

The effects of decentralization on EU climate laws implementation

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Executive Summary

This exploration "The Effects of Decentralization on EU Climate Laws Implementation" aims to investigate the impact of decentralization on the implementation of climate change legislation governed by the European Union (EU) in its member states (MS). The study is divided into four main parts: a theoretical framework to establish the concepts of decentralization and the EU implementation process, the methodology used to analyze the relationship between these variables, the presentation and analysis of the data, and a conclusion with a review of the study and recommendations.

The method used is Most Similar System Design (MSSD) to analyze the 27 EU member states, aiming to identify the independent variable responsible for the presence or absence of the dependent variable. The research focuses on the gap between the policy on paper and the policy in action, seeking to identify the types of errors made by MS when applying EU climate change legislation. It also examines the impact of decentralization on the duration and procedures of infringement cases related to the implementation of EU climate laws.

This study examines the implementation of EU climate change legislation across its 27 member states (MS), analyzing the impact of decentralization on compliance and procedural outcomes. While overall EU law implementation has shown improvement since 2018, climate change remains a contentious area, primarily due to deficiencies in transposition. These challenges manifest differently across MS, each characterized by unique administrative systems and varying levels of decentralization.

The main findings are that decentralization does not universally affect the efficiency of EU climate law implementation when measured by infringements. The only variable

significantly correlated with decentralization is Population when examining all countries together, which accounts for approximately 80% of the variation between variables. However, when categorizing countries by population size, distinct trends emerge that highlight decentralization's influence on implementation errors. Medium countries, for instance, experience prolonged procedures and increased administrative infringements with higher decentralization levels, indicating potential tensions among regional authorities.

In small countries, delays in transposition lead to extended infringement durations, exacerbated by regional authority dynamics that complicate multi-level governance. Conversely, large countries exhibit shorter infringement durations and fewer formal communications, potentially influenced by the Commission's selective enforcement practices. Regarding specific action implementation issues, both medium and large countries show correlations with decentralization. Medium countries experience more Additional Formal Notices as decentralization increases, suggesting broader infringement scopes that may not escalate to Reasoned Opinions. Similarly, large countries show fewer Type 3 infringements and Formal Notices with higher decentralization, implying quicker resolution of transpositional challenges.

The study highlights the Commission's reliance on external notifications to identify legislative breaches due to limited internal resources, particularly evident in medium and large countries with complex administrative structures. It underscores the Commission's capacity constraints in enforcing legislation effectively and suggests exploring additional variables such as public expenditure and political ideology to better understand implementation dynamics. In conclusion, while infringement data provides insights into implementation challenges, it may not capture the full extent of non-compliance. Future research should examine MS separately, incorporating broader variables to enhance understanding of implementation complexities and mitigate limitations in Commission data collection.

References

- Anckar, C. (2008). On the Applicability of the Most Similar Systems Design and the Most Different Systems Design in Comparative Research. *International Journal of Social Research Methodology*, 11(5), 389–401. <https://doi.org/10.1080/13645570701401552>
- Annual reports on monitoring the application of EU law*. (2023, July 14). European Commission. https://commission.europa.eu/publications/annual-reports-monitoring-application-eu-law_en?prefLang=es
- Arregui, Javier. 2016. «¿Hasta Qué Punto Cumplen Los Estados Miembro Con La legislación De La Unión Europea? Teoría Y Factores empíricos Sobre El Proceso De implementación». *Cuadernos Europeos De Deusto*, n.º 55 (octubre), 165-91. <https://doi.org/10.18543/ced-55-2016pp165-191>.
- Barbé, E., Mestres, L., & Lecha, E. S. I. (2007). La política mediterránea de España entre el proceso de Barcelona y la política europea de vecindad. *Fundació CIDOB*, 79–80, 35–51. <https://doi.org/10.24241/revistacidob.vi79.86662>
- Biela, J., Kaiser, A., & Hennl, A. (2013). *Policy making in multilevel systems: Federalism, Decentralisation, and Performance in the OECD Countries*. ECPR Press.
- Borghetto, E., & Franchino, F. (2010). The role of subnational authorities in the implementation of EU directives. *Journal Of European Public Policy*, 17(6), 759-780. <https://doi.org/10.1080/13501763.2010.486972>
- Börzel, T. A. (1998). Shifting or sharing the burden? The implementation of EU environmental policy in Spain and Germany. *European Planning Studies*, 6(5), 537–553. <https://doi.org/10.1080/09654319808720480>
- Börzel, T. A., & Risse, T. (2014). *From Europeanisation to diffusion*.
- Cardona, M. C. J. (2010). La descentralización: una mirada desde las políticas públicas y las relaciones intergubernamentales en Baja California. *Región Y Sociedad*, 22(49). <https://doi.org/10.22198/rys.2010.49.a426>
- Chan, N. (2016). Climate Contributions and the Paris Agreement: Fairness and Equity in a Bottom-Up architecture. *Ethics & International Affairs*, 30(3), 291–301. <https://doi.org/10.1017/s0892679416000228>

- Du Pont, Y. R., & Meinshausen, M. (2018). Warming assessment of the bottom-up Paris Agreement emissions pledges. *Nature Communications*, 9(1). <https://doi.org/10.1038/s41467-018-07223-9>
- Easterly, W. (2008). Institutions: top down or bottom up? *The American Economic Review*, 98(2), 95–99. <https://doi.org/10.1257/aer.98.2.95>
- Elazar, D. J. (1987). *Exploring Federalism* (Tuscaloosa, AL: University of Alabama Press).
- Étienne, J. (2011). Compliance Theory: a goal framing approach. *Law & Policy*, 33(3), 305–333. <https://doi.org/10.1111/j.1467-9930.2011.00340.x>
- EU Mission on Adaptation to Climate Change Portal. (n.d.). <https://climate-adapt.eea.europa.eu/en/mission>
- EUR-LEX - 12016E259 - EN - EUR-LEX. (7 June 2016). http://data.europa.eu/eli/treaty/tfeu_2016/art_259/oj
- Eurostat (18 April 2024). Population change - Demographic balance and crude rates at national level [DEMO_GIND]. DOI: https://doi.org/10.2908/DEMO_GIND
- Europe Direct. (n.d.). Procedimientos de infracción. *Europe Direct - Castilla La Mancha*. <https://europa.castillalamancha.es/castilla-la-mancha-region-de-europa/asuntos-legales-de-la-ue/procedimientos-de-infraccion>
- European Commission. (2021). Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change. Brussels. COM(2021) 82 final.
- European Climate Law. (2021). Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999.
- European Green Deal. (n.d.). Consilium. <https://www.consilium.europa.eu/en/policies/green-deal/#what>
- Eusepi, G., & Wagner, R. E. (2017). Top-Down or Bottom-Up? contrasting approaches to building a European Union. *Social Science Research Network*. <https://doi.org/10.2139/ssrn.3033090>
- Étienne, J. (2011). Compliance Theory: a goal framing approach. *Law & Policy*, 33(3), 305–333. <https://doi.org/10.1111/j.1467-9930.2011.00340.x>
- Dandoy, R. (2017). Regional and national elections in eastern Europe. In *Palgrave Macmillan UK eBooks*. <https://doi.org/10.1057/978-1-137-51787-6>

- Di Gropello, E., & Cominetti, R. 3. (1998). *La descentralización de la educación y la salud: Un análisis comparativo de la experiencia latinoamericana*. Santiago de Chile : Comisión Económica para América Latina y El Caribe.
- Falkner, G. (2005). *Complying with Europe: EU Harmonisation and Soft Law in the Member States*. Cambridge University Press.
- Hemachandra, K., Amaratunga, R., & Haigh, R. (2022). Epidemics and pandemics risk governance: a case of post-COVID-19 in the United Kingdom. In *Elsevier eBooks* (pp. 89–106). <https://doi.org/10.1016/b978-0-323-99277-0.00010-3>
- Hooghe, Liesbet, Marks, Gary, Schakel, Arjan H., Chapman-Osterkatz, Sandra, Niedzwiecki, Sara and Shair-Rosenfield, Sarah (2016) Measuring regional authority. Volume I. A postfunctionalist theory of governance. Oxford: Oxford University Press.
- Hooghe, L., Marks, G., & Schakel, A. H. (2020). *Multilevel governance*. Cadmus EUI. <https://hdl.handle.net/1814/70417>
- König, T., & Mäder, L. (2013). The Strategic Nature of Compliance: An empirical evaluation of law implementation in the Central Monitoring System of the European Union. *American Journal of Political Science*, 58(1), 246–263. <https://doi.org/10.1111/ajps.12038>
- Lago, I. (2021). *Handbook on Decentralization, Devolution and the State*. Edward Elgar Publishing.
- La Unión Europea en la lucha contra el cambio climático*. (n.d.). Ministerio Para La Transición Ecológica Y El Reto Demográfico. <https://www.miteco.gob.es/es/cambio-climatico/temas/el-proceso-internacional-de-lucha-contra-el-cambio-climatico/la-union-europea.html>
- Lindenberg, Siegwart. 2000a. “The Extension of Rationality: Framing versus Cognitive Rationality.” In *L’Acteur et ses Raisons*, edited by Jean Baechler and François Chazel, 168–204. Paris: PUF.
- Masseti, Emanuele and Arjan H. Schakel (2020) 'Regionalist Parties and the European Union,' in Finn Laursen (Ed.) *The Oxford Encyclopedia of European Union politics*. Oxford University Press.
- Mathieu, F., Guénette, D., & Gagnon, A. (2020). *Cinquante déclinaisons de fédéralisme: théorie, enjeux et études de cas*.

- Mookherjee, D. (2015). Political decentralization. *Annual Review of Economics*, 7(1), 231–249. <https://doi.org/10.1146/annurev-economics-080614-115527>
- Maza, G. D., Díaz, G., Montecinos, E., & Pareja, C. (2022). DE LA DESCENTRALIZACIÓN TOP DOWN a LA BOTTOM-UP. DISPOSICIONES y ACTITUDES REGIONALES PARA EL DESARROLLO TERRITORIAL EN CHILE. *Revista Brasileira De Gestão E Desenvolvimento Regional*, 18(2). <https://doi.org/10.54399/rbgdr.v18i2.6135>
- Mazon, G., Ribeiro, J. M. P., De Lima, C. R. M., Castro, B. C. G., & De Andrade Andrade Guerra, J. B. S. O. (2020). The promotion of sustainable development in higher education institutions: top-down bottom-up or neither? *International Journal of Sustainability in Higher Education*, 21(7), 1429–1450. <https://doi.org/10.1108/ijshe-02-2020-0061>
- Nogueira, A. (2020). A Rolex o a setas. Comunidades Autónomas, cambio climático y modelo económico. *Revista Catalana De Dret Ambiental*, 11(1). <https://doi.org/10.17345/rcda2815>
- Observatorio Europeo del Clima y la Salud. (n.d.). <https://climate-adapt.eea.europa.eu/es/observatory>
- Oubiña, D. C. (2022). Integración Territorial y Parlamento: La posición de la Cámara Alta en Sistemas Políticos Descentralizados. *Lex*, 20(29), 43. <https://doi.org/10.21503/lex.v20i29.2383>
- Riker, W. H. (1964). *Federalism: Origin, Operation, Significance* (Boston, MA: Little, Brown).
- Saurugger, S., & Thatcher, M. (2019). EU political identity, integration and top-down analyses: a reply to Neil Fligstein. *Comparative European Politics*, 17(4), 624–630. <https://doi.org/10.1057/s41295-019-00177-2>
- Schmidt, V. A. (2009). The EU and its Member States: From Bottom Up to Top Down. In *Palgrave Macmillan UK eBooks* (pp. 194–211). https://doi.org/10.1057/9780230232839_11
- Shepsle, K. A. (1992). Bureaucratic drift, coalitional drift, and time consistency: a comment on Macey. *Journal of Law, Economics, & Organization*. <https://doi.org/10.1093/oxfordjournals.jleo.a037021>
- Suarez, B. S. F. (2024, January 16). Un Análisis de las Estrategias ‘Bottóm Up’ y ‘Top-Down’ en la Transformación de las Políticas Públicas” por Brahian Steveen Fierro Suarez 15/01/2024. *Medium*. <https://medium.com/@stiven.sf2912/un->

an%C3%A1lisis-de-las-estrategias-bott%C3%B3m-up-y-top-down-en-la-transformaci%C3%B3n-de-las-pol%C3%ADticas-671762ce548d

Sundquist, J. L., Pressman, J. L., Wildavsky, A., & Reagan, M. D. (1973). Implementation--How Great Expectations in Washington Are Dashed in Oakland; Or, Why It's Amazing that Federal Programs Work At All, This Being a Saga of the Economic Development Administration as Told by Two Sympathetic Observers Who Seek to Build Morals on a Foundation of Ruined Hopes. *Political Science Quarterly*, 88(4), 738. <https://doi.org/10.2307/2148170>

Paris Agreement. (2015). United Nations Treaty Series, 55(5), 22.

UN Climate Press Release. (2023, November 14). New analysis of national climate plans: Insufficient progress made, COP28 must set stage for immediate action. *UN Climate Change*. Retrieved April 16, 2024, from <https://unfccc.int/news/new-analysis-of-national-climate-plans-insufficient-progress-made-cop28-must-set-stage-for-immediate>

Thomson, Robert, René Toerenvlied y Javier Arregui. «the paradox of compliance: infringements and delays in transposing European Union directives», *British Journal of Political Science*, n.º 37 (2007): 685-709

Venema, H. D., & Rehman, I. H. (2007). Decentralized renewable energy and the climate change mitigation-adaptation nexus. *Mitigation and Adaptation Strategies for Global Change*, 12(5), 875–900. <https://doi.org/10.1007/s11027-007-9104-7>

Wang, K., Liu, L., Adebayo, T. S., Lobont, O., & Claudia, M. N. (2021). Fiscal decentralization, political stability and resources curse hypothesis: A case of fiscal decentralized economies. *Resources Policy*, 72, 102071. <https://doi.org/10.1016/j.resourpol.2021.102071>

Watts, R. L. (2008) Comparing Federal Systems (Kingston: Institute of Intergovernmental Relations).

Zahar, A. (2017). A Bottom-Up compliance mechanism for the Paris Agreement. *Chinese Journal of Environmental Law*, 1(1), 69–98. <https://doi.org/10.1163/24686042-12340005>

Ениколопов, Р., & Zhuravskaya, E. (2007). Decentralization and political institutions. *Journal of Public Economics*, 91(11–12), 2261–2290. <https://doi.org/10.1016/j.jpubeco.2007.02.006>