

The strengths and limits of new forms of EU governance: the cases of mainstreaming and impact assessment in EU health and sustainable development policy

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Since the mid-1990s, the EU has been experimenting with a variety of new forms of EU governance, including benchmarking, open methods of coordination and civil dialogue. In particular, mainstreaming and policy impact assessments (IA) were perceived to have the potential to significantly enhance the influence of social areas. The roots of the mainstreaming and impact assessment policy strategy can be traced to tactics of environmental policy activists (particularly in the USA with the use of environmental impact reports). However, in the EU it was social policy actors (particularly in gender policy) who were the first to make use of the strategy. As argued by a number of authors (Edquist 2006, Mosher and Trubek 2003, Greenwood 2007, Walby 2005) mainstreaming and impact assessment offered a number of strengths and opportunities for social policy actors. Undoubtedly, it did help to raise the profile of their issue areas. However, it also led to policy overload, mainstreaming competition, increased costs and had a mixed impact on the fundamental limits of the policy areas (Geyer 2000, 2001, OECD 2006, UNDP 2006).

Since the early 2000s, EU public health and sustainable development policy activists have been trying to use a similar mainstreaming and impact assessment strategy to increase the influence and breadth of their policy areas. These tactics have met with mixed success and again raise the problems of mainstreaming overload, competition and cost. Have these actors discovered a way to surmount these problems?

Following a brief review of the development of mainstreaming and impact assessment at the EU level and the problems of overload, competition and cost, this paper will examine recent developments in EU health and sustainable development policy and compare the histories of and debates surrounding these developments. By comparing attempts to mainstream EU health and sustainable development policy we will provide new insights into current developments in both policy fields as well as

highlight the underlying strengths and weakness of the mainstreaming strategy and new forms of EU governance in general.

What is mainstreaming and impact assessment at the European level?

The mainstreaming and impact assessment strategy is neither new nor unknown in comparative public policy. The concept of mainstreaming can easily be found in a number of national cases in and outside of Western Europe and in a variety of policy arenas. ‘Mainstreaming’ disabled or socially excluded students into the core educational institutions has been a debated policy tactic for decades (Armstrong 2000). The integration of environmental issues into other policy areas and the use of “environmental impact reports”, particularly in the USA, emerged during the late 1960s and early 1970s (Glasson, Therivel and Chadwi 2005). During the 1980s and 1990s, a combination of these two earlier policy forms began to evolve at the international level in gender policy (Hoskyns 1996). In 1985, the UN Third World Conference on Women saw mainstreaming as a means of promoting the role of women in the field of development policy while the 1995 UN Conference on Women in Beijing endorsed a policy of gender mainstreaming. In 1998 a Group of Specialists working for the Council of Europe defined gender mainstreaming as:

the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages (Council of Europe, 1998, p.15).

As it developed at the EU level, mainstreaming was linked primarily to gender policy and involved two main strategies: the creation of a commitment to open up all general policy areas to the demands of gender policy and a system for evaluating the impact of general policies on gender policy. As the 1995 Council Decision on the Fourth Action Programme on Equal Opportunities stated:

The programme is intended to promote the integration of equal opportunities for men and women in the process of preparing, implementing and monitoring all policies and activities of the European Union and the Member States (Commission, 1998a, p.53).

Subsequently, gender mainstreaming was integrated into various major aspects of the EU regulatory and legislative framework including: the Employment Guidelines, structural funds and Charter of Fundamental Rights.

For European level gender policy supporters, mainstreaming offered a cheap and indirect method for subtly shifting the policy balance within the EU in their favour and breaking into the agenda-setting level of EU policy formation. Unsurprisingly, the success of gender policy¹ and the advantages of mainstreaming soon led to mainstreaming demands by other social policy groups. Viewing their issues and demands as equally important as gender issues, in the early 1990s European disability policy supporters began to call for the mainstreaming of EU disability policy while EU elderly policy supporters issued a similar demand by the mid-1990s.

Problems: overload, competition and cost?

Linked to the advantages of the mainstreaming and impact assessment strategy and the success of gender policy actors at the EU level, there are three main problems that emerge. First, there is the problem of ‘mainstreaming overload’ (Geyer 2001, OECD 2006, UNDP 2006). In theory, mainstreaming is neutral in budgetary terms. Hence, it is relatively easy for political actors to support the mainstreaming of groups/policy areas. Therefore, over time one should expect more and more areas to be mainstreamed.² However, it is very expensive in administrative terms putting much more pressure on often overworked bureaucratic actors within the EU administration to integrate the complex demands of mainstreamed groups/actors and perform, integrate and evaluate the diverse impact assessments into the policy making process. Consequently, the resulting workload and demands on EU bureaucratic actors could be so immense that it leads to mainstreaming overload and elicit a general backlash against the mainstreaming strategy and a decline in the effectiveness of the strategy for areas that are already mainstreamed.

¹ See Woodward, 2008 for a critique of the success of gender mainstreaming.

² Recently, the EU has gone so far as to suggest mainstreaming competition policy! See: Speech of Neelie Kroes, Member of the European Commission in charge of Competition Policy, 21 June 2005 <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/05/368&format=HTML&aged=0&language=EN&guiLanguage=en>

Second, given the limited time of EU bureaucratic actors, the minimal budgetary support for the mainstreaming and impact assessment process one would expect some form of political struggle or ‘mainstreaming competition’ to emerge (Geyer 2000). As discussed above, mainstreaming is an attractive strategy for a whole range of policy actors, each capable of making reasonable cases for having their particular policy areas mainstreamed. However, as each of these must compete for the limited attention and time of EU bureaucratic actors a zero-sum game develops between these groups over the scarce EU administrative resources. Hence, if one policy area is successful at its mainstreaming strategy, it would be in the interest of the actors in that area to passively or actively block the mainstreaming of other policy areas in order to monopolise the time and attention of bureaucratic actors.

Finally, the cost of the strategy for the policy actors is a significant factor. In the early stages of the development of mainstreaming, it was relatively inexpensive for gender policy supporters to develop the strategy and influence key EU bureaucratic and political actors. However, due to the success of the strategy and its growing popularity it is increasingly difficult to maintain the process and momentum for mainstreaming in any given policy area. Hence, in reality, mainstreaming may only be available to already well-entrenched and successful policy actors. Moreover, due to the dynamics of mainstreaming competition and overload mainstreaming may be much more divisive than previously assumed. If one policy area is successfully mainstreamed, actors in that area may have a direct interest in thwarting the mainstreaming of new policy areas. Whereas, currently weakly mainstreamed areas may have an interest in undermining existing mainstreamed policy areas.

How has it been applied to EU health policy?

-Background of EU health policy

EU health policy is a relatively new policy area with a distinctive history and parameters.³ From its foundation in the 1950 European Coal and Steel Community, the EU had a strong interest in occupational health and safety and related workplace health policy. However, during the 1950s, 1960s and 1970s it made no major attempt to move beyond its strict orientation towards workplace health and safety issues.

³ For a general policy history of EU public health policy see: Abel-Smith *et al.* 1995, Geyer 2000a, Greer 2005, Hervey 2002, Hervey and McHale 2004, Randall 2001 and Randall 2002.

There was no basis in the treaties for a broader health policy and national health systems were seen as predominately an area of member state competence.

The earliest moves towards a broader EU health policy grew out of the larger integration dynamic that emerged from the 1986-87 Single European Act (SEA). The SEA was predominately focused on creating a European single market, but an activist EU Commission was able to insert a number of social elements into the treaty. Regarding health, Article 100A of the SEA committed the Commission to, 'take as a base a high level of protection' in matters relating to health, safety, the environment and consumers when proposing single market legislation. Similarly, Article 130R stated that, 'action by the Community relating to the environment shall...contribute towards protecting human health'. In 1988 a small budget was allocated to develop EU health policy and the section of the Commission responsible for social policy (DGV) established a new public health division. The primary focus of EU health policy at the time was to increase health information, support European health research and concentrate on a few key health issues with a clear European dimension. Early initiatives included: a 1989 directive harmonizing health warnings on tobacco products (89/622/EEC), a 1990 directive on maximum tar yields in cigarettes (90/232/EEC) and the 1990-94 'Europe against Cancer' Action plan.

The Maastricht treaty marked the next major step in EU health policy development. While recognising that national health systems remained the concern of the member states, Article 129 asserted that the EU, 'shall contribute towards ensuring a high level of human health protection' and that 'Community action shall be directed towards the prevention of diseases... by promoting research into their causes and their transmission, as well as health information and education'. Meanwhile, Article 3 (o) broadened the remit of EU public health policy and implied that attaining a high level of human health protection applied to all areas of EU policy that impacted on health.⁴ Finally, Article 129 gave public health proposals qualified majority voting status within the Council.

⁴ The growing breadth of health policy was confirmed by the ECJ in 1996 by its rejection of the British government's argument that it was limited to those areas mentioned in Article 129. See Case C-180/96R, *United Kingdom vs. Commission*.

Following Maastricht, the Commission moved quickly to develop EU public health policy. Examples included: a 1991-93 action programme against AIDS, the 1992 European drug prevention week and the 1993 public health action programme (COM (93) 559) that focused on eight main areas – cancer, drug dependence, AIDS, health promotion, health monitoring and research, pollution-related diseases, injury prevention and rare diseases. In general, by the mid-1990s, EU public health policy was a clearly emerging policy area and had issue areas in almost every DG in the Commission (with the most aspects in DGV social policy and DGXII research) (Abel-Smith et al. 1995: 127). With its focus on research and information and tackling clearly transnational diseases and health issues it helped the EU to promote its ‘human face’ in a period when economic difficulties and European Monetary Union were the dominant concerns. Also, it is during this period that public health policy activists and organisations began to establish themselves at the European level.

-Development of mainstreaming and impact assessment in EU health policy

Influenced by the 1996 BSE crisis in the UK and a blood contamination crisis in France (Coleman 2004), health became a major issue at the European level in the run up to the Amsterdam treaty negotiations. Consequently, Article 152 of the 1997 Amsterdam Treaty laid the foundation for mainstreaming health policy when it stated that: ‘a high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities’. Summarising the state of EU public health policy after Amsterdam, a 1998 Commission paper argued that the policy should:

make best use of the limited resources available... emphasise the improvement of health... concentrate on a limited number of priorities... be sufficiently flexible to respond promptly to new health threats and developments (and)... be credible and convincing so that they (the EU citizens) are aware that effective arrangements exist at Community level to attain a high level of health promotion. (Commission, 1998: 11).

Subsequently, health remained relatively high on the European agenda. In 1999 the Prodi Commission created the new DG Health and Consumer Protection (later

renamed DG SANCO)⁵. In 2000, health issues were integrated into the Lisbon Strategy for Jobs and Growth. In 2004 a new European Centre for Disease Control was founded. In 2002 a major new health action programme was developed and passed that consolidated earlier health actions and allocated €12 million to a new 2003-2008 EU Public Health Action Programme (Decision No. 1786/2002/EC).⁶ The action programme had three priorities: ‘improving health information and knowledge’, ‘responding rapidly to health threats’ and ‘addressing health determinants.’ As this programme was put into action, the DG SANCO Commissioner, David Byrne established a reflection process to generate new ideas and gauge the support for further health policy developments.⁷ From this process emerged the 2007 Commission White Paper, *Together for Health: A Strategic Approach for the EU 2008-2013* (COM (2007) 630 final) and the second health action programme (2008-2013) (Decision No 1350/2007/EC). This later programme was very similar to the first with only a slight rise in overall funding to €21 million. More generally, EU funding for health related research expanded rapidly throughout this period culminating in almost €6 billion being allocated to it in the Framework 7 programme.

Mainstreaming health and the creation of health impact assessment tools became increasingly important throughout this period. The early proposals for a new community health strategy (COM (2000) 285 final) promoted the idea of an integrated health policy and demanded that ‘proposals relating to health will include a statement explaining how and why health issues have been taken into consideration’.⁸ Linked to this, ‘a priority task of the public health programme will be to develop criteria and methods for assessing the policies proposed’.⁹ From this time onwards, more and more work and effort was put into implementing and developing the tools (such as

⁵ Despite the creation of this new DG within the Commission, most of the staff, 610 out of 700, were focused on consumer protection rather than health issues (Duncan 2002).

⁶ Interestingly, in the initial proposals for the Action Programme the Commission stated that it would take 57 staff to run the programme, but said these would not be new staff merely reassigned from existing DG resources (COM (2000) 285 final: pp. 46-47). This is an interesting implication of the clear financial and staffing constraints that affect the Commission.

⁷ See: http://ec.europa.eu/health/ph_overview/strategy/reflection_process.en.htm

⁸ See: New Community Health Strategy, <http://europa.eu/scadplus/leg/en/cha/c11563.htm>

⁹ See: New Community Health Strategy, <http://europa.eu/scadplus/leg/en/cha/c11563.htm>

health impact assessment HIA and health system impact assessments HSIA)¹⁰ for mainstreaming health. In 2004, David Byrne argued that: ‘we need to ensure that health is at the very heart of policy making at regional, national and EU levels. We need to *promote health through all policies*’ (emphasis in original) (Byrne 2004). This call was taken up and strongly promoted by the Finns during their Council Presidency in 2006 and reinforced by the November 2006 *Council Conclusions on Health in All Policies*. Finally, Health in All Policies (HiAP) became one of the four guiding principles of the 2007 White Paper: Together for Health where it encouraged the use of HIAs and HSIA for ‘strengthening integration of health concerns into all policies at Community, Member State and regional levels’ (Commission, 2007).

-Assessing the impact of mainstreaming and impact assessment in EU health policy

Given this clear level of support, has mainstreaming and the health impact assessment process had a significant impact on EU public health policy? There are two major bodies of evidence to draw upon: two major publications linked to the 2006 Finnish EU Presidency and European Observatory on Health Systems and Policies and recent interviews with health policy actors and NGOs¹¹.

The first of the two publications, *Health in All Policies: Prospects and Potentials*,¹² brought together 43 leading health experts to assess the HiAP strategy. Similar to mainstreaming,

The HiAP approach is based on the recognition that population health is not merely a product of health sector activities, but to a large extent determined by living conditions and other society and economic factors, and therefore often best influenced by policies and actions beyond the health sector. (Sihto et al. 2006: 4)

¹⁰ The difference between an HIA and HSIA is that the HIA looks at the impact of a policy on the health of individuals or groups while HSIA’s examine the policy impact on health systems (hospitals, healthcare staff, etc.). See the Commission’s HSIA on-line tool:

http://ec.europa.eu/health/ph_overview/co_operation/high_level/index_en.htm

¹¹ During June/July 2008, Robert Geyer interviewed 12 leading Commission and EU NGO health actors.

¹² Ståhl, T, Wismar, M., Ollila, E., Lahtinen, E., Leppo, K. (eds.) (2006) *Health in All Policies: Prospects and Potentials*. Finland: Ministry of Social Affairs and Health.

They saw tremendous potential for HiAP to raise the profile of health at the EU level, increase the health of the European society, improve EU economic performance and shift the focus of EU health policy from one based on particular diseases and interventions towards the ‘determinants of health’ – the basic policies that shape the way we live and work.

However, despite these advantages the authors had several major concerns. For example, by linking health to the Lisbon Strategy on competitiveness, health policies could become ‘subservient to priorities set in the context of commercial policies’ (Koivusalo, 2006: 32). Similarly, given the drive to “improve regulation” and “cut red tape”, there could be a ‘decrease and not increase the scope and policy space for healthy public policy and high levels of health protection within the EU’ (Koivusalo, 2006: 33). Even the inclusion of more stakeholders in the creation of health policy is not without its problems since it allows, ‘the immediate influence of industrial and corporate actors’ (Koivusalo, 2006: 33) who are generally much more powerful than public health NGOs. This unevenness is particularly evident when considering the power of the large pharmaceutical industry.¹³

In their conclusion they noted that to bring HiAP to fruition would require strong and sustained public and political support, good quality information on health outcomes and determinants, a legal mandate for assessing health implications of all policies, partnership and alliance building and increased consultation between policy actors and sectors at all levels.

The second publication, *The Effectiveness of Health Impact Assessment*,¹⁴ was a massive study by 22 research teams in 19 countries on the impact and effectiveness of existing HIA policies. In this study, the authors noted that HIA was a key aspect of the HiAP approach and essential to the mainstreaming process. Taking a more ‘technical’ position towards HIA, the authors viewed HIA as primarily for informing

¹³ The recent Directive on Patient Information, which is strongly supported by the pharmaceutical industry, has at its heart a proposal to extend direct advertising from non-prescription to prescription drugs (as is common practice in the USA). Public health actors are almost uniformly opposed to this development.

¹⁴ Wismar, M., Blau, J., Ernst, K., Figueras, J. (eds.) (2007) *The Effectiveness of Health Impact Assessment: Scope and Limitations of Supporting Decision-making in Europe*. World Health Organization.

and guiding decision-makers, encouraging cooperation between policy actors and agencies, increasing involvement of stakeholders and making the process more open. From this perspective, the ‘health impact assessor should be an impartial advisor rather than an advocate’ (Kemmm, 2007: 8)¹⁵ As nicely summarised in a later academic article by some of the reports core authors:

Health impact assessment has been so attractive because it promises to influence the decision making process, address all determinants of health, tackle inequities and provide a new impetus for participation and empowerment in health. (Wismar, Ernst and Blau 2007: 2002-2003)

However, in spite of widespread use of HIAs, particularly at local and regional levels, they did not find a clear unified effect. HIAs were implemented in a variety of ways, could vary significantly in cost, had four different types of effect (direct, general, opportunistic and none) and their effectiveness varied significantly from country to country.

In summarising the results of the research the authors stressed that, ‘HIA is not a new process but merely an existing practice with an increased emphasis on health outcomes’ (Kemmm, 2006: 193). At a minimum, HIAs are useful in pushing health into the policy discourse, particularly at the agenda-setting stage. However, they were mostly concentrated at a local/regional level, could generate a sense of impact assessment overload within bureaucratic actors and ‘degenerate into a tokenistic ‘tick box’ procedure’ (Kemmm, 2006: 202). In the end, the authors concluded that: ‘there is no comprehensive or conclusive evidence on the effectiveness of HIA. The available evidence on the effectiveness of HIA is still rather anecdotal’ (Wismar, Ernst and Blau 2007: 2004).

Similar arguments were expressed by EU public health actors during recent interviews. Due to the multi-level nature of the EU policy process it is extremely difficult to pin down the exact influence of any one part of the process. However, at a general discourse level most actors agreed that health mainstreaming and impact assessment are clearly popular and have played a role in raising the profile of health

¹⁵ Although this position of the assessor as impartial is strongly disputed by others who argue that the assessor should be an advocate for public health in general. See: Scott-Samuel and O’Keefe 2007.

issues and policy at the European level. They were also generally recognised as playing a significant role in pushing health considerations into the Common Agricultural Policy¹⁶ and the implementation of EU regional policy at a local level. In addition, progress on EU legislation on tobacco was seen as a successful use of integrated policy activity inspired by mainstreamed health concerns.¹⁷ Similarly, in terms of research activity, health issues and policy were now a dominant area of activity.

However, several interviewees raised a number of concerns. These could be reduced to four general categories: concerns over the implementation and role of the Commission in mainstreaming and HIAs/HSIAs, worries over the ability of business interests to dominate the process, fears over the definition of mainstreaming and concerns about political competition.

Regarding the first aspect, several interviewees complained that DG SANCO had been slow to take up mainstreaming and utilisation of HIAs/HSIAs. They saw this as a reflection of the relative weakness of DG SANCO and of the strong market making orientation of the Barroso Commission. Some were also worried that the mainstreaming process was leading to the Commission spending too much time lobbying itself or that the exercise was becoming just an internal Commission process where HIAs/HSIAs were only being used to justify existing decisions.

Regarding the second aspect, for health NGOs in particular, interviewees felt that mainstreaming in health was being too tightly controlled with the Commission. As one respondent argued, 'mainstreaming should be about integrating social actors rather than just joined-up administrative thinking within the Commission'. Linked to this was a concern that the Commission was determined to control the use of HIAs/HSIAs and that they should be done independently from the Commission.

¹⁶ See: *A CAP on Health? The Impact of the EU Common Agricultural Policy on Public Health*. http://www.eph.org/IMG/pdf/CAP_2007.pdf

¹⁷ Tobacco legislation involved the CAP (subsidies for EU tobacco farmers), development policy (tobacco sales to developing countries), media policy (constraints on tobacco advertising), tax and competition policy (tax on tobacco) and consumer safety.

Another concern was the ability of other actors, business in particular, to redirect the mainstreaming and HIA/HSIA process away from underlying health goals. For example, several mentioned that the difficulty and cost of HIAs/HSIAs had limited their ability to have any impact on them. However, they noted that health related businesses had been quick to produce detailed and extensive HIAs/HSIAs that were related to their particular policy interests. In essence, they were concerned that due to the greater economic resources, business was in the process of dominating the health mainstreaming and HIA/HSIA agenda.

Finally, concerns about political competition from other issue areas were also raised. For example, if health could push into areas like the CAP and regional policy then internal market and enterprise issues could push into health. There are two sides to this concern. First, for example the Directive on Patient Information (allowing for advertising of prescription drugs) was initially proposed by DG Enterprise and strongly promoted by the pharmaceutical industry. At another level, others feared that the Commission's recent push to get health viewed as a core element in economic performance (Commission, 2005) –linking it to the Lisbon growth and employment criteria- would move health away from being seen as a right and more towards being viewed as merely another area of economic choice.¹⁸

In general, mainstreaming and HIA/HSIA strategies were seen to be worthwhile tactics that had clear potential, but also hidden threats. Fundamentally, they were viewed as merely different tactics in a messy political game. As one interviewee commented, 'the Health in all Policies approach tries to view itself as 'scientific' and above politics, however it will do little without significant and sustained political will.'

How has it been applied to EU sustainable development policy?

¹⁸ Contributors in the public health area have stressed that public health should have a higher profile and be given greater political weight in the next Commission. They also insist on health as a human right and not as a commodity, which implies not referring in general terms to 'consumers' but to 'patients'. Synopsis report on the outcome of the consultation on dg sanco paper 'future challenges 2009-2015' paper.

Background of EU sustainable development policy

The history of EU Sustainable Development Policy must be seen in the context of the birth of EU environmental policy.¹⁹ In the period 1957-87, there was environmental legislation but no formal environmental competence (Hildebrand, 2007). The 1972 UN Conference on Environment in Stockholm led to the first Environmental Action Programme (EAP). These aimed to lay down basic principles of EU environmental policy and to act as a framework within which specific legislation will be enacted. To help administer these EAPs, DG Environment established in 1981. As in health, the big policy impetus came from the SEA. This introduced Articles 174-6 into the Treaty. Article 174 sets out the objectives of EP in the EU, such as a high level of environmental protection, whilst Article 176 allows member states to retain higher environmental standards than those adopted at the EU level.²⁰ The SEA gave a huge spur to legislation with the Environment Council between 1989 and 1991 adopting more legislation than it had in the previous 20 years..

The next major step was when the EU committed itself to the promotion of sustainable development at the 1988 Rhodes Council in the aftermath of the Rio Summit. This summit produced the famous definition: 'development which meets the needs of the present without compromising the ability of future generations to meet their own needs' (WCED, 1987). To operationalise the EU's commitments at Rio, DG Environment produced the 5th Environmental Action Programme (EAP). This document was written by a DG whose work is clearly shaped by 'the politics of the environment' (Cini, 2000, p. 81) and this was reflected in the 5th EAP. Treaties on the other hand reflect the bargains struck between member states in the European Council and or IGCs. Therefore whilst the 5th EAP referred to sustainable development, the TEU committed the EU only to 'sustainable and non-inflationary growth' (Collier, 1997, p. 4). This tension was not resolved until Amsterdam where Sustainable development was enshrined in Article 2 as a fundamental objective of the Union (Pallemaerts, 2006, p. 24)

¹⁹ For a fuller history of EU Environmental Policy see Burchell & Lightfoot, 2001, McCormick, 2005.

²⁰ The most famous example is the Danish Bottle Case 1988.

Sustainable Development is therefore supposed to underpin all EU policies and actions as an over-arching principle. Therefore, one of the big issues is policy integration. The principle of environmental integration recognises that environmental policy alone cannot achieve the environmental improvements needed as part of sustainable development. Moreover, Article 6 TEC states that¹ “environmental protection requirements must be integrated into the definition and implementation of the Community policies [...] in particular with a view to promoting sustainable development”. and commits the EU to the integration principle to meet sustainable development targets and provides a constitutional basis for Environmental Policy Integration (EPI)²¹ in the European Union (Lafferty & Hovden, 2003). The 1998 Cardiff Process²², intended to operationalise Article 6, is seen as the starting point for a new era of sustainable development, despite only being concerned with environmental integration into sectoral policies (Bosselmann, 2006, p. 112). A stocktaking of the Cardiff process in 2004 highlighted mixed results, identifying positives in energy and the CAP. However, overall it argued that ‘to date, the Cardiff process has failed to deliver fully on expectations’ (COM, 2004). It identified a number of reasons for this, such as a lack of commitment to the process²³, perceptions of Cardiff as a one off exercise and the lack of clear priorities and focus. Critics argue that many of these problems are exacerbated by the disconnection from the subsequent EU Sustainable Development Strategy (SDS)²⁴, adopted in Gothenburg in 2001, despite its renewed emphasis on policy coherence and integration.

Policy Integration/Mainstreaming

From the above it is clear that general policy integration or mainstreaming is crucial to the success of both the environmental and sustainable development goals. One of the key defining features of ‘sustainable development’ is the emphasis on the integration of environmental objectives into nonenvironmental policy-sectors (Lafferty & Hovden, 2003). The Cologne Report though argues that ‘mainstreaming of environmental policy, to make concrete decisions and to chart the way forward towards sustainable development’ (COM, 1999). Therefore, the EU SDS forms a part

²¹ EPI is the mainstreaming of environmental policy into other policy area.

²² The Cardiff Process came out of the 1998 Cardiff Council.

²³ Several Council formations see Cardiff as a *pro forma exercise*, imposed on them by the European Council, for which they did not feel ownership.

²⁴ For full text of EU SDS see COM(2001)264 final
<http://register.consilium.europa.eu/pdf/en/06/st10/st10917.en06.pdf>

of environmental mainstreaming in the EU (Usui, 2007, 620). The objectives of the SDS were to improve synergies and reduce trade-offs, a more integrated approach to policy making is proposed based on better regulation, such as impact assessments and on the guiding principles for sustainable development (COM, 2001)

The 2006 Renewed SDS²⁵ is an important document in so much as it was the first articulation of the SDS in an enlarged EU. The renewed SDS sets out a 'single, coherent strategy on how the EU will more effectively live up to its long-standing commitment to meet the challenges of sustainable development' (COM, 2006, p. 3). It sets out key objectives, policy guiding principles and key challenges. It contains some targets, although some are merely re-stated commitments made elsewhere, and mechanisms to try and ensure compliance. For example, starting in September 2007 the Commission will submit a biennial progress report on implementation of the SDS in the EU and the Member States also including future priorities, orientations and actions (COM, 2006).

Impact Assessments and the Open Method of Coordination

Environment Assessment is a procedure that ensures that the environmental implications of decisions are taken into account before the decisions are made. In principle, environmental assessment can be undertaken for individual projects such as a dam, motorway, airport or factory ('Environmental Impact Assessment') 1985 Directive 85/337/eec or for plans, programmes and policies ('Strategic Environmental Assessment') 2001/42/EC. IAs help the achievement of sustainable development via the preventative principle (Feldmann et al, 2001). Of interest here too is the internal impact assessment used by the Commission.²⁶ However a recent study showed that:

'In almost all cases we have examined, there is a large gap between requirements set out in official documents and actual Impact Assessment

²⁵ See: <http://register.consilium.europa.eu/pdf/en/06/st10/st10917.en06.pdf>

²⁶ See (Commission's Communication [COM\(2002\)276](#) of 5 June 2002 on Impact Assessment).

practice. In most countries we found examples of both good and bad practice, but typically assessments are narrow, partial and done at a late stage. In many countries, a large share of proposals is not formally assessed or is assessed with a 'tick box mentality' (Jacob et al, 2008).

In most EU Member States, IA is mostly seen as a tool to reduce administrative burden and the economic cost of regulation' (Jacob et al, 2008). In part the problem lies with the fact that IAs are seen as an imposition upon civil servants from outside their department, but also the fact that it is up to decision-makers to decide whether the impact is too great. It is therefore argued that to streamline and connect IA systems and practices in the Member States might be best achieved through the Open Method of Coordination. The OMC is a relatively new development that builds upon a long established EU tradition of 'soft law'. By offering peer pressure and advice it is argued that this method is most likely to achieve results in controversial or difficult policy areas. Indeed the SDS has been identified as having many features of OMC (Usui, 2007). According to Berger and Steurer (2007, p. ?) these include:

- *The renewed EU SDS provides guidelines and goals for SD policy- making in all 27 Member States;*
- *Members States are requested to consider the goals of the renewed EU SDS in their (new or revised) NSDSs;*
- *SD indicator sets are used in most EU Member States to monitor the implementation of NSDSs;*
- *With the renewed EU SDS, the European Commission launched an NSDS peer review initiative in order to foster mutual learning; and*
- *The SDS Coordinators Group facilitates mutual learning through periodic reporting.*

The only major aspect of OMC not visible thus far has been benchmarking, although the renewed SDS suggests some form of benchmarking and peer review (COM, 2006). An example of this is the launch of a process for voluntary peer reviews of national sustainable development strategies, aimed at improving the sharing of good practices.

Another problem is that neither the Council nor the Parliament currently subject their interventions (which in some cases may radically alter the thrust of a Commission proposal) to a formal assessment, although an extension of the IA regime to these institutions is being discussed (Adelle et al, 2006). As Lenschow (2007) argues EPI depends on the ‘political commitments of the sectoral policy makers’ and high level horizontal coordination. For many the lack of a sustainable development council weakens the EU’s efforts in this field. Indeed the Consultative Forum on the Environment and Sustainable Development created under the 5th EAP argued that the EU institutions could have been promoting sustainable development and offering leadership in the area, but instead they emphasised economic growth and global competitiveness (Bosselmann, 2006, p. 117).

Impact Assessment

Within the field of sustainable development similar concerns have been voiced to those for health policy: concerns over the implementation and role of the Commission in mainstreaming, worries over the ability of business interests to dominate the process and fears over the definition of mainstreaming and concerns about political competition.

There are major long standing concerns about the weakness of DG Environment to mainstream sustainable development throughout the other DGs. Wilkinson *et al* (2004) highlights the problems of integration across the various DGs. Although Cardiff and Article 6 commit all elements of the Union to policy integration, Wilkinson *et al* found that ‘the policy options considered ‘almost always fell within the competence of responsible DGs so that options tended to reflect only incremental changes in intensity or timescale from “business as usual”’ (Wilkinson *et al.*, 2004, p. 18). DG Environment is generally considered to be lacking political weight in comparison to longer established DGs with greater financial and staff resources (Wilkinson, 1998, p. 116). There is also a perception that the policies of DG Environment seem far removed from mainstream Commission priorities (Cini, 2000, p. 83).

Despite the fact that sustainable development is a fundamental objective of the Union, research shows that the EU has often struggled to engage with all aspects of the concept. Using official documents alone to understand the way the EU operationalises and conceptualises sustainable development you need to examine the treaties, the EAPs, the internal sustainable development strategy and the external SDSs! Added to this is the fact that no definition means no uniform translation. There is not a widely accepted equivalent of the English words 'sustainable development' in the other community languages (see Haigh, 1998, p. 71). The 'slipperiness' of SD, whilst allowing a wide range of actors to subscribe to the policy, also leads to numerous interpretations, which in turn makes it difficult for a coherent set of policies to emerge (Baker, 2007). Moreover, within the EU there is a clear ambiguity about the relationship between the economic, social and environmental dimensions of Sustainable Development. This ambiguity is clearly linked to the cross-cutting multi-disciplinary nature of the concept which goes beyond just environmental policy. Where sustainable development policy at the EU level leaves the safe home of the environment it runs into conflict with differing visions.

Baker (2007) argues that the EU has made a declaratory commitment to the definition of sustainable development based upon Brundtland and the UNECD process. This 'makes any gaps between the declaratory commitment and the policy practice of the EU politically significant' (Baker, 2007, p. 301). Trade, Agriculture and CSR are crucial policies for the achievement of sustainable development but there is clear competition between sustainable development and other policy objectives. To integrate SD into eleven different policy areas is extremely complex and pits the concept against other discourses within the Commission. EPI/mainstreaming is often argued as being a win/win scenario but as Lenschow argues this is often only 'persuasive from an aggregate and long term perspective' (Lenschow, 2007, p. 310). The problem is that agreement with sustainable development within the EU 'is consensual only at that rather high level of abstraction to which the present discussion has been limited' (Bosselmann, 2006, p. 119). Once you get involved in the real politics of trade-offs or convincing people on the ground of the need to take SD seriously, the consensus breaks down (Lenschow, 2007). This is especially true when SD comes up against economic considerations; a situation exemplified by the Lisbon Strategy.

It is clear that Lisbon's neo-liberal discourse has pervaded the Commission to a much greater extent than the discourse of sustainable development, with a recent IEEP report arguing that the 'evolution of the policy debate since the adoption of the 6EAP under the influence of the Lisbon agenda even tends to undermine objectives and principles that were agreed upon only four years ago in the 6EAP' (see Pallemmaerts et al, 2006). However, according to the EU SDS the 'Lisbon Strategy makes an essential contribution to the overarching objective of sustainable development focusing primarily on actions and measures aimed at increasing competitiveness and economic growth and enhancing job creation' (COM, 2001, p. 6). The evolution of EU environmental policy during the period of the 6EAP provides ample evidence of the political downgrading of law from its traditional position as the prime form of Community action for the protection of the environment (Berger and Steurer, 2007).

Opportunities and Threats of mainstreaming in these policy areas

The need to incorporate health and sustainable development into other policy areas raises the opportunity for DG SANCO and Environment to punch above their weight in the politics of the Commission. However, as has been seen neither really has the political power to be able to do this effectively. To mainstream effectively also requires high level political will to ensure the problems of competition and cost are overcome.

What SD means, to what extent progress can be measured and how it ought to be translated into policy goals is still not clear, despite the renewed SDS (Bosselmann, 2006, p. 119). Bosselmann goes on to argue that we need to examine whether rhetorical acceptance of SD has resulted in clear policy change. Bruyninckx argues that 'the overall direction of economic and environmental developments in the EU is not exactly characterisable as a serious turn towards sustainable development' (2006, p. 279).

The popularity of mainstreaming/integration also produces integration competition or overload. Which policy to prioritise-sustainable development or public health? These types of decisions can come down to which policy is easiest to integration or even

political will. The current fears around energy security have re-energised the sustainability agenda but a public health crisis could swiftly change that.

Both policy areas encompass a variety of challenges. Each strategy ‘*represents a prioritisation at a specific point in time*’ (COM, 2008, p. 13). Having eleven integration sectors means that various sustainable development challenges are competing with each other. There is also the real prospect of competition between DG SANCO and Environment in the future. The 6EAP²⁷ makes the link between poor health and poor environment explicit in EU documents for the first time and in a 2006 public consultation only 4.6% respondents could agree that EU environment policy actions in fields that directly affect human health were adequate and effective in protecting health and the quality life across the European Union.²⁸ The European Commission adopted in 2003 an EU Strategy on Environment and Health, with the overall aim to reduce diseases caused by environmental factors in Europe. This was followed up by the European Environment and Health Action Plan 2004-2010. The report was heavily criticised by the Parliament for falling short on the legislative proposals, with the Greens calling it an ‘inaction plan’. This is perhaps not surprising as DG Environment, a relatively small DG, was also having to prioritize integration in eleven other policy areas.

Conclusion and implications: The strengths and limits of new forms of EU governance

In both policy areas it is clear that at a general level mainstreaming is perceived as a win-win strategy.²⁹ A recent report argued that the cross-cutting nature of sustainable development provides a valuable opportunity to address the mainstreaming of the various SD themes in EU and national policies.³⁰ However, in both the policy areas explored in this article the commitment to the process was most developed only at the rhetorical level. Research suggests that a commitment to a concept is relatively cheap

²⁷ DECISION No 1600/2002: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:242:0001:0015:EN:PDF>

²⁸ See <http://ec.europa.eu/environment/newprg/pdf/statistics.pdf>

²⁹ See commission working document ‘Integrating environmental considerations into other policy areas- a stocktaking of the Cardiff process’ COM(2004) 394 final.

³⁰ Progress on EU Sustainable Development Strategy Final Report 2008

for policy makers-the difficulties and costs come when these commitments need to be operationalised.

It is clear that compliance is linked to leadership. If the concept and policy area are prioritised by leaders within the EU, then policy makers are more likely to try and ensure compliance, although this risks people feeling a lack of ownership if it is perceived as a top down imposition as was the case with the Cardiff process. For both sustainable development and public health this leadership has been intermittent. In the case of sustainable development, the commitment to policy integration varied according to which country held the Council presidency. For health, some states have been extremely active (particularly Finland). However, they have been unable to entrench the strategies deeply within the policy making process. The 'green states' have encountered similar problems in the field of sustainable development.

Both policy areas were also forced to play second fiddle to the Lisbon agenda. This meant that in reality only those aspects of public health or sustainable development that were seen to be working towards the Lisbon goals were prioritised. This also meant that business organisations tended to be favoured partners by some divisions of the Commission. Evidence suggests that environmental interest groups and social partners find it harder to engage in the EU policy process than business groups (Fairbrass, 2006). This trend is amplified by many of the developments seen above. Alongside this threat, is the fact that some authors see these new forms of governance are part of what is perceived to be an attack on the legal status of EU policy (Usui, 2007). Hard law on issues such as Equal Pay (article 119) are becoming relics of a past governance structure (Pollack & Harner-Burton, 2000; Pallemarts et al, 2006).

In conclusion, mainstreaming and impact assessment strategies in EU health and sustainable development policy areas are reasonable tactics for developing these areas that have a mixture of disadvantages (competition, overload and cost) and advantages (greater presence, links to other policy areas, impact on agenda-setting). What is clear is that these strategies are not a major break with the past, particularly beneficial to these policy areas or significantly going to improve the impact and status of the NGOs and other actors working in these policy areas. They are another tool in policy-makers

and promoters toolkits, but they are merely one of many and do not mark a significant break with traditional multi-level EU policy-making.

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