. At the same time, many cities chose to adopt emission zones as these represented a policy solution that were quickly implemented and did not require larger contributions from slim city budgets (Lenschow et al. 2017).

> The possibility to flank the low emission zone with effective measures was intensely investigated when drafting the Clean Air Plan. … there were options which could have influenced the design of the low emission zone. Yet, these failed because they could not be financed with our available means. (Mayor for the Environment, Leipzig, authors' translation).

The Federal Environmental Agency lists 180 German cities with air pollution reduction and action plans; 60 German cities have introduced a low emission zone for trucks and passenger cars or blocked certain streets for Diesel cars (UBA 2018). For 57 cities Germany had applied for an extension to reach the NO2 limit value (until end 2014) and for 10 cities/regions it asked for an extension to reach the PM10 valued (until end 2011); the Commission granted these extensions in 24/9 cases. Despite these extensions and the high number of plans adopted and measures taken, however, more than half of the urban hotspot exceed especially the annual limit value for NO2; while there have been substantial improvements with respect to PM10 and ozone values (UBA 2017). While the modernization of cars (induced by financial incentives and the emission zones) did show an effect with regard to the PM10, it failed with respect to NO2. This has been attributed to false information by (diesel) car manufacturers with respect to the true technological improvements achieved ("Dieselgate").

"Dieselgate" and the threat of legal action put forward by the European Commission has introduced a new dynamic to German air quality policy during the past three year. However, we will argue below that it remains questionable that these events and associated venue changes will actually change the policy image in the longer term.

In light of continuous violations with the EU air quality standards in numerous German cities, in 2016 the president of the Federal Environment Agency (UBA) had called for a "blue sticker" allowing cities to prohibit the problematic older diesel cars (below EURO 6 norm) from entering cities or critical streets. The already existing environmental zones (with green stickers) do not distinguish between Euro 4, 5 and 6 norms and cars in that range perform very differently with respect to the problematic NOx. Several Länder (Baden-Würthemberg with the especially problematic capital city of Stuttgart, Bremen, Berlin and Hessen) and the SPD-led federal environment ministry support the proposal. Yet, the measure (which would require a revision of the 35th BImSchV) was (and remains) blocked by the CSU-led federal ministry for transport. While the legislative venue to change national legislation remains closed, we witness continuing hesitancy of subnational levels of government to become proactive. For instance, the city of Stuttgart had long deferred the overdue air quality plan, arguing that the city is waiting for the legislative change. Thus once more, multi-level governance in Germany leads to responsibility and blame shifting with lower levels of government waiting for clarification and uniformly applicable measures from the central level.

Not surprising, after already very long-winded infringement proceedings, on 17th May 2018 the European Commission referred Germany (together with France, Hungary, Italy, Romania and the United Kingdom) to the CJEU "for failing to respect agreed air quality limit values and for failing to take appropriate measures to keep exceedance periods as short as possible".[2] In response to the referral the German central government announced a "Sofortprogramm saubere Luft". 1 billion € were set aside to support cities especially to technologically upgrade the

[2] http://europa.eu/rapid/press-release_IP-18-3450_en.htm

public transportation fleet, thus addressing the financial capacity deficits of the local governance level.
Additionally, the legal pressure from above is complemented by legal pressure from below as environmental NGOs have started to use an opening of the national judicial venue. Pointing to the 2008 decision of the CJEU that every European citizen has a right to clean air (C-237/07, Janecek-case[3]), the Environmental Action Germany (Deutsche Umwelthilfe e.V. - DUH) supports German citizens in taking German authorities to court, which violate again the AAQ limit values. Based on a principal ruling of the German Federal Administrative Court (Bundesverwaltungsgericht) in Leipzig (Aktenzeichen 4 K 165/12.WI from 5th September 2013) giving access to justice also to environmental NGO, the DUH has become active in 35 cities. Series of rulings from upper administrative courts (Wiesbaden, Düsseldorf, Stuttgart and Leipzig) have further specified this general ruling and explicitly clarified the legal competence of local authorities to impose traffic restrictions/prohibitions for diesel cars. In the most recent ruling, the Administrative Court in Stuttgart has ruled on 26th April 2019 that the city of Stuttgart can no longer extend the outdated air quality plan and must include driving restrictions for EURO 5 cars by 1st July 2019. Previous rulings have indeed triggered first decisions at city-level (e.g. Hamburg) to restrict diesel car traffic in specific highly frequented streets.

At first sight, it seems that the relative empowering of ordinary citizens and their right to clean air may be a game changer in Germany. To quote an environmental activist:

> The citizens of Stuttgart and their lawyers have achieved that. (…) And that's actually the interesting conclusion that there is a judgment that has sentenced the competent Regional Administrative Authority [Regierungspräsidium] (…) to lawful action. (Nature Conservation Society [Landesnaturschutzverband] Baden-Württemberg).

Additionally, the car industry has lost a lot of public credibility due to "Dieselgate". On the other hand, we also witness a counter-campaign. Recently, the scientific legitimacy of the NOx limit values has come under attack, when some 100 signatories (mostly pneumologists) questioned the widely assumed negative health effects of NOx values in (German) cities. Despite the limited number of signatories and although it was soon revealed that the main author of the open letter had made serious calculation errors, the federal transport ministry quickly used the opportunity and suggested that German non-compliance may actually be an artifact of (too) strict measuring practices (Bauchmüller and Balser 2019). Also, the German Chancellor suggested that small exceedances of limit values (50 instead of 40 µg NO2) should not be counted as non-compliance. In other words, the recalcitrance at the federal level to take full responsibility persists.

But possibly even more significantly, there is evidence that the policy image is persisting, which considers air pollution as a negative externality of generally

[3] A German citizen from Munich had gone through all levels of jurisdiction charging German authorities for violating his personal right for clean air.

legitimate mobility choices and which therefore calls for technological modernization measures in principle, allowing for more restrictive measures only in the short term. For instance, Barbehön (2018) cites a Frankfurt city councelor, who was defending a low emission zone "as a step towards 'the modernization of automobile production' and the development of 'ecologically progressive economic structures'" (p. 170). In other words, although taking up a role image as a problem solver, emphasizing local single-mindedness in the handling of the problem, Frankfurt did not leave the scope of vehicle-centered technological measures in order to limit emissions. Similarly Stuttgart, governed by a green political majority in the city and in the federal state, proudly argues that

> motorized individual transport in a lively and economically strong metropolis like Stuttgart is an important mobility instrument, not least for industry, handicraft, trade and services, but also for consumers and the citizens in general. (Results of the public hearing on the 3rd revision of the air pollution abatement plan from 18h May 2017, GDRrs 282/2027, translated by the authors)

The city claims to aim for avoiding traffic restrictions – even though in light of recent court rulings it may have to reconsider this. Instead, it proposes to assist the federal state government, which has entered into talks with the local car industry on fulfilling announcements of technological upgrades of EURO 5 diesel cars. Clearly, the car industry is a large employer in Stuttgart (and federal states of Lower Saxony, Baden Würthemberg and Bavaria) explaining the car-friendly and technology-hopeful attitude. This indeed suggests that the economic and political hurdles for a change in the policy image are high, even though the (judicial) venue change has been substantial.

To sum up, in Germany the implementation of the EU AAQ policy has led to a substantial but delayed change in national law, adding air quality elements to the previously prevailing industrial and product emission focus. At the same time, with the new decentralized venues being established due to EU law, the responsibility for air quality measure were moved to the federal states and even regional/local levels. This follows the problem logic as differences in air quality are in fact felt at local level, but it overlooks questions of legal competence and financial capabilities. Within the German federal system the needs for collaborative action along vertical governance levels were handled poorly, with blame-shifting rather than concerted action prevailing. The case study showed that such imbalances in organizing decentralized policy making have some tradition in the German de facto "uniform federalism" (Sturm 2017). Nevertheless, while venue changes along vertical lines remained blocked in practice and left the subnational level without sufficient means to respond effectively to new policy responsibilities, recent court rulings giving evidence that EU air policy has also effected national judicial venues, raised attention to this deficit and added citizens and environmental NGOs to the roster of participants.

At the same time, with respect to the measures negotiated (and the legal competences needed at local level) we continue to see a focus on the technological dimension of air pollution abatement (now putting more pressure on the car

industry not only to modernize, but also to compensate misled consumers). Local actors are likely to continue exploring the policy option of emission zones as a priority – at least as long financial means for alternative options are missing. Moreover, they are likely to keep focusing on technological solutions, as the core problem is one of reducing pollution, and not to ensure environmental quality in a more holistic manner. This holds true for local actors holding role images of problem solvers and (mere) implementers alike.

Degree of venue and image shifts in the Netherlands

The venue shifts in the Netherlands were very prominent. While first the AAQ policy was the domain of national government it slowly expanded to local governments and environmental organizations. In 2001 the meeting of AAQ standards was thought to be the sole responsibility of the national government. The Dutch environmental policy, thus also air quality policy, is historically tied to the spatial and infrastructure policy. This meant that all new spatial projects, such as construction work on buildings and infrastructure, have to be subjected to the environmental impact assessment as laid down in the national law. These new projects have to make sure that the environmental standards are upheld according to the norms. In the case of air quality, for example, such system prescribes that even if a small project exceeds air quality norms only slightly, the project will not proceed.

The national government has been discussing what to do to improve air quality for more than fifteen years (Busscher, 2014: 100). Dutch air quality required a serious national policy effort, based on measures such as road pricing or cleaning vehicle fleets. As these were highly sensitive dossiers in a country that is densely populated, the political impasse prevailed for many years. Hence, a national response to reduce air pollution lingered on. It was left up to the actors dealing with individual infrastructure projects to find sufficient measures to reduce air pollution (Busscher, 2014: 100). One way or another, these projects had to make sure that the standards were reached. In those cases where the air quality was above the norm due to high background air pollution, the project had to ensure that the general state of air quality would improve. However, this proved difficult to achieve on a single project level.

Opponents of the different development projects, such as environmental organizations, were quick to point it out. They questioned the legality of such infrastructure projects with regard to the AAQ directive before the highest administrative court – Council of State (*Raad van State*). Unsurprisingly, the scope of individual projects and their plans how to mitigate air pollution, was far too limited to pursue any real improvements in general air quality (RWS, 2009). As a consequence, infrastructure projects could not prove in court that AAQ norms would be upheld, and had to be terminated. Internal research at the Ministry of Transport and Infrastructure indicated that only one out of ten of their projects could proceed (Busscher, 2014: 100). The Ministry of Housing, Spatial Planning and the Environment (HSPE), responsible for the implementation of AAQ directive, also estimated that in roughly hundred court rulings AAQ was the

reason for project termination (see also ABRvS, 2004). In this way, the policy venue opened up, and more participants could engage in policy discussions.

Up until now, the AAQ was the sole responsibility of HSPE. As a result, infrastructure projects were quite suddenly confronted with hard AAQ standards. As the high background concentrations of pollutants persisted, there was hardly any room for new projects. This was in stark contrast to a policy shift in the transport policy field: from policy focused on altering demand for transport towards providing enough infrastructure (Bouwman and Linden, 2004). As a result of which, the number of infrastructure projects had quickly increased. The incompatible policy goals of two ministries revealed the urgency to coordinate between the policy fields. This discrepancy was particularly felt at local government level because of the local nature of most of these infrastructure projects. There was no room for economic growth and expansion at local level due to strict spatial and AAQ coupling. As a consequence, the newspaper headlines stated that "the Netherlands is locked up" (Van Rij & Brink, 2013: 87).

The national government was thus presented with a double problem: the spatial projects could not proceed and they had to tackle the impasse on the AAQ measures. The first suggestion was to de-couple spatial planning and AAQ assessments. In this scenario the projects could go on, but the national government would bear full responsibility for assuring AAQ. While the builders and contractors favoured such strict de-coupling, environmentalists were against as they were afraid that nothing would be done on AAQ. Hence the Ministry of HSPE communicated to the Parliament that such solution is not preferred as it would not solve the environmental problem (TK, 2005-2006). So, the only conclusion was that AAQ measures had to be taken to 'unlock' the country and meet the AAQ requirements.

Up until this moment, local governments had perceived the Ministry of HSPE as unresponsive to local needs (Buscher, 2014: 81). When taken separately, the spatial and infrastructural projects bared often only local consequences. Hence, the local governments spotted the problem of closed coupling of spatial planning and environmental assessment early on, but their outcry for help fell on deaf ears until the scale of problems reached bigger proportions. The venue was still closed, and it took many court rulings to open it up. As Buscher (2014: 81) cites a municipal official stating that the Ministry "did very little: as usual, it passed the buck to lower governments, without thinking through how we were supposed to deal with this air quality issue". Nevertheless, Buscher (2014) finds evidence in interviews with municipal officials that this policy role image of the national government shifted:

> "All of the interviewees indicated that the central government subsequently opened up. To illustrate, a municipal policy official notes "we finally had the impression that what we said really mattered". Indeed, a national policy official stated that "for the first time, we really listened to what the other government agencies had to say"" (Busscher, 2014: 81).

Hence, there was realization among all actors that they needed each other to make the policy work. The regional and local governments became important actors in the policy, as there was a wide realization that local projects determined whether AAQ could be met. At the same time, the local governments were important source of information as they were aware of the specific local circumstances that should be addressed (Busscher, 2011; Van Rij & Brink, 2013). Thus, the necessity of a joint programme became apparent, resulting into the adoption of a National Air Quality Cooperation Programme (NAQCP) in 2009.

This programme is the result of cooperation between different ministries (HSPE; Transport and Infrastructure; Economic Affairs; and Agriculture, Nature and Fisheries), subnational governments and National Institute for Public Health and the Environment (NIPHE). Together they have worked on designing a '*saneringstool*', which is an instrument that allows assessing how many and what AAQ measures are required in order to mitigate the pollution caused by specific infrastructure projects. This coordination enjoyed high saliency among the actors:

> "In 2006, together with sub-national actors, we have mapped the situation: where were the problems and what do we want to achieve. We were pressured from both sides: the Dutch parliament and the EU Commission. The first was interested in making sure that projects could go on and to a lesser extent was worried about meeting the AAQ. And the EU wanted to know whether we will be able to meet these deadlines and comply. Hence, this cooperation with local authorities was really important. There was a special consultative committee created, where representative of provinces, municipalities and ministries discussed the matter. It enjoyed a pretty high importance status, as even the Minister of Environment was in the committee. This committee was not just for environment. No, it was specifically on the air quality topic. Within this committee and together with a consultancy, we have analyzed what measures were most promising to reduce air pollution. In order to provide municipalities and national government with enough input for possible policy measures." (Policy Coordinator NAQCP, Ministry of HSPE, authors' own translation)

NAQCP contains measures that national government has to take, and the measures of subnational governments. The governments were free to take any measures as long as they resulted in meeting the AAQ norms. The National government, On the one hand, the programme contains all AAQ policy actions undertaken by different stakeholders. On the other hand, the programme contains all infrastructure projects. For the projects this means that they can essentially proceed without being affected by air quality issues, as they are part of the entire programme that is supposed to ensure that in addition to additional infrastructure, air quality standards will be met. These programme goals should be balanced. Hence, the tight coupling was relaxed: not all projects had to be subjected to AAQ impact assessments. The pollution is measured through average level of pollution in the country and not per specific local project. This means, that even though some place can be more polluted than other it is the overall reduction in pollution that counts (Bosma, 2008).

The national government has allocated 1.5 billion Euros for generic national policy (554 mln), local national policy taken by the National government (625 mln) and for local policy taken by regional authorities (372 mln) (Ministry of HSPE, 2009: 96). The location specific policies of the municipalities are funded for 50% by the municipalities themselves and for 50% by the national government. The regional cooperation programs and its way of funding obviously provide incentives for municipalities to work together. The national reservation is by large fed by money from the 'Fonds Economische Structuurverbetering (FES)', a fund of the national natural gas revenues.

NIPHE is responsible for the monitoring of AAQ with especially designed 'monitoringtool'. In case the yearly evaluation reports conclude that cumulative effect of the mitigating measures no longer weighs up against the implementation of detrimental infrastructure projects, additional mitigating measures should be taken (Busscher, 2011). Hence, NAQCP is, as policy coordinator called it, a 'live' project. It is possible to update the measures based on the monitoring and new academic information on what measures are effective.

The NAQCP was subjected to its first test in the court ruling on legitimacy of a big infrastructure project in Utrecht. The Council of State accepted the NSL as a basis for the project. Since this ruling, the NSL has served as a foundation in the field of air quality in 27 other cases before the Council of State. Citing a legal expert, Buscher (2011) provides evidence that the Council of State also had faith in the NAQCP:

> "The Council of State expressly assumes that we do not comply now, but that we will all comply in 2015. Of course, the entire system is also built on this. That all of you have to take measures to ensure that you meet the 2015 AAQ targets" (Buscher, 2011: 9, authors' own translation)

Hence, there seems to be a common belief shared even by the Council of State that all actors were cooperating and doing the best they can to ensure the AAQ targets. The NAQCP partners continued to cooperate on a monthly basis:

> "For the programme we have established two sorts of platforms, where civil servants of provinces and local governments were involved) to discuss the progress. The first one dealt only with the 'monitoringtool', where we discussed the results of the monitoring, the prognoses for AAQ, whether the stakeholders could work with the data, see whether there are any problems with using this tool. We did that 8 times a year. Another platform was pure policy measures based. Here we discussed the measures, whether subsidies were working, which new policy insights were available, shared best practices, discussed who was doing what, what is the planning and how we can help each other. We did that six times a year." (Policy Coordinator NAQCP, Ministry of HSPE, authors' own translation)

During the development and installation of the NAQCP in 2009, the national government was fully committed to realizing both infrastructure projects and meeting air quality standards, i.e. these objectives were considered equally important. The interviews revealed that under the 2010 'Rutte-I' cabinet realizing new infrastructure had gradually been prioritized over taking mitigating measures to clean the air (Buscher, 2014:110). In 2009, the national government agreed in the NAQCP to proceed with installing a national road-pricing scheme to reduce traffic flows. In October 2010, however, the Rutte-I cabinet decided against this (TK, 2010). Furthermore, the same cabinet also decided to increase the maximum speed on many highways to 130 km/h despite the extra air pollution this generates.

That political saliency was subsiding on national level, became also apparent with the first monitoring results of 2010 showing disappointing results. The pollution was decreasing less than predicted, endangering the possibility for NAQCP to lead to meeting the AAQ goals in 2015. While in the NAQCP the actors agreed to adjust measures depending on the monitoring results, the national government seemed to no longer paying attention. The local governments were alarmed and were asking for more measures from the national government. They were afraid that the Courts will lose faith in NAQCP and everything will be 'locked up' again. This demonstrates a high dependency on Court's approval. The umbrella organization of all Dutch municipalities, to which the national government by law had to give a response, wrote an alarming letter asking for assistance and proposing more measures. In 2012, the Courts of Audit of all big cities published a devastating report claiming that on this pace the AAQ norms will not be met on time. In contrast to the monitoring results, this report was picked up by media. Hence, the topics became salient again.

The national government was searching for ways to fulfill its obligation under NAQCP and replace the measures they could no longer take. They ended up giving more subsidies to Euro VI vehicles. Hence, while local governments were asking for more creative measures, such as differentiated parking policy or more room to establish other binding norms, the national government responded with the source-based regulations.

While disappointed, the local government proceeded taking AAQ measures. What was striking is that the importance of cooperating on the policy together was stressed by all local governments. Despite the disappointing national measures, the local governments still did not engage in blame shifting.

Summing up,…

Conclusion

This paper aims to explain the varied implementation performances in Germany and the Netherlands in the case of European ambient air pollution regulation. We suggested that this case is interesting as the EU legislation imposes a new – quality-

oriented – policy image on both member states, thus asking for substantial adaptions in the respective policy traditions. Furthermore, the EU legislation introduced new policy venues to air policy making: the subnational governance level was put in charge of developing policy measures to achieve the quality standards; citizens and other non-state actors gained information rights and, in the context of evolving judicial decisions, legal rights empowering them to intervene in policy-making. The assumption behind this new multi-level governance structure was that it enabled the coordinative functions needed to achieve the European AAQ objectives in a context-sensitive manner.

Looking at our two cases we see that this "enabling" led to very different levels of success. The paper proposes an analytical framework building on Baumgartner and Jones (1991), connecting institutional venue (changes) to actors carrying policy and role images, to explain the dynamics in national implementation processes and outcomes. We show in both countries, it took some time to adapt national legal and decision-making structures to the new MLG organizational model. But, eventually new venues were created for subnational and civil society actors. In Germany, the widened roster of participants remained in often conflictual and asymmetric power relation, however, while in the Netherland we find a cohesive cooperative structure linking central to subnational governance levels and enabling (some) Dutch cities to assume problem-solving role. With respect to the adoption of the quality-oriented policy image, in Germany it had been formally adopted in the law, but actors at all levels continue to carry an emission- and technology-oriented policy image that focuses (among other things) and the modernization of the transport sector. In the Netherlands, by contrast, we saw that new structures allowed for new images to enter, and thus a change to the overall policy discourse.

How did the Baumgartner and Jones (1991) framework help to gain an understanding of (varied) implementation processes in the EU? We propose the following:

- Classical implementation literature commenting on the merits of MLG structures tends to focus narrowly on the effects of organizational structures (facilitating coordination or introducing veto points) and thus assume a static perspective. B&J enable us to go deeper by (a) allowing a dynamic perspective on structures (venue shifts) and (b) suggesting that venue changes alone are not the whole story. Venues allow policy ideas / images to enter policy-making. New venues may allow for new images as new actors (potentially carrying new images) enter the policy arena. This is what we saw in the Netherland. In Germany, however, we found that policy images may be deeply embedded in society (or economy) and may therefore be so widely held that the opening of new venues might not suffice to induce policy change, as hardly new impulses are set. In short, while the institutional set-up is indeed critical, we need the ideational perspective to see how these structures are used, and why these structures sometimes are not sufficient.
- Although the emphasis in the EU AAQ directive was on the empowerment of subnational levels of governance, we saw in both case studies that the judicial path was used most effectively to open policy venues to civil society actors introducing new images. Thus, MLG Typ II created more dynamic than MLG Typ I. Secondly,

we need to pay attention to the role of courts as critical venue changers. This is especially important if civil society actors are attributed only marginal governance roles and thus play only a marginal role in the legislative venues. For future research, it will be worthwhile to analyze more systematically at the courts as interesting participants of policy delivery.

- Finally, we saw some indication in the paper for local variation. Some cities performed better than others. B&J point to role images as the explanatory variable, suggesting a distinction between policy implementers and problem solvers. It would require more systematic analysis to assess the impact of role images. Yet, preliminary insights suggest that B&J fits nicely to the Dutch case. It appears that indeed cities with a problem solver image have adopted new policy images. The story may be not so clear in Germany. Here we witness the stickiness of the technology-oriented (and car-friendly) policy image even in progressive cities and assumed a pro-active problem solver image. Something to look at in the future.

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