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## **Play by the rules? : coordination of EU sustainable development policies and the importance of the politico-legal context**

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## Chapter 3: Research Design

*“A case study is more than a type of qualitative research. It is a ticket that allows us to enter a research field in which we discover the unknown within well-known borders while continually monitoring our own performance” (Starman, 2013: p. 42)<sup>208</sup>.*

The dissertation assesses the influence of legal competences on EU and Member State actors and coordination, specifically for ‘sustainable development’ policies. This assessment is conducted by means of employing legal as well as qualitative methods in comparative case studies. This section discusses the research strategy adopted for the investigations addressing the ‘puzzle’ of the effect of the legal competences on EU and Member State coordination in formulation, negotiation, implementation of sustainable development policies. The research design chapter is structured as follows. Section 3.1 presents the design itself, the methodological considerations, limitations and the way in which the findings can be generalised. Section 3.2 then outlines the methods of data collection as conducted for the case studies. To ensure reliability and comparability of the findings in these case studies the method of ‘process tracing’ is used. There are general questions that are asked in each case to guide and standardise the data collection. This makes comparison and accumulation of the findings possible. Section 3.3 presents the process of tracing routine that will be applied throughout all the case studies.

### 3.1 Research design, methodological considerations and limitations

This research comprises of comparative case study research on the EU’s sustainable development policies using a process tracing approach in a politico-legal fashion. The legal competences are operationalised in such a manner that they encompass specific Treaty provisions, the Court’s case law, the external (UN) legal context as well as secondary legislation. This explorative study is conducted with the aim of examining the interaction with the political ‘conditions’, operationalised as intervening variables.<sup>209</sup>

Based on the variables, broad sustainable development case studies are picked in which different empirical findings and settings are combined. In that respect, it makes sense to focus on cases in which negotiations are *extensive* and relate to different elements of competences and legal competences. As the purpose of this study is mainly to illustrate the usefulness of an empirical politico-legal analysis of EU and Member State coordination in sustainable development policies in a theory-generating context, the cases are selected from areas of empirical expertise.<sup>210</sup> These empirical findings should nevertheless be based on multiple sources of information, which are brought together through triangulation.

#### 3.1.1 A comparative case study design and case-selection

The research question as formulated in chapter 1 will be assessed by means of a comparative case study design incorporating three different cases. The main purpose of the case studies is to ‘illuminate the political mechanisms’ of legal competences by looking

<sup>208</sup> Starman, A. B. (2013) ‘The case study as a type of qualitative research’. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 42.

<sup>209</sup> See chapter 2 for a more extensive explanation of the operationalisation.

<sup>210</sup> Oberthür, S. and Groen, L. (2015) ‘The Effectiveness Dimension of the EU’s Performance in International Institutions: Toward a More Comprehensive Assessment Framework’. *JCMS: Journal of Common Market Studies*, Vol. 53, No. 6, p. 1320.

beyond the formal Treaties and case law, and by triangulating the findings.<sup>211</sup> This dissertation makes use of three case studies that are studied as if they were one.<sup>212</sup> These case studies can be viewed as 'parallel' studies as the cases/policies are all still ongoing and have been studied concurrently.<sup>213</sup> The individual case studies are compared to the other cases in the synthesis (see chapter 7).

The key term 'case study' has been used ambiguously referring to a whole set of heterogeneous research designs and with a 'definitional morass' of confusing definitions.<sup>214</sup> While debate exists regarding a precise definition of a case study, this dissertation follows the definition of Simons (2009: 21) who states that a case study is "an in-depth exploration from multiple perspectives of the complexity and uniqueness of a particular (...) policy (...) in a 'real life' context".<sup>215</sup> By using this definition, case studies can be based on multiple methods and 'analytical eclecticism' thereby merging different views and findings.<sup>216</sup>

The efficacy of case studies may be 'more powerful' in the domain of discovery 'in which these same different bits of evidence must be fully integrated to create an exploratory account with internal validity'.<sup>217</sup> As such, case studies help in theory development.<sup>218</sup> As the relationship between legal competences and EU and Member State action on sustainable development is heavily under-theorised, the case studies serve the objective of theory development.

There are several advantages of case studies, in comparison with quantitative methods for example. Firstly, case studies are useful for 'serving the heuristic purpose of inductively identifying additional variables and new hypotheses'.<sup>219</sup> By placing legal competences at the centre case study design offer the possibility to analyse complex events and take into account (and centralise) specific variables. Secondly, concepts such as 'coordination' are difficult to measure and are in need of a detailed consideration of contextual factors, which is difficult in a quantitative context.<sup>220</sup> Thirdly, case studies can accommodate complex (causal) relations.<sup>221</sup> The relation between legal competences, 'political' intervening variables and coordination of policies can definitely qualify for such a complex relationship. Moreover, case studies are better 'connected to everyday life' and do therefore include the awareness that

<sup>211</sup> Toshkov, D. D. (2009) *Between politics and administration: Compliance with EU law in Central and Eastern Europe*. PhD Thesis Department of Public Administration, Faculty of Social and Behavioural Sciences, Leiden University.

<sup>212</sup> Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 33.

<sup>213</sup> As compared to e.g. sequential studies that happen consecutively. Cf Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 34.

<sup>214</sup> Gerring, J. (2004) 'What is a case study and what is it good for?'. *American Political Science Review*, Vol. 98, No. 2, pp. 341-342.

<sup>215</sup> Simons, H. (2009) *Case study research in practice* (SAGE publications), p. 21.

<sup>216</sup> Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 32.

<sup>217</sup> Morgan, M. S. (2012) 'Case studies: One observation or many? Justification or discovery?'. *Philosophy of Science*, Vol. 79, No. 5, p. 671.

<sup>218</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press). Cf Eisenhardt, K. M. (1989) 'Building theories from case study research'. *Academy of Management Review*, Vol. 14, No. 4, pp. 532-550.

<sup>219</sup> Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 37.

<sup>220</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), p. 19. Cf Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 36.

<sup>221</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), p. 22. Cf Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 37.

human behaviour is not essentially driven by a theory or rules.<sup>222</sup> Due to importance of this human behaviour in coordination, taking into account new variables including legal competences could qualify or nuance some of the more dogmatic theories on EU and Member State coordination (of sustainable development policies).

The three cases are selected to achieve a maximum of variance along relevant dimensions, referred to as a 'diverse case method' understood to be exploratory (hypothesis seeking) with a minimum of two cases required.<sup>223</sup> As has been stated by King et al. (1994) a case-selection strategy on the basis of an *intentional* selection on the dependent variable presents problems.<sup>224</sup> This dissertation sees its central aim to explore how legal competences independently affect Member State and EU actors in EU sustainable development policies in different places of the policy cycle and both in internal and external EU dimensions. Accordingly, these differences cannot qualify as real 'selection on the dependent variable' as the dependent variable is the coordination process on sustainable development policies. Negotiation, implementation and formulation are no more than different *stages* in the policy process. As such, individual cases are selected in such a way that the analysis has the 'most diverse information' that the author is able to collect on the effect of the independent and intervening variables on the coordination by EU and Member State actors.<sup>225</sup>

The research design differs substantially from other attempts that analyse EU external action on sustainable development issues and the few that take into account the catalogue of competences. First, others such as Van Schaik (2013) use the categories of exclusive, shared and complementary competences as 'ideal types' of competence in defining the selection of their case studies.<sup>226</sup> However, as this dissertation is primarily focused on the broad effect of legal competences and interaction with intervening variables it does not make sense to focus on these categories only. As previously indicated cases do almost necessarily 'not fall neatly within these ideal types since international agendas often combine topics where the competence division varies'.<sup>227</sup> Therefore, the dissertation chooses to combine the legal competences with intervening political variables.

Secondly, the cases include both 'internal' and 'external' dimensions of the policy areas as well as the presence of absence of an international treaty-based forum. Thirdly, the case studies in this dissertation have a different location in the policy cycle, by focusing on negotiation (UNFCCC), implementation (SDGs) and policy formulation (transport and alternative fuels).

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<sup>222</sup> Cf Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 38.

<sup>223</sup> Seawright, J. and Gerring, J. (2008) 'Case selection techniques in case study research: A menu of qualitative and quantitative options'. *Political Research Quarterly*, Vol. 61, No. 2, p. 300.

<sup>224</sup> King, G., Keohane, R. O. and Verba, S. (1994) *Designing social inquiry: Scientific inference in qualitative research* (Princeton University Press). Cf George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), pp. 43-45.

<sup>225</sup> Starman, A. B. (2013) 'The case study as a type of qualitative research'. *Journal of Contemporary Educational Studies/Sodobna Pedagogika*, Vol. 64, No. 1, p. 35.

<sup>226</sup> Van Schaik, L.G. (2013) *EU Effectiveness and Unity in Multilateral Negotiations: More Than the Sum of Its Parts?* (Basingstoke: Palgrave Macmillan), pp. 16-34. Cf Eeckhout, P. (2004) *External relations of the European Union: legal and constitutional foundations* (Oxford University Press), for outlining 'ideal types' of competences.

<sup>227</sup> *Ibid.*, p. 23.

### 3.1.2 Limitations and considerations case study design

There are some limitations of the 'broad' approach of analysing policy formulation, negotiation and implementation in a comparative case study design. One of the most obvious limitations is that it is difficult, or even almost impossible, to make general conclusions on the basis of individual cases. Therefore, one should be cautious. Nevertheless, case studies are useful for a 'falsification' test of earlier (political) theories that could possibly be refuted (or qualified) in sustainable development policies.<sup>228</sup> The case studies cannot be repeated as each case is then already different. This problem is mitigated by using a step-by-step approach and by sharing the data and findings.<sup>229</sup> Nevertheless, these case studies are conducted with specific background knowledge and by a specific approach of interviewing, which makes replication and repetition difficult.

Another limitation of this broad and diverse case study design might be the selection of cases. While the cases are large and complex there is a focus established by dealing only with certain aspects of the case and by selecting the cases on certain aspects of the independent variables.<sup>230</sup> As previously stated, the cases examine essentially different parts of the policy making chain and compare these outcomes. Furthermore, the cases are different in their internal and/or external dimension. While it might be more difficult to generalise the findings (see below 3.1.3) this approach takes a broad view on the coordination process of EU and Member State actors in sustainable development policies.

A more problematic limitation of this selection approach might be that the cases are selected on the basis of the legal aspects of the independent variables instead of e.g. intervening political-theoretical variables. Nevertheless, these selection criteria are more 'objective' than subjective identifications whether EU and Member State actors are, for instance, more or less socialised or whether there is a greater intergovernmental or supranational reflex in the coordination process. Therefore, while the selection criteria on the basis of legal aspects could indeed be considered as a limitation, alternative approaches might be even more problematic and subjective.

Taking into account the internal and external dimension of EU sustainable development policies in one dissertation also has limitations, especially from a legal perspective. As has been held earlier (see chapter 2) the internal division of competences is much more demarcated in the Treaties than the external competences. Therefore, it appears that the internal and external dimensions of EU sustainable development policies differ too much in their legal competences to generalise the findings. While this argument makes sense, external legal competences could be identified by means of consideration of the Court's case law.<sup>231</sup> This limitation is one of the reasons why the dissertation prefers to speak of 'legal competences' instead of the narrower Treaty-based competences to take into account both crucial dimensions of EU sustainable development policies.

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<sup>228</sup> Flyvbjerg, B. (2006) 'Five misunderstandings about case-study research'. *Qualitative Inquiry*, Vol. 12, No. 2, pp. 227-228. Cf. for the original falsification approach Popper, K. (1959) *The logic of scientific discovery* (New York: Basic Books).

<sup>229</sup> While taking into account the anonymity of the interviewees.

<sup>230</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), p. 67. Cf. Groen L. (2016) *The Importance of Fitting Activities to Context: The EU in Multilateral Climate and Biodiversity Negotiations*. PhD Thesis, Vrije Universiteit Brussel, p. 83.

<sup>231</sup> Wouters, J., Odermatt, J. and Ramopoulos, T. (2013) 'The EU in the World of International Organizations: Diplomatic Aspirations, Legal Hurdles and Political Realities. Legal Hurdles and Political Realities.' Leuven Centre for Global Governance Studies Working Paper, No. 121, p. 4.

### 3.1.3 How to generalise the findings?

As previously mentioned, some methodological scholars criticise case studies for poor generalisability of findings.<sup>232</sup> Some even state that when there is any reason to doubt whether the case stands for a whole population, the 'utility of the case study is brought severely into question'.<sup>233</sup> The same has been said about process tracing which 'supplies a narrative account of the cases without providing a clear basis for generalising beyond them'.<sup>234</sup> It was also held that case studies account for 'methodologically unreflective' research.<sup>235</sup>

The methodological caveats, however, should not stand in the way of theory development or theory building.<sup>236</sup> As Lakatos (1970) argued, science is a project that entails formulating theories and examining them in the light of empirical observations.<sup>237</sup> These findings may be of greater or lesser generality. The overarching idea of this thesis is to select cases from different contexts (policy context, international-EU context, different historical circumstances) and different places within the policy chain, and analyse them by means of the same operationalisation, in order to achieve a large degree of theoretical relevance.<sup>238</sup> These case studies can thus be appraised as 'quasi experiments' that can lead to valid analytical generalisations.<sup>239</sup> The methodological process tracing approach adopted in this study follows a step-by-step approach and is perhaps more realistic by not having the ambition to prove exact causality. With a congruence analysis a 'broad set of empirical observations is compared to different sets of expectations that are derived from distinct comprehensive theories', according to Blatter, Haverland and Van Hulst (2016: 5-6).<sup>240</sup>

Having the methodological limitations and case study considerations in mind, there will be some scope to generalise the research findings. The findings should be characterised as 'plausibility probes', providing avenues for future research. These plausibility probes need in fact to be further tested in other cases to become more robust.<sup>241</sup> The reflection on commonalities and differences between the cases included in the synthesis chapter of this dissertation is therefore of utmost importance.<sup>242</sup> The case-specific situation will be taken into account in this comparative analysis.<sup>243</sup> Moreover, besides the chosen legal and political variables, the semi-structured interviews leave open space 'other explanations'. These

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<sup>232</sup> Toshkov, D. D. (2009) *Between politics and administration: Compliance with EU law in Central and Eastern Europe*. PhD Thesis Department of Public Administration, Faculty of Social and Behavioural Sciences, Leiden University. Yin, R. (1998), 'The Abridged Version of Case Study Research: Design and Method', in: L. Bickman and D.J. Rog (eds.) *Handbook of Applied Social Research Methods* (Thousand Oaks: Sage Publications), pp. 229-260.

<sup>233</sup> Seawright, J. and Gerring, J. (2008) 'Case selection techniques in case study research: A menu of qualitative and quantitative options'. *Political Research Quarterly*, Vol. 61, No. 2, pp. 306-307.

<sup>234</sup> Hall, P. A. (2013) 'Tracing the progress of process tracing'. *European Political Science*, Vol. 12, No. 1, p. 22.

<sup>235</sup> Blatter, J. and Haverland, M. (2014) 'Case Studies and (Causal-) Process Tracing'. In Engeli, I and Rothmayr, C. (eds) *Comparative Policy Studies. Conceptual and Methodological Challenges* (Basingstoke: Palgrave Macmillan), p. 64.

<sup>236</sup> Beach, D. and Pedersen, R. B. (2013) *Process-tracing Methods: Foundations and Guidelines* (University of Michigan Press), pp. 60-63.

<sup>237</sup> Lakatos, I. (1970) 'Falsification and the Methodology of Scientific Research Programmes', in I. Lakatos and A. Musgrave (eds.) *Criticism and the Growth of Knowledge* (Cambridge: Cambridge University Press) pp. 91-196. Cf Hall, P. A. (2013) 'Tracing the progress of process tracing'. *European Political Science*, Vol. 12, No. 1, pp. 20-30.

<sup>238</sup> Vukovic, S. (2012) *Analysis of multiparty mediation processes*. Doctoral dissertation, Universiteit Leiden, p. 78.

<sup>239</sup> Cf Van Schaik, L.G. (2013) *EU Effectiveness and Unity in Multilateral Negotiations: More Than the Sum of Its Parts?* (Basingstoke: Palgrave Macmillan), p. 34.

<sup>240</sup> Blatter, J., Haverland, M., and van Hulst, M. (2016). *Qualitative research in political science* (Sage Publications), pp. 5-6.

<sup>241</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press).

<sup>242</sup> See chapter 7.

<sup>243</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press).



explanations can be case-specific and incidental, and need additional further testing as they were not originally foreseen.

### 3.2 Data collection

This dissertation makes use of multiple, corresponding methods in its investigation of how legal competences affect EU and Member State coordination in sustainable development policies. The combination of approaches helps to better *explore* all the different aspects of the research question. Mixed-method approaches are particularly suitable in cases when little is known about the topic of investigation, as in the case of the effect of mixed competences, because the different methods allow one to gain multiple complementary perspectives. The (legal and qualitative/empirical) parts of the case studies address different portions of the empirical puzzle, as they operating on different levels of abstraction. The absence of statistical analysis in this dissertation may be seen as a limitation. However, being this a *theory-developing* study, it is argued that it paves the way for statistical analysis that can reveal (more) causal relationships, by generating hypotheses for example.<sup>244</sup> The next paragraphs elaborate further on the methods used in the analysis.

The step-by-step legal analysis includes EU Treaties, the Court's case law, the EU's position in the multilateral legal context and (internal) regulations and directives. Furthermore, literature review considers both academic literature and official policy documents. The aim is to make a comparison with the findings of other political and/or legal (case-) studies on the topic. The literature review and even more the semi-structured interviews serve the exploratory purpose of the case studies, while also complementing the legal basis of the analysis by indicating the practical effect of legal competences and by addressing informal mechanisms. As far as the timeframe is concerned, the case studies take the entry into force of the Lisbon Treaty (December 2009) as their starting point and finish in July 2017. The UN Agenda 2030 was only adopted in September 2015 and implementation started from that date. The negotiation process is therefore also described from 2012, to provide more clarity.<sup>245</sup> The interviews took place primarily in Brussels and The Hague from January 2014 to July 2017. Some of the interviews were conducted via phone or Skype, as can be seen in the annex.

The qualitative part of this study heavily relies on forty-seven semi-structured interviews with EU and Member State officials, (former) ministers, Members of the (European/national) Parliament, private sector representatives, Civil Society Organisations as well as academic experts. As the potential 'political' consequences of the division of competences are relatively unexplored, the interviews provide a first step to explore potential causal mechanisms. Not only do the interviews help to identify empirical patterns, but they also provide an input for theorizing this relationship. The in-depth semi-structured interviews are not only used to develop the theory on the effect of legal competences, but also to test alternative paths, as indicated by the literature.<sup>246</sup> The in-depth interviews furthermore help to gain insight into the actual negotiation process and implementation. The difficulty with the interviews, especially among negotiators, is the 'secrecy' and anonymity that the most

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<sup>244</sup> Lijphart, A. (1971) 'Comparative politics and the comparative method'. *American Political Science Review*, Vol. 65, No. 3, pp. 682-693.

<sup>245</sup> See chapter 6.

<sup>246</sup> See chapter 2.



relevant objects of the study are surrounded with (EU and Member State actors) .<sup>247</sup> Furthermore, in both the internal as well as the external dimension of EU policies, one could argue that these policies are not the exclusive preserve of state-to-state activity. On the contrary, increasingly large numbers of actors, such as civil society, businesses and other international organisations, take part in the negotiation and implementation of these policies.<sup>248</sup>

As can be seen in appendix 1, the interviews have been used for a general overview of the history of shared competences in EU environmental, climate and development policies and for the specific case studies. Some of the interviews qualify for both 'general' and 'case-specific' information. This is indicated in the annex. The interviews are anonymised and the interviewees are categorised as 'EU officials', 'Member State officials' or 'other societal stakeholders'. The category of 'EU official' includes all experts working at the European Commission, European External Action Service, Committee of the Regions and EESC, even if they are seconded by the Member State. The 'Member State officials' work in national capitals at the central government, at the Council of the European Union or at Permanent Representations to the EU in Brussels. In some cases, experts are double counted as 'EU official' and 'Member State official', but only if they have served both functions within the timeframe considered by the study. The category of 'other societal stakeholder' is rather broad and includes private sector representatives, Civil Society Organisations, United Nations officials and Members of European Parliament. MEPs are not counted as 'EU official' because they do not work for the EU as such, but serve as popular representatives. The division of categories per case study is summarised below.

	EU official	Member State official	Other societal stakeholder
<i>Case study alternative fuels</i>	2	3	7
<i>Case study climate change</i>	7	10	3
<i>Case study SDG implementation</i>	8	4	4
<i>General on competences and/or sustainable development</i>	2	4	0
<i>Total</i>	19	21	14

Table 3. 1 Semi-structured interviews per category and case study<sup>249</sup>

The interviews are planned by taking into account a stakeholder analysis, organigrams of the EU institutions and Member States and snowball sampling<sup>250</sup>. Before the 'real' semi-structured interviews took place, there have been some explorative interviews. These

<sup>247</sup> Raube, K. (2008) 'The Construction of the European External Action Service'. RECON Seminar Paper, ARENA: University of Oslo.

<sup>248</sup> Carbone, M. (2008) 'Mission impossible: The European Union and policy coherence for development'. *European integration*, Vol. 30, No. 3, p. 327.

<sup>249</sup> See annex 1 for more information. There has been some but limited 'double counting' in category as well as the case study. However, these are only clear examples of (former) Ministers having also worked for the European Commission and/or for the double-counted case studies: experts who have worked on both dossiers for a fair amount of time.

<sup>250</sup> For methodological reflections on this approach cf. Biernacki, P., & Waldorf, D. (1981) 'Snowball sampling: Problems and techniques of chain referral sampling'. *Sociological Methods & Research*, Vol. 10, No. 2, pp. 141-163.

explorative but structured interviews have been mostly conducted with academic researchers (not indicated in the interview list), but also with EU and Member State officials or other societal stakeholders. These interviews are indicated in the annex. Some 'general' interviews on the use of competences, especially the ones with former Ministers and EU and Member State officials, were sometimes counted and used for the case studies (see appendix). The interviews have been conducted with 'elite' officials such as lead negotiators and (former) Ministers, lower-level officials and other societal stakeholders.

	Own initiative	Referral
<i>Case study alternative fuels</i>	10	2
<i>Case study climate change</i>	10	8
<i>Case study SDG implementation</i>	8	8
<i>General on competences and/or sustainable development</i>	3	2

Table 3. 2 Semi-structured interviews: own initiative or referral per case study<sup>251</sup>

The annex includes a 'nonresponse' rate indicating that the author has approached some actors, but they either declined the interview or could not be reached, or the author himself could not make it to speak to the actor during the interview stay. This 'nonresponse' rate is often not recorded by scholars, but seeing how many elite interviews were conducted by means of 'snowball sampling' the author finds it necessary to include this category.<sup>252</sup> With regards to the 'snowball sampling' technique, it means that actors can be approached through the referral of someone else. This is not the case for all interviews, as some are just actors approached because of their function in the organigram or at their website. Seventeen out of the forty-seven interviewees were approached due to referral by other interviewees. The rest (thirty) of the interviewees were approached by own initiative, based on the stakeholder analysis and organigrams or websites. The modality of approach with the different actors is recorded in the annex. An overview per case study is also included in Table 3.2. A possible shortcoming of using the snowball technique is to 'become trapped in a network of interlinked respondents who see the world through the same lenses'.<sup>253</sup> This flaw is however overcome by combining the snowball sampling technique with 'own initiative' interview invitations by function, as well as by interviewing EU and Member State actors themselves in combination with other societal actors. The weaknesses of interview data are moreover mitigated by using the interviews in conjunction with other forms of evidence.<sup>254</sup>

The interviews were semi-structured and lasted approximately 45-60 minutes on average. The respondents received the general semi-structured questions at the latest 12 hours before the meeting.<sup>255</sup> The author chose to send the semi-structured questions in advance to prepare the interviewees and to gain the most of their experience. One of the disadvantages of sending the semi-structured interview questions beforehand could be that respondents

<sup>251</sup> See annex 1 for more information. There has been some but limited 'double counting' in category. However, these are only experts who have worked on both dossiers for a fair amount of time.

<sup>252</sup> Martin, C.J. (2013) 'Crafting interview to capture cause and effect' in Mosley, L. (Ed.). (2013). *Interview research in political science* (Cornell University Press), pp. 109-124.

<sup>253</sup> Bleich, E. & Pekkanen, R. (2013) 'How to report interview data' in Mosley, L. (Ed.). (2013) *Interview research in political science* (Cornell University Press), pp. 84-108.

<sup>254</sup> Lynch, J.F. (2013) 'Aligning sampling strategies with analytical goals' in Mosley, L. (Ed.). (2013) *Interview research in political science* (Cornell University Press), pp. 31-44.

<sup>255</sup> Please see appendix II for an overview of the invitations for the interviews (in English and Dutch) and an overview of semi-structured questions as sent to the interviewees for the different parts of the analysis.

study the material too much and come up with (overly) prepared and 'official' answers. However, this risk is pre-empted by interviewing actors with different backgrounds, different roles in the negotiations and different 'stature' (from policy officials to (former) Ministers) about the same process. Interviews have been used for the three case studies and for a general grasp of the historical institutionalisation of competences and/or the history of EU policies on sustainable development and international agreements.

The list of semi-structured interviews (see annex 2) included direct and indirect questions on the most important variables, but also left open some room for background information as well as other explanations beyond the 'politico-legal' variables. The interviews were most often taped and always at least loosely transcribed in around four A4 pages with the most important quotes and answers to the questions. The interviews were coded on the basis of different 'legal competences' (competences, case law, regulations and directives, UN legal context), 'intervening variables' (supranational versus intergovernmental dominance, the EU's position in the international constellation of power, preference heterogeneity) as well as 'other explanations'. The interviews were also useful to understand the practical process of coordination and, especially in the case of UNFCCC negotiations, socialisation. All interviews and codes have been saved with reference to the category (EU official, MS official, other societal stakeholder) and the date of the interview. Where appropriate, reference to these anonymised interviews is made in the footnotes of this dissertation. Given the confidential nature of the information provided in the interviews, as well as the promise to anonymise the findings, the interviews themselves are not included in this dissertation but transcripts have been made available to the supervisors of the study.<sup>256</sup>

Concerning the 'ethical aspects' of interviewing, the majority of the interviews has been recorded (see annex). Only the 'alternative fuels' case study a couple of interviews was been conducted with a research assistant, the rest were done alone. Semi-structured interviews by only one 'interviewer' has the advantage that the interviews, elaboration, transcription and analysis are being done by the same person. However, elite interviews contain the risk of being overwhelmed by both information and stature of the respondents. In addition, the researcher brings subjective elements into the knowledge-gathering process. This is definitely an asset to the research process as the author has been professionally involved in the subject of the study. However, they make specific 'truth claims' or even 'causal claims' almost impossible.<sup>257</sup>

There are a couple of potential limitations and criticisms of this kind of semi-structured interview approach. First, as for every research based on interviews, it must be questioned whether this amount of interviews is sufficient for a substantiated base of findings. As this research is based on triangulation of findings, of which interviews comprise one of the sources, and the interviews themselves are planned after a stakeholder analysis, the amount of interviews is at least moderately sufficient. Secondly, one could criticise the 'snowball sampling' of this approach. This limitation is partly addressed by not taking over all references by interviewees and by starting some new 'chains' by means of organigrams and stakeholder analysis. A third limitation is the inclusion of elite interviews. The academic

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<sup>256</sup> Cf. Wester, A. M. C. (2016) 'Promise and pitfalls of the responsibility to protect and lessons to be learned from the case of Libya', PhD Thesis, Universiteit van Amsterdam, p. 28 who used a similar kind of anonymised coding approach in her PhD Thesis.

<sup>257</sup> Mosley, L. (Ed.). (2013) *Interview research in political science* (Cornell University Press), p. 10.

debate on this source is still unfinished with some pointing to it as 'critical sources of information about the political processes of interest'<sup>258</sup> others state that 'lower level officials' may be better sources given their day-to-day involvement with these processes<sup>259</sup>. This dissertation argues that the combination of these 'lower' and 'higher' level officials as well as the inclusion of other societal stakeholders helps in triangulating the findings. Nevertheless, especially for elite interviews, the context is quite overwhelming when compared with the other interviews and therefore it might be advisable to do these kind of interviews with two persons to focus on content. Fourthly, the sending of interview topics in advance could be criticised because it could make the answers more 'preconditioned'. A fifth and real limitation of the approach in this dissertation is that not all interviews were recorded due to a number of reasons, such as refusal by some interviewees.

Some scholars have been particularly successful in gaining access to the negotiations, for example on climate change, and have become 'participant-observers'.<sup>260</sup> While this is a particularly attractive source of information, it has in addition negative effects on the individual researchers' ability to zoom out and critically evaluate the conduct of negotiations of (former) colleagues. Moreover, it makes it extremely difficult to replicate research, which is one of the cornerstones of academic research. With that in mind, the author has chosen not to actively participate in negotiations and or visit the large conferences of e.g. the UNFCCC.

### 3.3 Data analysis

The three cases will be researched in-depth by means of process tracing to identify the intervening causal mechanisms between shared (external) competences and the enabling/restraining influence on EU and Member State actors. Process tracing is used because the character of the relations between these 'variables/conditions' is unclear and the method allows for thorough investigation.<sup>261</sup> Interviews make particularly good evidence for process tracing research.<sup>262</sup> Negative aspects of process tracing include the difficulty of choosing the right amount of empirical and legal material for one case, overestimation of causal mechanisms, and the difficulty of replication of research.<sup>263</sup> To limit these shortcomings this research makes use of a clear simple operationalisation and by being firm but modest in its conclusions, paving the way for future research.

#### 3.3.1 Process tracing: a step-by-step approach

Process tracing is a specific method in which the researcher examines histories, documents, interview transcripts and other material to 'see whether the causal process a theory (..) implies in a case is in fact evident in the values of the intervening variables in that case' as

<sup>258</sup> Tansey, O. (2007) 'Process tracing and elite interviewing: a case for non-probability sampling'. *PS: Political Science & Politics*, Vol. 40, No. 4, p. 771.

<sup>259</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), p. 103.

<sup>260</sup> Cf Groen L. (2016) *The Importance of Fitting Activities to Context: The EU in Multilateral Climate and Biodiversity Negotiations*. PhD Thesis, Vrije Universiteit Brussel.

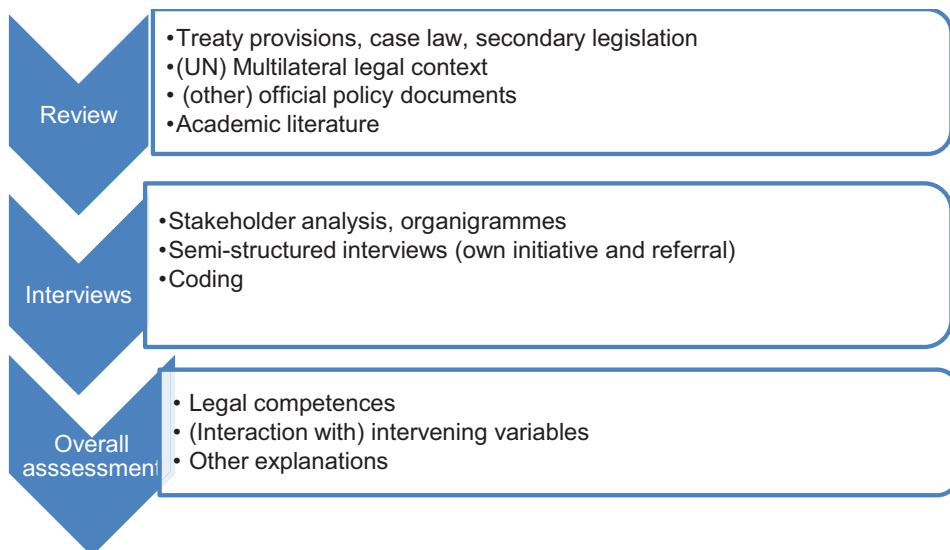
<sup>261</sup> King, G., Keohane, R. O. and Verba, S. (1994) *Designing social inquiry: Scientific inference in qualitative research* (Princeton University Press).

<sup>262</sup> Tansey, O. (2007) 'Process tracing and elite interviewing: a case for non-probability sampling'. *PS: Political Science & Politics*, Vol. 40, No. 4, pp. 765-772. Cf Mosley, L. (Ed.). (2013) *Interview research in political science* (Cornell University Press).

<sup>263</sup> Yennesson, P. (2008) 'Case studies and process tracing: theories and practices'. In DellaPorta, D., & Keating, M. (Eds.). *Approaches and methodologies in the social sciences: A pluralist perspective* (Cambridge University Press), pp. 236-239.

George and Bennett (2005:6) held.<sup>264</sup> For every case study, a logical step-by-step approach is followed. This includes the following steps and is visualised in Figure 3.1:

- 1) *Legal inventory*: assembling Treaty provisions, the Court's case law, the external (multilateral) legal context as well as secondary legislation related to the case.
- 2) *Review and policy documents*, searching EU websites and academic archives based on keywords related to the case.
- 3) Review (primarily empirical based) *academic literature*
- 4) A *stakeholder analysis*, listing the stakeholders in a particular policy area/case study. These stakeholders were contacted for semi-structured interviews using organigrams (own initiative) and/or referral (snowball sampling).
- 5) Conduct and work out *semi-structured interviews* with stakeholders, preferring to record the interview, but as a minimum make a 3-4 page summary of the interview;
- 6) On the basis of the materials, *identifying how legal competences* affect EU and Member State actors in specific mixed competence policy arrangements;
- 7) Identifying how intervening variables affect EU and Member State coordination, taking into account the (non-) interaction with legal competences. These intervening variables are 'supranational versus intergovernmental dominance', 'the EU's position in the international constellation of power' and 'preference heterogeneity'. Moreover, this sixth step includes analysis of 'other explanations' that could affect EU and Member State coordination and that has been brought up in the interviews.
- 8) Overall *assessment potential influence legal competences and interaction with/autonomy from other intervening variables and other explanations for the specific case.*



<sup>264</sup> George, A. L. and Bennett, A. (2005) *Case studies and theory development in the social sciences* (Cambridge, Massachusetts: MIT Press), p. 6.

### *Figure 3. 1 Process tracing: a step-by-step approach*

This broad process tracing approach will be used for all three case studies. Seeing the explorative objective of this dissertation, no weighing in sources is applied. Notwithstanding this impartiality, the most original contribution of this study and value added to the existing literature is the use of semi-structured interviews. Therefore, in the actual description of the cases, synthesis and conclusion these interview findings receive additional attention. The overall assessment is however based on triangulation, e.g. by cross checking interview statements with official documents, which improves the validity and reliability of the findings.<sup>265</sup>

### SUMMARY CHAPTER 3

*This chapter outlines the comparative case study research design of this dissertation. The case studies are selected on broad general principles that apply to all cases: a 'mixed competence' arrangement with 'shared competence' at the centre and clear EU and Member State coordination processes and outcomes. Furthermore, to account for a broad variance of cases this dissertation concentrates on different 'stages' of the coordination process: (internal) policy formulation, (external) negotiation and (internal and external) implementation. Concerning the data collection, each case study relies on the same sources: legal documents (Treaty provisions, cases before the Court of Justice of the EU, regulations and directives) policy documents, academic literature and semi-structured interviews. For each case study, process tracing is used with similar use of legal and empirical sources. By means of a step-by-step approach the effect of the 'legal competences' on (dependent variable) coordination is tested autonomously and in interaction with intervening variables 'supranational versus intergovernmental dominance', 'the EU's position in the international constellation of power' and 'preference heterogeneity'.*

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<sup>265</sup> Golafshani, N. (2003) 'Understanding reliability and validity in qualitative research'. *The Qualitative Report*, Vol. 8, No. 4, p. 603.