PART III.

FROM A PUBLIC TO A POLITICAL SPHERE: THE ROLE OF GREEN PARTIES AND PARLIAMENTARY ACTIVITY IN SETTING AN ENVIRONMENTAL AGENDA

CHAPTER 9.

THE DEVELOPMENT OF GREEN PARTIES IN EUROPE: OBSTACLES AND OPPORTUNITIES 1970–2015[1]

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The comparative literature on Green party politics has primarily focused on one specific dimension: their emergence,[2] electoral fortune,[3] organisational developments,[4] ideological positioning[5] or relation to power.[6] Only recently have these dimensions been analysed simultaneously in a comparative study that covers 25 European democracies as well as the European level via case studies,[7] and an additional five countries in comparative chapters,[8] bringing the geographical scope to a total of thirty countries and 71 parties, out of which 37 are analysed in depth (van Haute 2016).

This chapter builds on that study in order to analyse the development of Green parties in Europe. It analyses whether one can speak of a Green party

1   This chapter is a revised version of E. van Haute, 'Conclusions: Green Parties in Europe: Which Family Ties?', in E. van Haute (ed.), *Green Parties in Europe* (London: Routledge, 2016), pp. 315–24.

2   F. Müller-Rommel (ed.), *New Politics in Western Europe. The Rise and Success of Green Parties and Alternative Lists* (London/Boulder, CO: Westview Press, 1989); D. Richardson and C. Rootes (eds), *The Green Challenge. The Development of Green Parties in Europe* (London/New York: Routledge, 1995); M. O'Neill, *Green Parties and Political Change in Contemporary Europe* (Aldershot: Ashgate, 1997).

3   H. Kitschelt, *The Logics of Party Formation: Ecological Politics in Belgium and West Germany* (New York: Cornell University Press, 1989); F. Müller-Rommel, 'Green parties under comparative perspective', *ICPS Working Papers* **99** (1994).

4   Th. Poguntke, 'The "new politics dimension" in European Green parties', in F. Müller-Rommel (ed.), *New Politics in Western Europe. The Rise and Success of Green Parties and Alternative Lists* (London/Boulder, CO: Westview Press, 1989), pp. 175–94; Kitschelt, *The Logics of Party Formation*; B. Rihoux, *Les partis politiques: organisations en changement. Le test des écologistes* (Paris: L'Harmattan, 2001).

5   J. Burchell, 'Evolving or conforming? Assessing organisational reform within European green parties', *West European Politics* **24** (3) (2001): 113–34.

6   F. Müller-Rommel and Th. Poguntke (eds), *Green Parties in National Governments* (London/Portland, OR: Frank Cass, 2002).

7   Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland, Sweden, the United Kingdom.

8   Cyprus, Denmark, Luxemburg, Malta and Norway.

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family in Europe[9] and investigates how the more or less integrated nature of the Green party family on various dimensions constitutes obstacles and opportunities for Green parties to contribute to a European public sphere.

The concept of a (European) public sphere is highly debated in the literature.[10] Koopmans and Erbe[11] identify three possible forms of European public sphere, understood as the emergence of transnational communication and mobilisation:

1. The emergence of a supranational European public sphere, i.e. 'interaction among European-level institutions and collective actors', made difficult to achieve due to linguistic and cultural barriers;
2. Vertical European public sphere, or Europeanisation: linkages between the national and the European levels;
3. Horizontal European public sphere, or linkages between different Member States.

Eriksen[12] distinguishes between a general public sphere ('communicative spaces of civil society in which all may participate on a free and equal basis'), transnational segmented publics ('policy networks constituted by a selection of actors with a common interest in certain issues, problems and solutions') and strong publics ('legally institutionalised and regulated discourses specialised in collective will-formation at the polity centre').

Our main argument in this contribution is that national Green parties, because they can be regarded as a party family, constitute transnational segmented publics that contribute to a horizontal Europeanisation of the public sphere. It also argues that their collaboration in the European Green Party and the Group in the European Parliament contributes to a supranational European public sphere. These contributions are facilitated by some opportunities but made more difficult by barriers or obstacles linked to the more or less integrated nature of the Green party family on various dimensions.

The chapter highlights some opportunities that point towards a European

9   P. Mair and C. Mudde, 'The party family and its study', *Annual Review of Political Science* **1** (1998): 211–29.

10   E. Dacheux, *L'Europe qui se construit. Réflexions sur l'espace public européen* (Saint-Etienne: Publications de l'université de Saint-Etienne, 2003).

11   R. Koopmans and J. Erbe, 'Towards a European public sphere? Vertical and horizontal dimensions of Europeanized political communication', *Innovation: The European Journal of Social Science Research*, **17** (2) (2007): 97–118, 101.

12   E. O. Eriksen, 'An emerging European public sphere', *European Journal of Social Theory* **8** (3) (2005): 341–363, 349.

Green party family and that can facilitate or contribute to the development of a European public sphere: an electorate that shares similar characteristics, core common ideological positions, a specific organisational model and a cohesive group in the European Parliament. However, it also points to obstacles to that development: divergent electoral performances and relation to power, and the weakness of the European Green Party. Before examining these opportunities and obstacles, we provide a brief overview of the origins and developments of Green parties in Europe.

Origins and development

The taxonomy of parties based on their origins refers to the idea of a common cleavage or conflict on which they emerged. These common roots are clearly discernible in the case of Green parties, at least for some of the parties considered. In Western Europe, there was a clear trend towards the emergence of new political issues revolving around environmental concerns and opposition to nuclear energy, but also around pacifism, human rights and radical democracy. These issues initially pushed forward by environmental movements were gradually politicised, as they were not effectively addressed by existing parties. It opened up the political space for the emergence of Green parties (Table 1). In that sense, most Green parties have roots outside parliament, with notable exceptions such as *GroenLinks* in the Netherlands.

With their origins outside parliament, the transformation of these groups or movements into political parties was in most cases a matter of dispute and generated some tensions. The threshold of declaration was not easily overcome, as some parts of the movements were reluctant to transform into parties and to enter the political sphere. In most countries, the founding of a political party was preceded by one or several efforts to organise politically. As reviewed in Table 1, Green parties first appeared in the 1970s in the UK (1973), France (1973), Germany (1979), and Belgium (1974; 1982). The movement then extended to Sweden, Ireland, Portugal and Spain in the early 1980s, and then to Austria (1982), Switzerland (1983) and Finland (1988). The Netherlands, Italy and Greece saw their Green parties develop in the late 1980s (respectively, 1990, 1986 and 1988). In most cases, the threshold of authorisation (participation in general elections) was passed less than three years after the establishment of the party, with the exception of *GroenLinks* that first passed the threshold and took part in elections before being formally founded as a political party, and of the Greens in Greece and Portugal.

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Table 1. Origins and Development of Green Parties at the National Level

	Party	Origins (Declaration)[1]	Authorisation[2]	Representation[3]	Relevance[4]
AT	Die Grünen	1982 (pre-), 1986	1983 (pre-), 1986	1986 (28)	- (only Land level)
BE	Groen	1982	1981	1981 (22), 2007 (7)	1999 (4)
BE	Ecolo	1974 (pre-), 1980	1977 (pre-), 1981	1981 (33)	1999 (4)
CH	GPS	1983 (pre-), 1987	1979 (pre-), 1987	1979 (pre-), 1987 (27)	- (only at Cantonal level)
CH	GLP	2004 (pre-), 2007	2007	2007 (7)	-
DE	All/The Greens	1979 (pre-), 1980	1980	1983 (31)	1998 (8)
EL	OP	1988 (pre-), 2002	1990 (pre-), 2007	NO	-
ES	Conf. de los Verdes	1984	1986	2004 (4)	-
FI	GL	1988	1983 (pre-), 1991	1983 (pre-), 1991 (23)	1995 (8), 2007 (8)
FR	EELV	1973 (pre-), 1984	1973 (pre-), 1986	1997 (17)	1997 (5), 2012 (2)
IE	Green Party	1981	1982	1989 (22)	1997 (4)
IT	FV	1986 (pre-), 1990	1987 (pre-), 1992	1987 (21)	1993 (8 - via alliances)
NL	GroenLinks	1990	1989	1989 (25)	- (only at local and provincial levels)
PT	PEV	1982	1987	1987 (27)	-
SE	MP	1981	1982	1988 (3), 1994 (20)	- (but deals from outside government)
UK	GPEW	1973 (pre-), 1985	1974 (pre-), 1987	2010 (1999 in Scottish Parliament)	-

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	Party	Origins (Declaration)[1]	Authorisation[2]	Representation[3]	Relevance[4]
BG	**Zelenite**	2008	2009	-	-
BG	**ZPB**	1989	1990 (interruption 2009–13)	1990 (1), 1997 (2)	-
BG	*PC Ecoglasnost*	1990	1990	1990 (1), 1995 (6)	-
CZ	**SZ**	1989, 1993	1990 (interruption 1996–98)	1992 (4), 2006 (4)	-
EE	**ER-EER**	1989 (pre-), 1991	1992 (interruption 1999–2007)	1992 (4), 2007 (4)	
HR	**ZL-ORaH**	2004, 2013	2007	-	-
HR	*HSZ*	1996	1996	-	-
HR	*ZS*	1996	1996	-	-
HR	*ZH*	2001	2003	-	-
HU	**LMP**	2009	2010	2010 (4)	-
HU	*MZP*	1989	1990	-	-
HU	*ZA-ZDS-ZB*	1993	1994	-	-
LT	**LZP**	1989	1990 (interruption 1996–2011)	1990 (2), 2012	1990 (2)
LT	*LVZS*	2001 (pre-), 2012	2004 (pre-), 2012	2012 (2)	-
LV	**LZP**	1990	1993	1995 (3), 2002 (12)	1993 (6), 2002 (9)
PL	**Zieloni**	1988 (pre-), 2003	1991 (pre-), 2005	-	-
RO	**PER**		1992	1992 (8)	-
RO	**PV-MVDA**	2006, 2009, 2011	2008	-	-
RO	*MER-FER*	1990	1990	1990 (2), 1996 (4)	1991 (2)
SI	**ZS**	1989	1990	1990 (3)	1990 (3)
SI	**SMS-Zeleni**	2000	2000 (interrupted in 2014)	2000 (4)	-
SI	*ZA*	1995	1996	-	-
SI	*TRS*	2011	2011	-	-

Notes: (pre-) denotes that the threshold was passed that year with a pre-existing political organisation; 1: Year of foundation of the party at the national level; 2: Year of first participation in national elections; 3: Year of first seats in national parliament (lower Chamber) – number of years of uninterrupted presence in parliament between brackets (end 2014 as reference point); 4: Year of first governmental participation at the national level – number of consecutive years in government between brackets.ce: van Haute, 'Conclusions', in *Green Parties in Europe*, pp. 317–18, courtesy of Routledge.

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In Central and Eastern Europe, environmental groups and parties emerged quite rapidly after 1989; yet they were confronted with rapid waning. This can be explained by a combination of factors: the politicisation of their core themes faced more difficulties due to the prevalence of economic issues, the absence of post-materialist attitudes and the incorporation of environmental issues by other challengers.[13] Furthermore, establishing a party and participating in elections are much more regulated in these countries.[14] Consequently, the thresholds of declaration and authorisation were difficult to pass on a structural basis, and some parties have simply not been able to consistently participate in elections (see for example the intermissions in Bulgaria, Czech Republic, Estonia, Latvia or Slovenia emphasised in Table 1).

Once founded, Green parties have met very distinct electoral fates across Europe. In Northern and Western Europe, they have established themselves as relevant electoral actors, even if they still rarely cross the ten per cent mark. Elsewhere, Green parties struggle to perform electorally and remain weak, with some exceptions. Especially in Central and Eastern Europe, Green parties have been marginalised (with the notable exception of Latvia), despite the second wave of party foundation in the 2000s.

Electoral fortunes are linked to the sociological composition of their voter basis (see below) but are also related to the capacity of parties to enter parliament, as voters may be discouraged to cast a vote for parties that have low probabilities of getting a seat in parliament. In most cases in Northern and Western Europe, the delay between the first participation in national elections and the first seats in parliament was null or below five years (see Table 1). In other cases, it took longer for the Greens to gain parliamentary representation, as in Ireland, Sweden and especially France, the UK and Spain (not to mention Greece where the Greens have not passed this threshold yet).

The interval between the first participation in elections and the first seats in parliament (threshold of representation) very much depends on electoral rules in the various countries (type of electoral system, existence of a threshold, etc.) (see Table 1). In countries using proportional representation or two-round runoff voting (where Green parties can benefit from alliances), Green parties were much more successful in entering national parliaments or re-entering

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13   E.G. Frankland, 'Central and Eastern European Green parties: Rise, fall and revival?', in E. van Haute (ed.), *Green Parties in Europe* (London: Routledge, 2016), pp. 59–91.

14   J.-B. Pilet and E. van Haute, 'Criteria, conditions, and procedures for establishing a political party in the Member States of the European Union' *Report to the European Parliament*, Policy Department C (PE 431.512) (2012).

them after important electoral setbacks, than in majoritarian systems such as in the UK. In these cases, Green parties often passed the threshold of representation at infra- (e.g. Land level in Germany in 1979 vs. federal level in 1983) or supra-national (European) levels first, since some countries adopt more proportional rules at these levels. In Northern and Western Europe, if most parties have secured a continuous presence in parliament since their access, important electoral defeats can also mean a step backwards. In Italy, Spain or Ireland, Green parties lost their parliamentary representation in the 2000s and have not (yet?) managed to regain it, contrary to Belgium (for *Groen*) and Sweden. In most Central and Eastern European countries, gaining parliamentary representation is still the exception rather than the norm, with the notable outlier being Latvia, where the Greens experienced twelve steady consecutive years of parliamentary representation.

Lastly, the threshold of relevance is related to the capacity of parties to have an input on policies from within or outside government (Table 1). The question of participation in power has been and still is a matter of debate for most Green parties, as was the debate of movement vs. party in the early days. It is especially the case at the national level, as several Green parties have successfully passed the threshold of relevance at the sub-national or local levels (for instance in Austria, Switzerland and the Netherlands). In the cases of governmental participation, given their modest electoral size, Green parties in Northern and Western Europe have often been in a situation of junior coalition partner. It has put them in a difficult bargaining position, hard to reconcile with their policy-oriented grassroots base. Policy gains related to governmental participation have been variable and difficult to quantify.[15] Yet the costs of governmental participation have been high for most Green parties and have led to electoral setbacks and parliamentary exit. However, Green parties in Western Europe have, with few exceptions, recovered electorally from their post-incumbency major setbacks. Participation in government is becoming a standard feature, just as their representation in parliament did in earlier years. In Central and Eastern Europe, short-lived governmental participation has been achieved in the early days but not since (again, with the exception of Latvia).

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15   C. Little, 'Green parties in government', in van Haute (ed.), *Green Parties in Europe*, pp. 265–79.

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Sociological composition

Green parties in Europe have faced diverse electoral performances but their electorate shares common characteristics that distinguish them from voters of other parties. Sociologically, the ideal-typical green voter is young, non-religious, female, urban and educated. Besides, the Green vote can be seen as an issue-based vote that transcends old politics: values that are related to new politics are determinant. Lastly, Green voters also share an 'activist' profile: they tend to be more involved in new forms of political participation, which reflects the original connection of Green parties with new social movements.[16]

Green voters today share the same characteristics as the Green electorate in the early years of Green parties. This points toward a relative stability of Green parties' core electoral supporters, despite fluctuating electoral results. What remains less clear is the capacity of Green parties to maintain the protest component in the Green vote. With a normalisation of Green parties' governmental participation and the emergence of new challengers trying to capitalise on protest sentiments, will Green parties lose their protest element or will they manage to remain the promoters of a societal and political revolution?

Ideological and programmatic positions

Green parties have never been ideologically homogeneous.[17] Yet, they share some distinctive features.[18] As expected, the environment is clearly the most salient issue for Green parties. Yet, some parties emerged as single-issue parties (UK Greens), while other developed from the very start a comprehensive programme and project (e.g. *Ecolo* or *Groen* in Belgium). The environmental issue is still the most salient issue for Green parties today, and they tend to own the issue over the other parties. However, the proportion of their manifesto dedicated to environmental issues has decreased over time to leave more space for other issues. On the environment itself, the Greens have tended to adopt more pragmatic positions (e.g. EELV in France or *GroenLinks* in the Netherlands). In Central and Eastern Europe too, sustainability, ecology and environmental issues are at the core of the

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16   C. Close and P. Delwit, 'Green parties and elections', in van Haute (ed.), *Green Parties in Europe*, pp. 241–64.

17   Müller-Rommel and Poguntke, *Green Parties in National Governments*.

18   G. Price-Thomas, 'Green party ideology today: Divergences and continuities in Germany, France and Britain', in van Haute (ed.), *Green Parties in Europe*, pp. 280–97.

Green parties' manifestos. It is especially the case among the newly founded parties of the 'second wave' that receive clear support from the European Green Party in designing manifestos.

Green parties were overall initially reluctant to position themselves on the left/right scale, which was considered as 'old' politics. Yet in most cases they adopted a clear left anchorage that was progressively more assumed, to the point that electoral or governmental alliance with (centre-)right parties is sometimes more taboo for the Greens than for some social-democratic parties. Over time, Green parties have shifted closer to the centre in some cases (e.g. Germany), or further to the left in other cases (e.g. UK Greens), mainly guided by the party's place in their national context. There are a few exceptions to the left-wing positioning, and they are mainly located in Central and Eastern Europe. For instance, the Estonian or Latvian Greens tend to position to the right of the centre, as does the PER in Romania. It translates in their manifesto in a support of entrepreneurship, private property, national identity or more conservative positions. These positions are very much linked to the space occupied by the party in the national party system.

On socio-economic issues, Green parties overall favour issues related to social justice, welfare and solidarity over issues related to the economy *stricto sensu* (again, with some of the above-mentioned CEE exceptions). Finally, the position of Green parties on Europe illustrates a clear shift in most parties from anti-EU toward more moderate or even supportive positions (with the exception of the Finnish and the Belgian Greens). The pro-EU positions are exacerbated in some cases where the competition for recognition by the European Green Party is fierce.[19]

Thirty years of political competition have had an impact on the ideology and positions of Green parties.[20] The three parties analysed by Price-Thomas, the German and French Greens and the Green Party of England and Wales, are characterised by a lot of similarities in their position on six themes (ecology: the concepts of nature and growth; radical democracy; egalitarianism: women's rights, migration and pacifism), and these similarities make them 'sufficiently distinctive from that of other types of party'[21] to label them as part of one common party family. More specifically, Green parties share core common ideological positions on environmental and ecological issues and

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19   Frankland, 'Central and Eastern European Green parties'.

20   Price-Thomas, 'Green party ideology today'.

21   Ibid., 292.

participatory democracy, whereas divergences appear on growth, feminism and pacifism. More generally, divergences can be linked to the specific integration of Green parties in their national political systems. In particular, Green parties that have passed the threshold of representation and relevance have lost part of their radical edge and are less critical of the state, even if they still do promote more direct forms of democratic participation. They do not oppose economic growth but remain sceptical of military activity. Electoral setbacks and challenging participations to power have raised internal debate as to the ideological route in which to engage.

Organisational structure

Over the last three decades, Green parties have undergone deep organisational transformations toward institutionalisation, professionalisation and 'normalisation', mainly in Western and Northern Europe. With the expansion of party goals from policy-oriented to increasing vote- and office-seeking goals, Green parties in these countries have evolved from movements to amateur-activist parties, to fully fledged organisations that look more like conventional parties (Table 2).

The Green case(s) could be taken as an illustration of the 'iron law of party institutionalisation'.[22] However, Green parties have kept some of their initial characteristics. The party-on-the-ground is still committed to the initial emphasis on policy-seeking goals and the amateur-activist model, anti-authority and anti-hierarchy. This internal feature is prone to generate tensions with higher levels in the party (party-in-public-office in particular), especially when Green parties face hard choices such as governmental participation or compromises on policies, or new electoral competitors.

Obstacles to the development of a European-wide political sphere for Green parties

Despite these common features, there are obstacles to the development of a European-wide political sphere for Green parties: the divergent electoral performances and relation to power, and the weakness of the European Green Party.

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22   P. Ignazi, 'The iron law of party institutionalization'. Paper presented in the Workshop 'Challenges to Established Party Organization? Theory and Practice of Green and Alternative Left Party Organization', *ECPR Joint Sessions of Workshops*, Warwick (1998); Rihoux, *Les partis politiques: organisations en changement*.

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Table 2.
Presence or Absence of Organisational Features in Green Parties, Founding Years–1998

Country	Party (year of statutory text)	Collective leadership		Rotation rules		Separation of office and mandate		Amateur leadership		Gender parity rules	
		1980s	1998	1980s	1998	1980s	1998	1980s	1998	1980s	1998
Germany	Die Grünen (1980–1998)	x	x	x	x	x	x	x			x
Netherlands	GroenLinks (1991–1998)			x	x	x	x				
Netherlands	De Groenen (1993–1998)	x	x		x		x	x	x		x
Belgium	Ecolo (1981–1998)	x	x		x	x	x	x			
Belgium	Agalev (1982–1998)	x	x		x	x	x	x			
Ireland	Green Party (1983–1998)	x	x		x	x	x	x			x
United Kingdom	Green Party of England and Wales (1977–1998)		x		x	x	x	x			x
Finland	Vihreä Liitto (1987–1998)	x		x	x	x					x
Austria	Die Grünen (1987–1998)	x		x	x	x				x	x
France	Les Verts (1985–1998)	x	x	x	x	x	x	x			x
Sweden	Miljöpartiet de Gröna (1982–1998)	x	x	x	x	x	x	x		x	x
Italy	Federazione dei Verdi (1986–1998)	x					x	x		x	
Switzerland	Fédération des partis verts de Suisse/Parti écologiste suisse (1983–1998)		x	x	x			x			x
Luxembourg	Gréng Alternativ Partei/Dei Gréng (1983–1998)	x	x	x	x		x	x			x

Note: an 'x' denotes the presence of the rule in the party statutes;
Source: B. Rihoux, 'Green party organisations: The difficult path from amateur-activist to professional-electoral logics', in van Haute (ed.), *Green Parties in Europe*, pp. 298–314, here p. 301. Courtesy of Routledge..

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Figure 1.

Green Parties in National Governments, 1995–2014.

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Finland																				
Italy																				
France																				
Germany																				
Belgium (*Agalev*)																				
Belgium (*Ecolo*)																				
Czech Republic																				
Ireland																				
Denmark																				
Luxembourg																				

Party in government
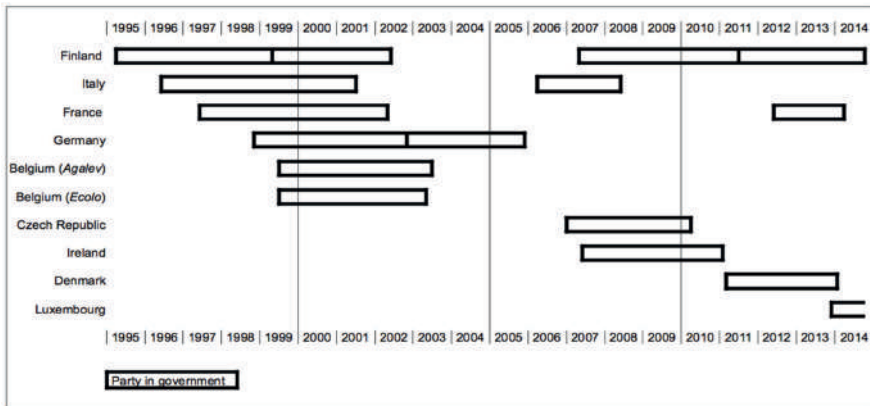
Source: Little, 'Green parties in government', in van Haute (ed.), *Green Parties in Europe*, pp. 265–79, here p. 267. Courtesy of Routledge.

The divergences in electoral performances result in an asymmetrical relation to power. Some Green parties have an extensive experience of government at the national level, such as in Belgium, Finland, France, Germany or Italy, while others have none or limited experience (Denmark, Luxemburg, but also most Green parties in Central and Eastern Europe) (Figure 1). This is crucial, as presence in parliament or government strongly affects what Green parties are, how they organise and how they position themselves ideologically. However, participation in government is increasingly becoming a standard feature and is less discussed or a source of internal tensions. A growing number of national Green parties with government experience might imply a reduced heterogeneity of ideological positions and organisational structures Europe-wide.

At the European level, the diversity of national parties in terms of size and weight in the parliamentary party group, experience in parliamentary representation and participation in power in their national systems, but also in terms of organisational structures, ideological positions and electoral support, generates difficulties in coordination. However, Bardi et al.[23] argue that

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23   L. Bardi, E. Bressanelli, E. Calossi, L. Cicchi, W. Gagatek and E. Pizzimenti, *Political Parties and Political Foundations at European Level. Challenges and Opportunities* (Brussels: EP, 2014).

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Figure 2.

Cohesion of the Greens/EFA Group in the EP, 1984–2014.

European-wide party organisations have emerged, composed of similar faces as national party organisations: the parties at national level correspond to the 'party on the ground', Europarties to the 'party in central office' and the groups in the EP (together with the Ministers in the Council of Ministers and the Commissioners in the European Commission) to the 'party in public office'. Van Hecke[24] argues that these faces operate at different levels: the national level for national political parties, the supranational level for the groups in the EP and the transnational level for the Europarties.

Among the various faces of the Greens at the European level, the group in the EP shows signs of advanced cooperation.[25] Over time, the group has increased its level of cohesion in terms of votes in the EP, to become the most cohesive group in the EP and to remain united in a wide range of policy areas (Figure 2). The relative weakness of Green parties from Eastern and

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24   S. van Hecke, 'Do transnational party federations matter? (… and why should we care?)', *Journal of Contemporary European Research* **6** (3) (2010): 395–411.

25   N. Brack and C. Kelbel, 'The Greens in the European Parliament: Evolution and cohesion', in van Haute (ed.), *Green Parties in Europe*, pp. 217–38.

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Southern Europe compared to their Western counterparts is an important challenge but it can also constitute an asset for the Greens in the EP, as it helped maintain cohesion within the group.

Conversely, the European Green Party remains rather weak. First, identifying Green parties at the national level as potential members of the EGP can be a source of tensions. Some members were banned (*Los Verdes* in Spain), while others compete for recognition (Zelenite vs. ZPB in Bulgaria; LMP vs. ZB in Hungary). Tensions can also arise when some get recognition while others do not, as in Denmark, Romania, Slovenia or Croatia, where several parties claiming to belong to the Green family coexist at the national level but only one gets the recognition of the EGP.

Second, the EGP faces difficulties in establishing itself as the dominant actor in the European elections. European elections remain 'second-order national elections' dominated by national parties and national issues. Europarties face difficulties in imposing themselves and making themselves visible in the campaign: national parties campaign under their national logo and with their own manifesto. There is little room for European parties. However, the EGP goes one step further than most other Europarties when it comes to striving to establish a European campaign. It has introduced direct individual membership and is on the path toward granting individual members more direct say in their decision-making processes, following a similar trend among party organisations at the national level.[26] Among these decision-making processes, the EGP seized the opportunity of the Lisbon Treaty regarding the designation of the European Commission President. At the 2014 European elections, it organised an online, European-wide open primary to select their candidate to be the next European Commission President. Although the Greens had a very low probability of holding this position, they organised a process to select their two leading candidates. The open primary was organised between 10 November 2013 and 28 January 2014. Four contenders were running. Despite being arguably the most ambitious system to date among the political parties at European level, this attempt was largely considered as a failure, as fewer than 23,000 citizens participated, EU-wide. This shows that the path towards strong Europarties is still long and paved with difficulties, from resistance from national parties to institutional barriers to a full recognition as parties at the European level,

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26   S.E. Scarrow, P.D. Webb and T. Poguntke, *Organizing Political Parties. Representation, Participation, and Power* (Oxford: Oxford University Press, 2017).

to a low visibility for European citizens for whom the reference point is still very much the national public sphere when it comes to electoral processes.

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After the emergence of Green parties in the 1970s and 1980s, scholars have tried to explain the birth of these new parties in what appeared at the time as 'frozen' party systems in Western Europe. Scholars linked this emergence to the diminished saliency of old cleavages and the emergence of a new conflict dimension.[27] Using Lipset and Rokkan's[28] cleavage theory, they pointed toward the emergence of 'new politics' as opposed to 'old politics', and the development of new issues and values.[29] Social movements pushing these issues progressively turned into parties, especially when 'old' parties failed to integrate these issues.[30] Therefore, the emergence of Green parties has been interpreted as the first sign of the 'defreezing' of party systems.[31] In line with this interpretation, Green parties have been classified as a new party family. Poguntke[32] stresses that Green parties are by no means alike, but he argues that they share a distinct, 'new politics' feature that translates in their organisation, programme and electoral base. He identifies two sub-groups in the 'new politics' family: the moderates and the fundamentalists. O'Neill identified four types of Green parties based on ideology (Eco-socialists vs. pure Green) and behaviour in the system (anti-party vs. pragmatic).[33]

Using a large number of dimensions and cases on which to assess the existence of a distinct party family, van Haute points at common origins, as well as strong similarities in the sociological composition of Green parties.[34] These are two crucial elements that directly refer to Lipset and Rokkan's

27 Müller-Rommel, *New Politics in Western Europe*; Poguntke, 'The "new politics dimension" in European Green parties'; for a counter argument, see D.-L. Seiler, 'Comment classer les partis verts en Europe?', in P. Delwit and J.-M. De Waele (eds), *Les partis verts en Europe* (Brussels: Complexe, 1999), pp. 43–70.

28 S.M. Lipset and S. Rokkan, *Structures de clivages, systèmes de partis et alignement des électeurs: une introduction* (Brussels: Editions de l'université de Bruxelles, 2008).

29 Müller-Rommel, *New Politics in Western Europe,* p. 5.

30 Müller-Rommel, 'Green parties under comparative perspective'.

31 R.J. Dalton, S.E. Flanagan and P.A. Beck (eds) *Electoral Change in Advanced Democracies* (Princeton: Princeton University Press, 1984).

32 Poguntke, 'The "new politics dimension" in European Green parties'.

33 O'Neill, *Green Parties and Political Change in Contemporary Europe*.

34 Van Haute, 'Conclusions: Green parties in Europe'.

Emilie van Haute

classic conception of party family.[35] Yet, any comparative or classification exercise cannot ignore the fact that Green parties have grown out of their respective national context and have been exposed to these contexts from their foundation. That context affects their fate, in particular their capacity to overcome the threshold of representation and governmental participation. This is crucial, as presence in parliament or government in return strongly affects what Green parties are, how they organise and how they position themselves ideologically. Ideologically and organisationally, Green parties are thus more diverse. Nevertheless, this chapter has emphasised core basic organisational features and positions on issues that could be considered as part of the ideal-type or the genes of Green parties. Furthermore, these divergences might decrease as more and more Green parties experience the threshold of representation and relevance.

The path to a European public sphere for Green parties is still long. The European Green Party is probably a step further in that direction compared to other Europarties, with its experience of primaries and the high degree of cohesion within the group in the EP. However, the strength of national parties remains a strong barrier, as does the absence of unified public sphere at the voter level due to the language diversity. These factors are obstacles to the EGP running a European-wide electoral campaign and establishing a direct dialogue with citizens in Europe.

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35   S. M. Lipset and S. Rokkan (eds), *Party Systems and Voter Alignments: Cross-national Perspectives* (Toronto: The Free Press, 1967).

CHAPTER 10.

WILL EUROPE EVER BECOME 'GREEN'? THE GREEN PARTIES' PRO-EUROPEAN AND FEDERALIST TURNING POINT SINCE THE 1990s[1]

Giorgio Grimaldi

During the early 1980s, some Green movements and parties emerged, mostly in Western Europe. Such new political forces combined a growing concern for ecology and the adoption of environmental protection as a political priority with specific campaigns, for instance against nuclear energy. They also advocated more democratic, transparent and decentralised political institutions, capable of promoting nonviolence, minority rights and a social transition towards an ecological economy based on renewable energy sources.[2]

Europe proved to be an important political arena for Green parties: not only did it enable some of them (for instance, the German Greens – *Die Grünen*) to lay the foundations for political ascent inside their countries, but it also allowed them to slowly develop a distinctive profile. After an initial period mainly characterised by strongly critical positions against the European Community (EC), since the early 1990s they have gradually adopted a more constructive, pragmatic and reformist stance on both Europe and the European integration process.[3]

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2   G. Grimaldi, 'Prospects for ecological federalism', *L'Europe en formation* **363** (1) (2012): 301–23; G. Grimaldi, 'Thirty years of challenges. The Green Parties' transnational cooperation and their dilemmas and choices over European integration', in D. Preda and D. Pasquinucci (eds), *Consensus and European Integration. Consensus et intération européenne. An Historical Perspective. Une perspective historique* (Brussels, Berlin, Frankfurt am Main, New York, Oxford, Wien: Peter Lang, 2012), pp. 197–210; G. Grimaldi, 'From rejection to support for a supranational Europe. The evolution of the Greens' positions on European integration up to the early 1990s', in G. Grimaldi (ed.), *Political Ecology and Federalism: Theories, Studies, Institutions* (Turin: Centre for Studies on Federalism, 2012), pp. 265–304, G. Grimaldi, 'The Greens and the European Union from Maastricht to Lisbon: from national diversity to unity for the Democratic and Federal development of Europe', in Grimaldi (ed.), *Political Ecology and Federalism: Theories, Studies, Institutions*, pp. 305–347.

3   For more detailed analyses, see E. Bomberg, 'The Europeanisation of Green Parties: Exploring the EU's impact', *West European Politics* **25** (3) (2002): 29–50; E.H. Hines, 'The European Parliament and the Europeanization of Green Parties', *Cultural Dynamics* **15** (3) (2003): 307–325; E. Bomberg and N. Carter, 'Greens in Brussels: Shapers or shaped?', *European Journal of Political Research* **45** (1) (2006): 99–125; N. Carter, 'Mixed fortunes: The Greens in the 2004 European Parliament election', *Environmental Politics* **14** (1) (2005): 103–111.

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It took a long time for the European ecologist parties to come to a common and shared 'green' vision of Europe. For many years their ideological differences, as well as their prevailing lack of focus on European integration, made it possible for the Green movements to converge only on a vague appeal to a Europe of regions and peoples, a demilitarised Europe built from the bottom up, outside NATO and in opposition to the institutional and bureaucratic framework of the EC.[4]

Die Grünen, which in 1983 established themselves as the first new political force since 1949 in the Federal Republic of Germany (FRG) to overcome the threshold of five per cent necessary to enter the *Bundestag* (5.6 per cent of the vote), were for a long time the critical avant-garde of ecologists as concerned European integration. On the other hand, the entry of some Green Eurodeputies into the European Parliament (EP) led all the Greens to a more complex and pragmatic attitude, aimed at adding some ecological issues to the European political agenda.

Yet, this pragmatic tendency still coexisted with an opposite approach in the majority of European Green parties, particularly in the German Green Party, that included two main trends: a reformist one, the so-called *Realos* (Realistics), open to alliances with other parties as well as to environmental and social measures consistent with the preservation of natural resources; and a radical one embodied by the *Fundis* (Fundamentalists) – the dominant faction within the party in the 1980s – which promoted leftist policies and opposed any compromise with European and national institutions. An analogous dichotomy was also present, though in different ways and to a lesser degree, in the Green parties of other countries, and it certainly had a deep influence on the development of European cooperation among these political actors.[5]

Three factors were also important in promoting either a pro-Europeanist and Eurofederalist attitude, or a Eurosceptic and hostile one in the European Greens:

– the national political contexts in which the various Green movements and parties had developed;

– the change occurring in the international political situation since 1989, with the end of the Cold War;

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4   The EC/EU was initially neglected by the Green parties; cf. S. Hix and C. Lord, *Political Parties in the European Union* (London: Macmillan, 1997), p. 26. See also G. Grimaldi, *Federalismo, ecologia politica e partiti verdi* (Milan: Giuffré, 2005).

5   B. Doherty, 'The Fundi-Realo controversy. An analysis of four Green Parties', *Environmental Politics* 1 (1) (1992): 95–120.

– the specific and relevant role played by some prominent politicians in addressing collective choices and positions.

The Greens' reflection on European institutions has developed at three levels strictly interlinked with one another, as well as with the European dynamics and the specific situations of the national Green parties:

– at national level, through the internal debate inside the various Green parties;

– at institutional European level, firstly in the GRAEL (Green-Alternative European Link), a subgroup of the Rainbow Group in the EP (1984–1989), then in the Green Groups in the EP (1989–1994; 1994–1999) and later on in the Greens/ European Free Alliance (G/EFA) in the EP (1999–2004; 2004–2009; 2009–2014; 2014–present);

– at European level, but outside the EP, through transnational and regional cooperation, at first in the European Coordination of Green Parties (ECGP, 1984–1993), next in the European Federation of Green Parties (EFGP, 1993–2004) and subsequently in the European Greens or European Green Party (EGP, since 2004).[6]

First the EC and then the European Union (EU), both fragile, incomplete, in *fieri* and *sui generis* multi-level political organisations, gradually became a battleground for environmental struggles. Nowadays Green parties are a medium-small political family with a rather cohesive profile, organised at European level and coordinated by a world federal political body called Global Greens Coordination (GGC).[7]

This article analyses the key stages of the development of the European Greens' political vision on European integration from 1979 to today, focusing on the activity of the most relevant Green parties as well as on some Green prominent representatives, in order to highlight the changes that led

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6   On the EGF, see G. Grimaldi, 'Il Partito verde europeo', in G. Levi and F. Sozzi (eds), *Unione politica 'in progress'. Partiti e gruppi parlamentari europei 1953-2014* (Padua: CEDAM, 2015), pp. 115–126.

7   On the Global Greens, see their official website: http://www.globalgreens.org On the history and evolution of Green parties, see F. Müller-Rommel (ed.), *New Politics in Western Europe. The Rise and Success of Green Parties and Alternative Lists* (Boulder, San Francisco and London: Westview Press, 1989); D. Richardson and C. Rootes (eds), *The Green Challenge. The Development of Green Parties in Europe* (London: Routledge, 1995); P. Delwit and J.-M. de Waele (eds), *Le partis verts en Europe* (Bruxelles: Editions Complexe 1999); F. Müller-Rommel and T. Poguntke (eds), *Green Parties in National Governments* (London, Portland, OR: Frank Cass, 2002); E.G. Frankland, P. Lucardie and B. Rihoux (eds), *Green Parties in Transition. The End of the Grass-roots Democracy?* (Aldershot: Ashgate, 2008); E. van Haute (ed.), *Green Parties in Europe* (London and New York: Routledge, 2016).

the ecologists, since the end of the 1990s, to become a pro-European and Eurofederalist political force.

1979–1984: The emergence of green politics in the EC

In addition to the first EP elections by universal suffrage, the year 1979 saw the first electoral experience of a variety of ecologist formations in Europe, as well as the emergence of a number of leading groups that would turn into Green parties within the next few years.

Even though they performed quite well, the Green coalitions won no seats in the 1979 elections. In 1980, along with a number of alternative and radical parties, they created the Coordination of Green and Radical Parties in Europe (CEGRP)[8] which adopted as its common, basic paper, the *Declaration* of the international ecological organisation *Action Ecologique Européenne*, later known as ECOROPA, established in Paris in June 1976 by a number of scientists and ecologists from around the continent.[9] In October 1983, following their rift with the radical wing of the CEGRP, the Green parties gave birth to a new transnational group, the ECGP, which on 23 January 1984, in Brussels, presented the *Joint Declaration of the European Green Parties*, a paper detailing the basic principles of a common political programme for the 1984 EP elections. Here the Greens criticised the European 'unecological … and centralised power structure in economy as well as in society', and asked for 'a reconstruction of the relationship between the human race and the rest of nature', as well as 'between the rich and the poor', also by highlighting such political issues as 'peace and defence agriculture, antinuclear action, sustainable economy, women's and human rights, the Third World'. They undertook to work together at international level, by extending cooperation to East Europe and to other continents, and described themselves as an alternative to the traditional parties. As for the EC political set-up, they advocated 'a federal structure based on regions rather than on nation-states', where diversity would be 'taken into account and highly respected'.[10]

The debut of the ECGP was immediately marked by a severe conflict between the German Greens – who supported the entry into the Coordination

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8   S. Parkin, *Green Parties. An International Guide* (London: Heretic Books 1989), p. 258.

9   T. Dietz, 'Similar but different? The European Greens compared to other transnational party federations in Europe', *Party Politics* **6** (2) (2000): 199–210, here 200.

10   *Joint Declaration of the European Green Parties*, Brussels, 23 Jan. 1984, in Parkin, *Green Parties. An International Guide*, pp. 327–29.

of an alternative cartel of four Dutch parties, the *Groen Progressief Akkoord* (GPA), which also included radical and leftist formations – and other 'pure'[11] Green parties, which were reluctant to admit such groups into the EGC and preferred instead to let in another Dutch Green Party, *De Groenen*. As a result of this choice, the German Greens decided to leave the ECGP.

During the first Congress of the ECGP (Liège, 31 March–1 April 1984), a 'technical alliance' was formed in order to obtain reimbursement for the expenses of the upcoming EP elections. On that occasion, the Greens also drafted a *Declaration* that was signed in Paris on 28 April 1984 and became their common manifesto for the 1984 EP elections. The *Paris Declaration*, which advocated a 'new Europe, neutral and decentralised, with autonomous regions each [with] their own cultural independence', was based on the following seven points:

1) opposition to the presence of nuclear weapons in Eastern and Western Europe, total disarmament and dissolution of both military and power blocs;
2) promotion of environmental policies respecting the ecological balance and fight against every kind of pollution and degradation of nature and the countryside;
3) advancement of women's equality in all areas of social life;
4) development of measures against unemployment and the reduction of the welfare state;
5) implementation of policies towards the Third World based on equitable relations;
6) defence of the free expression of people's fundamental rights as a basic condition to build an ecological society;
7) promotion of environmentally friendly agriculture and defence of jobs in medium- and small-sized rural production units.[12]

The GRAEL's experience (1984–1989) within the Rainbow Group in the EP

In the 1984 EP elections Green parties improved their performance compared to 1979, especially in such countries of Central and Northern Europe as the FRG and Belgium (eight per cent of the poll), as well as the Netherlands, France and Luxembourg (four to six per cent of the vote).[13]

These good results allowed the European Greens to enter the EP for the first

11   On the distinction between pure reformist (the Belgian, British, Finnish, Swedish, Irish, Swiss and French Greens) and radical/alternative Green parties (the Dutch *GroenLinks* and the Green formations of Germany, Luxembourg, Austria), see F. Müller-Rommel, 'The Greens in Western Europe. Similar but different', *International Political Science Review* **6** (4) (1985): 483–499.

12   *The 'Paris Declaration'*, in Parkin, *Green Parties. An International Guide*, pp. 329–30.

13   W. Rüdig, 'The Greens in Europe: Ecological parties and the European elections of 1984', *Parliamentary Affairs* **38** (4) (1985): 56–72.

time with twelve representatives. The newly-elected MEPs (mostly German, Belgian and Dutch) formed a little group called GRAEL; yet, since it was too small to have access to the EP funds and committees, it had to join the Rainbow Group.[14] The GRAEL was the first 'green experience' within the EP. Actually dominated by the German Greens (seven of twelve seats), it was more active on peace, women's and workers' rights than on ecological issues. The dogmatic and deeply hostile attitude of most German MEPs towards the EC also characterised the GRAEL, which not only lacked a uniform approach to Europe, but was also adversely affected by its own division into three factions:[15] a minority of pro-European MEPs; a majority of Eurosceptic *Fundis* and a few pragmatic, single issue-oriented Greens (for instance the high-born farmer Friedrich-Wilhelm Graefe zu Baringdorf, engaged in the reform of the Common Agricultural Policy, or Undine-Uta Bloch von Blottniz, strongly dedicated to nonviolence, sustainable ecology, and antinuclear action).[16]

The GRAEL, which was completely independent from the ECGP, mainly under pressure from the German Greens, prevented the creation of a Green international network, due to the high number of inner conflicts as well as to the individualism of some MEPs. Euroscepticism prevailed in the GRAEL's ranks, as proved both by its vote against the creation of the Delors Commission in January 1985, and by its splitting at the moment of voting on Spain's and Portugal's accession to the EC,[17] as well as on the increase in the EP's powers or the Single European Act (SEA).

14   The Rainbow Group represented the 'green' updating of the Technical Coordination Group (TCG), an alliance of independent groups and members started in 1979. Inside the Rainbow Group three subgroups were established, on the basis of political affinity: the GRAEL – the largest one; the Euroscepticical Danish party *Folkebevægelsen mod EU* (People's Movement against the EU); the European Free Alliance (EFA), a clustering of regionalist movements.

15   See W. Rüdig, 'Green Parties and the European Union', in J. Gaffney (ed.), *Political Parties in the European Union* (London: Routledge, 1996), pp. 254–272, here p. 262.

16   See 'Der Koloss Europa. Die Grünen und das Europäische Parlament. Analysen und Halbzeitberichte der Europagruppe', *Grüner Basis-Dienst* **10** (1986). On the GRAEL, see K.H. Buck, 'Europe: The "Greens" and the "Rainbow Group" in the European Parliament', in F. Müller-Rommel (ed.), *New Politics in Western Europe. The Rise and Success of Green Parties and Alternative Lists*, pp. 176–194.

17   For an analysis of the positions of the European Greens and the Green parties on the enlargement of the EC and the EU, see G. Grimaldi, 'I Verdi e gli allargamenti delle Comunità europee e dell'Unione europea 1973–2004', in A. Landuyt and D. Pasquinucci (eds), *Gli allargamenti della CEE/UE 1961-2004*, vol. 2 (Bologna: Il Mulino, 2005), pp. 1099–1126.

The *Grünen* and European integration in the 1980s: The stage of radicalism and the contribution of Petra Kelly

Owing to their strong left-alternative and grassroots identity – unsurprisingly they were defined a 'non-party party'[18] – in the early years the *Grünen*, by far the most important European Green party, did not deal with the integration issue.[19] They were especially afraid that the EC could turn into a military and economic superpower: for this reason, in February 1984 their MEPs voted against the *Draft Treaty* drawn up by Altiero Spinelli and approved of by the EP. The party's first official position against the EC was adopted during the Congress of Karlsruhe (3–4 March 1984), where the *Grünen* introduced the idea of a 'Europe of regions', seen as a sort of radical-democratic confederation.[20] The EC, instead, was bluntly defined as a set 'of bureaucracies, bombs and butter mountains'.[21]

The German Greens remained deeply opposed to European integration until the mid-1990s.[22] Indeed, in December 1986 the West German Green Party (WGGP) was the only political force in the *Bundestag* to vote against the ratification law of the SEA, denouncing both a democratic deficit and a bias towards the EC Council, and accusing the EC itself of being a capitalistic superpower which exploited the resources of Southern countries. Its radical foreign policy mirrored an alternative view of 'ecological peace' (*Ökopax*), based on a strong criticism of the modern industrial society, as well as on a clear identification of the linkage between environmental damage and militarism.[23] This vision urged the German Greens to be more critical of

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18   A. de Petris and T. Poguntke (eds), *Anti-Party Parties in Germany and Italy. Protest Movements and Parliamentary Democracy* (Rome: LUISS University Press, 2015).

19   In the German Greens' programme for both the 1980 and the 1983 federal elections, the European Community was not even mentioned. On the development of a U-turn change of the German Greens' position on European political integration, see G. Grimaldi, 'The "German Greens"' long march from the opposition to the European Communities to a struggle for a more democratic, federal and ecological European Union 1979–2016', in G. Levi and D. Preda (eds), *Euroscepticisms. Resistance and Opposition to the European Community/European Union* (Bologna: Il Mulino, 2019), pp. 333–349.

20   H.A. Leonhardt, 'Zur Europapolitik der Grüne', *Zeitschrift für Politik* **2** (1984), pp. 192–204, here p. 193; Die Grünen, *Global Denken - vor Ort handeln: Erklärung der Grünen zur Europawahl 1984* (Bonn, 1984), p. 9.

21   Die Grünen, *Global Denken - vor Ort handeln*, p. 38.

22   E. Bomberg, 'The German Greens and the European Community: Dilemmas of a movement-party', *Environmental Politics* **1** (4) (1992): 160–185; C. Roth, 'No European superpower', in *Green Leaves* (Bulletin of the Greens in the European Parliament) **2** (May 1991): 2–3.

23   Die Grünen, *Friedensmanifest* (Bonn, 1980), p. 2.

the USA than of the USSR and the German Democratic Republic (GDR) in their programme for the 1987 national elections;[24] for the same reason, after the fall of the Berlin Wall, they came out against a quick German reunification and proposed a 'third way' between the annexation of the GDR by the FDR and the preservation of the status quo – the creation of a federation of regions, a solution aimed at preventing 'the recrudescence of German expansionism and nationalism'.[25] Therefore, in August 1990, the WGGP voted against the Treaty of Unification.

Yet Petra Kelly (1947–1992),[26] one of the founders and a prominent leader of the party, was not totally averse to the idea of European integration. After graduating from the European Institute at the University of Amsterdam with a thesis on this very subject (1971), Kelly started working in Brussels, at both the European Commission and the European Economic and Social Committee (1972–1983). In the same years, she was also involved in many peace, women's and ecological movements, and was a correspondent for the Young German Federalists's international magazine 'Forum Europe'.[27] As a Green member of the Subcommittee for Europe in the *Bundestag*, she expressed pro-European views, but radically opposed the EC. As for the unification of Germany, she was for a federal rearrangement of the country grounded on regional states.[28]

The first Green group in the EP: From the end of the Cold War to the Maastricht Treaty and the new global challenges

The first *Common Statement of the European Greens* was signed during the 5th ECGP Congress held in Paris in March 1989, in the run-up to the EP elections. This *Statement*, a sort of compromise between the above-mentioned fundamentalist German and Dutch views and the reformist attitudes of the

24   E.G. Frankland and D. Schoonmaker, *Between Protest and Power: the Green Party in Germany* (Boulder, San Francisco, Oxford: Westview Press, 1992), p. 136.

25   T. Shull, *Redefining Red and Green. Ideology and Strategy in European Political Ecology* (Albany: State University of New York Press, 1999), p. 78.

26   On Petra Kelly, see S. Richter, *Die Aktivistin: Das Leben der Petra Kelly* (München: Deutsche Verlags-Anstalt, 2010); V. Cavanna, *Petra Kelly. Ripensare l'ecopacifismo. Vita e attualità della donna che ha fondato i Grünen tedeschi* (Rimini: Interno4, 2017).

27   S. Milder, 'Thinking globally, acting (trans-)locally: Petra Kelly and the transnational roots of West German Green politics', *Central European History* **43** (2) (2010): 301–326.

28   P.K. Kelly, 'A Green view of a German reunification and Europe's future' in P.K. Kelly, *Nonviolence Speaks to Power*, ed. by G.D. Paige and S. Gilliatt (Honolulu: Center for Global Nonviolence, 1992).

Belgian, French and Italian Greens, seemed more interested in criticising the EC than in suggesting an alternative European institutional set-up. Indeed, despite their participation in the EP elections, the Greens considered the EC an intrinsically anti-democratic organisation and pledged to democratise it, first of all by demanding full access for every citizen to information on the decision-making processes of both the European Commission and the European Council of Ministers.

In 1989, the Green movements in Europe were at the peak of their success, so it is no surprise that in the EP elections they managed to perform brilliantly almost everywhere[29] and to elect thirty MEPs from all EC countries except Greece. The most striking national results were those of the British Greens – who got 14.9 per cent of the vote (but won no seat due to the majority system adopted in their country) – and the French Greens, who obtained 10.6 per cent of the poll and also managed to elect nine MEPs.[30] The brilliant achievement of the Greens was the starting point of a new trend rather than a mere protest against the EC as a whole.[31] Moreover, the French and Italian Greens' electoral success altered the balance of power within the EP and led to the birth of the first independent Green Group in the EP (GGEP). This group had a less 'Nordic' and more 'Mediterranean' composition than in the past, especially due to the entry of several French MEPs, and this clearly emerged when the French, Belgian and Italian Greens refused to join the Rainbow Group with the regionalists and the Danish anti-Europeanist movement. According to the Statutes of the GGEP, its two Co-Presidents had to be a man and a woman, in order to guarantee gender equality.

The GGEP proved to be more solid and compact than the GRAEL, in spite of the persistence of significant internal differences. Besides, unlike GRAEL it was closely connected with the ECGP, whose Secretariat was hosted in its Brussels seat. The issues of peace and disarmament became the GGEP's specific field of action inside the EP, thanks also to the important role played within the EP's Intergroup on 'Peace and Disarmament' by Solange Fernex, who chaired it, as well as by Alexander Langer. However, the greatest break with the GRAEL's tradition was the choice to put at the top

29   M.N. Franklin and W. Rüdig, 'On the durability of Green politics. Evidence from the 1989 European election study', *Comparative Political Studies* **28** (3) (1995): 409–439, here 411.

30   J. Curtice, 'The 1989 European election: Protest or Green tide?', *Electoral Studies* **8** (3) (1989): 217–230.

31   D. Pasquinucci and L. Verzichelli, *Elezioni europee e classe politica sopranazionale 1979–2004* (Bologna: Il Mulino, 2004), pp. 132–133.

of the GGEP's political agenda an EC institutional reform oriented towards democratic federalism.

In April 1992 the GGEP voted against the Maastricht Treaty,[32] raising three fundamental issues relating to the democratic deficit inherent in the Treaty itself:

– the need for a unified institutional structure called to decide on all matters of Community competence;

– the effective and democratic functioning of the EP;

– the assignment of a mandate to the EP to draw up a draft constitution, to be submitted to national Parliaments within 1996.

Adelaide Aglietta and Alexander Langer: two Green MEPs deeply engaged in the fight for a federal Europe

Inside the GGEP, the Italian MEPs Alexander Langer and Adelaide Aglietta were the first to strongly promote the need to build a European federation in order to ensure peace, an ecological change of economy and society, respect for human rights and peaceful coexistence among peoples.

Adelaide Aglietta (Turin 1940–Rome 2000) began her political engagement in 1974 within the Italian Radical Party, a small libertarian formation characterised by a European federalist view, and in 1976 became its national secretary as well as the first woman to lead a political party in the history of the Italian Republic. In 1989 Aglietta was a cofounder of *Verdi Arcobaleno* (Rainbow Greens) and was elected MEP for two successive terms (1989–1994; 1994–1999). Inside the EP, Aglietta was directly involved in the EU institutional reforms, fighting for a European democratic constitution as well as for civil and political rights, especially against death penalty and human rights violations in the world. Inspired by Altiero Spinelli, the father of European federalism,[33] who used to say that 'Europe does not fall from the sky',[34] Aglietta warned against the risk that a failure of the draft constitution could involve and urged continuing working in the direction of

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32   A. Aglietta, '"No" to ratification of democratic vacuum', *Crocodile* (Nov. 1991), p. 11; H. Breyer, F.-W. Graefe zu Baringdorf, C. Roth and W. Telkämper, *Europa Ja – Maastricht Nein. Dokumentation der Verfassungsbeschwerde gegen die Maastrichter Verträge* (Bonn: Europagruppe Die Grünen, 1993).

33   A. Aglietta, 'Il disegno federalista', *Metafora verde* **I** (1) (1990): 45–46.

34   'Europe does not fall from the sky' ('L'Europa non cade dal cielo') is also the title of a collection of essays by Altiero Spinelli; see A. Spinelli, *L'Europa non cade dal cielo* (Bologna: il Mulino, 1960).

the *Ventotene Manifesto*,[35] especially in a period when powerful resurfacing of national self-interests and racism threatened to prevent the formation of a Europe of the peoples.[36]

The South Tyrolean journalist, teacher, social activist and politician Alexander Langer (1946–1995) approached European federalism by different routes. In his youth he was first involved in catholic associations, then in the left-wing political organisation *Lotta Continua* as well as in various ecological and pacifist movements. In subsequent years, not only did he play a leading role in the birth of the Green movement in Italy, but he was also a tireless organiser of various ecological, humanitarian and non-violent initiatives and campaigns, especially related to the issue of the North-South divide and the need to overcome the 'ethnic' barriers existing between peoples and individuals. As an MEP (1989–1995), Langer mostly devoted himself to fighting for the democratisation of the European institutions and the creation of a federal Europe.

Langer advocated a federalist reform of Europe based on a concurrent shift in power and competences both downwards (reinforcement of autonomy and local self-government) and upwards (creation of supranational institutions). In his opinion, the EC had to change in order to meet that 'need for Europe' which was so widespread among the people, 'but always with a view to a federalist European integration of the continent',[37] as well as according to specific guidelines: the primacy of the political union over the economic one; openness to Eastern enlargement and to interregional cooperation with the Mediterranean region;[38] the creation of a 'pan-European community'; strong social and legal guarantees; decentralisation; democratisation; disarmament; linguistic and cultural pluralism; an alliance between the North and South of the world; both consumer and productive self-restraint, 'a condition so that the planet can have a future'.[39] Federalism was an effective way to counter the

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35 The *Ventotene Manifesto* is a political statement drawn up by Altiero Spinelli and Ernesto Rossi in 1941, while they were prisoners on the Italian island of Ventotene.

36 A. Aglietta, 'L'Europa non cade dal cielo. Bilancio di una legislatura al Parlamento Europeo (1989-1994) di Adelaide Aglietta', suppl. of *Notizie Verdi*, 31 Jan. 1994: 30.

37 A. Langer, 'Pan-european Federalism', *Green Leaves* (Bulletin of the Greens in the European Parliament) 2 (May 1991): 3.

38 A. Langer, 'Ethnicity and co-existence in the East Mediterranean' (speech delivered at the Joint International Conference 'Palestine, the Arab World and the Emerging International System: Values, Culture and Politics', Birzeit-Jerusalem-Nablus, 1993), in *Alexander Langer Foundation-June 2001* (Bolzano: Alexander Langer Foundation, 2001), pp. 18–26.

39 Langer, 'Pan-european federalism'.

effects of the rise of new nation-states, to guarantee democracy, participation and the recognition of ethnic minorities – especially in some areas previously subject to communist control such as the Balkans and the Caucasus – and to create prospects for peace in devastating conflicts such as those in the Middle East.[40] From this point of view, the Maastricht Treaty showed all its limitations and betrayed the reluctance of governments to build a Europe of citizens; in Langer's opinion, on the contrary, it was necessary to invest the EP with the role of a Constituent Assembly which should draw up a constitutional project for a united Europe, to be submitted to referenda in all member countries.[41]

A few months before his tragic death,[42] Langer, as Co-President of the GGEP, drew up a draft plan to outline the Group's position on the occasion of the Intergovernmental Conference (IGC) that was held in 1996 in order to review the Maastricht Treaty. In this draft he exposed the key changes necessary to make the EU progress towards a federal supranational democracy: full co-decision power on institutional reforms of the EP to be submitted to member states for ratification; abolition of veto power; flexible and differentiated integration of the new Eastern former communist countries. A Green Europe was necessary to carry out an ecological and social conversion, setting sustainability and social justice as the main criteria for all EU policies, in order to strengthen a European social model ensuring transparency, democratisation at any level and adequate protection of both citizens' and residents' rights. Such a Europe should necessarily be federal and based on democratic control of the European Monetary Union (EMU) as well as on common ecological, economic, foreign and security policies, to be implemented by majority vote at a European level and aimed at both the defence of international law and preventing conflicts by disarmament and progressive demilitarisation.[43]

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40   Langer, 'Ethnicity and co-existence in the East Mediterranean', 20.

41   A. Langer, 'L'Unione Europea bussa alle porte. Davvero a Maastricht si può dire solo sì?', *Azione Nonviolenta* **12** (1992): 4–7, at 6.

42   Langer committed suicide on 3 July 1995.

43   Langer 'Draft proposal for the political position of the Green Group in the EP at the Intergovernmental Conference in 1996', April 1995, in A. Langer, *The Importance of Mediators, Bridge Builders, Wall Vaulters and Frontier Crossers* (Bolzano/Forlì: Alexander Langer Foundation/Una Città, 2005), pp. 203–227; on Langer, see G. Grimaldi, 'Alexander Langer: speranze e proposte per un'Europa federale', *I Temi* **26** (2001): 9–40; G. Grimaldi, 'Alexander Langer "costruttore di ponti" tra i popoli', in C. Malandrino (ed.), *Un popolo per l'Europa unita. Fra dibattito storico e nuove prospettive teoriche e politiche* (Florence: Olschki, 2004), pp. 193–212; Alexander Langer Foundation: http://www.alexanderlanger.org (accessed 15 May 2020).

From the European turning point to the challenges of today: A green European future?

Although in the second GGEP (1994–1999) Euroscepticism increased again, due to the entry of Green MEPs from Austria, Finland and Sweden,[44] it lasted only until the Austrian and Finnish Greens adopted more pro-Europeanist stances. Both the Swedish Greens, led by their Eurosceptical founder Per Gahrton, and the Irish Greens opposed the EU, questioning especially the Common Foreign and Security Policy (CFSP) and the EMU. Ultimately, in the GGEP there was an 'agreement to disagree' on institutional issues, since it was impossible to reconcile opposing views on the European integration.[45]

In May 1998, the EP met in extraordinary session to deliver its final judgement on the EMU as well as the introduction of the single currency in eleven out of fifteen member countries, and the majority of the GGEP voted in favour of the Euro. However, there was one 'no' vote by Carlo Ripa Di Meana, a former European Commissioner for the Environment (1983–1993) and also spokesperson of the Italian Greens (1993–1996), who shortly after left the GGEP.

In 1999, the German economist Michaele Schreyer was the first Green to join the European Commission led by Romano Prodi (1999–2004) as a Commissioner responsible for Budget, Financial Control and the Fight against Fraud.

After the 1999 EP elections,[46] a co-operation between ecologists and progressive regionalists led to the creation of the G/EFA Group,[47] still active – indeed it was reconstituted in 2004,[48] 2009[49] and 2014,[50] – and based upon a common vision of a federal Europe of peoples and regions.

44   J. Burchell, 'No to the European Union: Miliöpartiet's success in the 1995 European Parliament elections in Sweden', *Environmental Politics* **5** (2) (1996): 332–38.

45   E. Bomberg, *Green Parties and Politics in the European Union* (London, New York: Routledge, 1998), pp. 119–120.

46   F. Müller-Rommel, 'Les écologistes: de l'anonymat au succès électoral', in G. Grunberg, Pascal Perrineau and Colette Ysmal (eds), *Le vote des quinze. Les élections européennes du 13 juin 1999* (Paris: Presses de Sciences Po, 2000), pp. 163–180.

47   On the EFA, see the official website: http://e-f-a.org/home/ (accessed 15 May 2020).

48   Carter, 'Mixed fortunes: The Greens in the 2004 European Parliament election'.

49   N. Carter, 'The Greens in the 2009 European Parliament election', *Environmental Politics* **19** (2) (2010): 295–302.

50   On the current G/EFA Group in the EP, see the official website: http://www.greens-efa.org/ (accessed 15 May 2020); on its organisation and cohesion, see N. Brack and C. Kelbel, 'The

The former 1968 student leader and prominent French-German MEP Daniel Cohn-Bendit – he was elected twice in the ranks of the German Greens (1994 and 2004) and twice in those of the French ecologists[51] – and Joschka Fischer (Foreign Minister of Germany between 1998 and 2005 as well as the undisputed leader of the German Greens),[52] were among the staunchest supporters of a federal Europe.[53]

Since the 2000s, after a long and complex path, the EGP has certainly become a stable political party, positively oriented towards a federal development of the EU. Yet, the Greens' impact on both national and European politics is still limited, even though, since the mid-1990s, some Green parties have entered national European governments either inside centre-left alliances or within broader and heterogeneous coalitions. In a nutshell, there is still too great a gap between the need for a European ecological renewal and the Greens' capacity to obtain larger consensus and representation on the political arena.[54]

Greens in the European Parliament. Evolution and cohesion', in van Haute (ed.), *Green Parties in Europe*, pp. 217–237.

51   Cohn-Bendit proved to be a charismatic, just like Monica Frassoni, the 2009–19 co-president of the EGP (https://europeangreens.eu/, accessed 15 May 2020), and former co-chair of the G/EFA Group in the EP (2002–2009), previously engaged in the European Federalist Movement.

52   In his Berlin speech *Quo Vadis Europe?* at Humboldt University (May 2000), Fischer proposed the vision of a European federal state based on a democratic Constitution and on a political 'centre of gravity' (i.e. a core group of nation states) provided with full both executive and legislative powers; see J. Fischer, 'From confederacy to federation. Thoughts on the finality of European integration', Speech by Joschka Fischer at the Humboldt University in Berlin, 12 May 2000, http://ec.europa.eu/dorie/fileDownload.do?docId=192161&cardId=192161 (accessed 15 May 2020).

53   On Green contribution inside the European Convention on the Future of Europe (2002–2003), see G. Grimaldi, 'I Verdi e la Convenzione europea', in A. Landuyt and D. Pasquinucci (eds), *L'Unione europea tra Costituzione e governance* (Bari: Cacucci, 2004), pp. 299–334. In January 2005, 80% of the G/EFA Group voted 'Yes' to the European Constitution Draft approved by the EP by a large majority. Shortly after, an extraordinary EGP Council Meeting in Brussels (February 2005) voted in favour of the Treaty establishing a Constitution for Europe: only four Green parties out of 32 voted 'no' (the Swedish, Danish, Norwegian and Greek Greens); see European Green Party (EGP), 'Adopted Resolution of the European Green Party on the EU Constitutional Treaty' (EGP Extraordinary Council Meeting, Brussels, February 17th, 2005), http://www.heide-ruehle.de/heide/artikel/298/doc/reso_verfassung_european_greens.pdf (accessed 15 May 2020). At the EGP Second Congress in Geneva (Oct. 2006), the Joint Declaration 'A Green Future for Europe' was approved; EGP, 'Joint Declaration "A Green Future for Europe"' (2006).

54   W. Rüdig, 'The Greens in the 2014 European elections', *Environmental Politics* **24** (1) (2015): 56–162; W. Rüdig, 'Green parties and elections to the European Parliament, 1979–2019', in L. Ward (ed.), *Greens for a Better Europe. Twenty Years of UK Green Influence in the European Parliament, 1999–2019* (London: London Publishing Partnership, 2019), pp. 3–48.

CHAPTER 11.

A TOUCH OF GREEN AMID THE GREY. EUROPE DURING THE FORMATIVE PHASE OF THE GERMAN GREENS FROM THE 1970s TO THE 1980s: BETWEEN REJECTION AND REFORMULATION

Silke Mende

'We are fighting for the cohesion of Europe': that was the slogan used by the German Green Party for its platform positions on 'Europe' during the 2017 electoral campaign. We are informed that this entails 'continuing the path of European integration', including during difficult periods, because:

> Only together can we solve the problems that transcend borders, first and foremost the climate crisis and terrorism, but also tax evasion and unemployment. Only together can we make globalisation more equitable, create a modern ecological economy, and ensure peace. That is why we want to make the European Union more social, ecological and democratic.[1]

This comes across as contradictory, given the history of their relation to the European project. On the one hand, from their very beginnings the Greens have consistently called for renewed emphasis on direct democracy as part of a 'Europe from below', and they have also emphasised the transnational dimension of subjects such as the environment and peace. On the other hand, the Green Party's perspective on Europe has changed profoundly over the past four decades: during the formative phase of the 1970s and 1980s, they could hardly expect that one day their supporters would be the most fervent advocates of the European project. On the contrary, there were sceptical voices that were critical of its 'costly, disorderly, and confusing bureaucracy'.[2]

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1 'Nur zusammen können wir grenzüberschreitende Probleme lösen, allen voran die Klimakrise und den Terrorismus, aber auch Steuervermeidung und Arbeitslosigkeit. Nur zusammen können wir Globalisierung gerecht machen, eine ökologisch moderne Wirtschaft schaffen und Frieden sichern. Deshalb wollen wir die Europäische Union sozialer, umweltbewusster und demokratischer machen'. Bundestagswahl 2017, Grüne Argumente von A bis Z, p. 39, https://www.gruene.de/programm-2017/a-bis-z/wir-kaempfen-um-europas-zusammenhalt.html (accessed 10 Oct. 2017).

2 Bundesvorstand der Grünen (ed.), *Global denken – vor Ort handeln! Erklärung der Grünen zur Europawahl am 17. Juni 1984* (Cologne: Farbo-Team, 1984), p. 6: 'eine aufgeblähte, kostspielige und unüberschaubare Bürokratie'.

Silke Mende

It is not possible in this article to retrace the complete path that transformed the Greens from Eurosceptic to Euroeuphoric; the objective is instead to consider their initial phase, which is to say the formative period of the German Greens during the 1970s and 1980s. The 'European public sphere' – a central concept of this collection – will play a dual role.[3] I will first underscore the influence of international, transnational and European elements in the process of founding the Greens. I will then sketch out their different positions with respect to Europe: what were their viewpoints regarding European institutions in Brussels and Strasbourg? What were their own utopias for another Europe, for an alternative 'European public sphere'?

The creation of the Greens within a 'European public sphere': The impact of international and transnational elements

Today the German Greens, *Die Grünen*, are seen as a model ecological party, a high-performance prototype.[4] Many of their central goals – such as the famous drive to abandon nuclear technology – have become part of Germany's political agenda, and the Greens have participated in government as members of various coalitions: on the federal level with Gerhard Schröder's Social Democrats starting in 1998, and, as is currently the case in Baden-Württemberg, with the Social Democrats and later the Christian Democrats. However, in spite of this undeniable success, they are far from being the historic pioneers of ecological parties, as the first one was created not in Europe but Australia, while the first European Green party was founded in January 1973 in Great Britain. This ecological party, which was named *People* and chiefly included famous defenders of nature, was more on the conservative side of the political spectrum, and had little relation to new social movements. With regard to elections, the first acclaimed success with a major cross-border impact took place not in Germany but France, when René Dumont, the ecologist presidential candidate, garnered 1.3 per

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3   For the concept of a 'European public sphere', see especially Jan-Henrik Meyer, *The European Public Sphere. Media and Transnational Communication in European Integration 1969–1991* (Stuttgart: Steiner, 2010); and Robert Frank, Hartmut Kaelble, Marie Françoise Lévy and Luisa Passerini (eds), *Building a European Public Sphere. From the 1950s to the Present. / Un espace public européen en construction. Des années 1950 à nos jours* (Brussels/Bern: Peter Lang, 2010).

4   This is also seemingly the case for the environmental history of Germany in general, at least at first sight. See Frank Uekötter, *The Greenest Nation? A New History of German Environmentalism* (Cambridge: MIT Press, 2014).

cent of the vote in 1974.[5] Three years later, it was once again France that provided impetus for the creation of Green parties across Europe, as Green candidates found renewed success in the regional elections of March 1977, a development that was observed with great interest by future German Greens such as Joschka Fischer.[6] Transnational and mutual perceptions subsequently played a significant role in the formative phase of the first Greens.

Nevertheless, it was the German Greens who would soon be elected to parliaments, and who achieved relatively consistent electoral success from that point forward: the Greens of Bremen were the first to serve in the parliament of a German Land, followed by those from Baden-Württemberg in 1980.[7] This was only a prelude to other electoral successes at various levels of the political system. Finally, in 1983, the Greens joined the Bundestag, which profoundly changed the political spectrum in the FRG, as a fourth actor was able to enduringly establish itself within the parliamentary system. The success of the Greens in the Federal Republic was due in large part to a political system whose proportional voting makes it fairly accessible to new political parties, unlike in France for instance.

Yet aside from the similarities and differences in the formation of the Greens in the FRG, as compared to other countries in Europe and across the globe, the German Greens had deep roots in the 'European public sphere' that was developing at the same time. To begin with, the first Greens, along with the sociocultural world from which they came, were part of a larger series of movements and circles that were transnational and European in nature. These were for the most part social movements that engaged with transnational problems, and pursued a fairly international agenda, as nuclear clouds do not stop at borders, and the arms race could not be checked by a single nation state acting alone. The contributions in this collection show the highly transnational character of many protest movements, in addition to a genuine internationalisation of the protest sites themselves. For instance the *Dreyeckland* – the famous regional triangle between Germany, France, and Switzerland characterised by major antinuclear protests – along with Larzac

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5   For the French situation, see Alexis Vrignon, *La naissance de l'écologie politique en France. Une nébuleuse au cœur des années 68* (Rennes: PUR, 2017). For representations of 'Europe' among the ranks of the French Greens, see especially Vrignon, pp. 252–255.

6   See Joschka Fischer, 'Warum eigentlich nicht?', in Fischer, *Von grüner Kraft und Herrlichkeit, Reinbek bei* (Hamburg: Rowohlt, 1984), pp. 88–98, here p. 89.

7   For the history of the first Greens in the FRG and their origins, see Silke Mende, *'Nicht rechts, nicht links, sondern vorn'. Eine Geschichte der Gründungsgrünen* (Munich: Oldenbourg, 2011).

in south-west France, deeply impacted the formation of the future German Greens, and created a genuine transnational and even European spirit, although 'European' often meant 'French-German'.[8] One could thus argue that the alternative 'European public sphere' so dear to the first Greens had its roots in the larger context of new social movements and alternative circles. An undated paper drafted by the 'Young European Federalists' explains:

> The citizen's initiatives are a reaction to the inertness of the state apparatus and major organisations. This development is present in all states within the European Community. In border areas in particular, citizen's initiatives represent a movement that is transnational in its awareness. Given that environmental protection and radioactivity do not adhere to borders, various international committees have been formed … Ten thousand Dutchmen in the Kalkar marketplace, and as many Alsatians at the Wyhl construction site, have raised European awareness more than the traditional attempts of mainstream European education.[9]

The example of the 'Young European Federalists', a transnational pro-European network of young activists, brings us to a handful of influential protagonists in the German ecological movement, whose personal backgrounds were international and European: among the first Greens, this notably includes Petra Kelly and Roland Vogt. Kelly, who was from Bavaria, grew up and studied in the United States, and later at the University of Amsterdam's Institute of Europe, where she intensely delved into European politics.[10] In 1972 she began to work for the European Commission in Brussels as part of the European Economic and Social Committee, which also addressed environmental questions. Like Roland Vogt, she was an important member of the 'Young European Federalists', a youth organisation advocating for Europe,

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8   See Andrew Tompkins, *Better Active than Radioactive. Anti-Nuclear Protest in 1970s France and West Germany* (Oxford: Oxford University Press, 2016), here pp. 80–82; and Stephen Milder, *The Anti-Nuclear Movement and Political Environmentalism in West Germany and Beyond, 1968–1983* (Cambridge/New York: Cambridge University Press, 2017).

9   Loseblattsammlung der JEF, p. VI/9f. (Petra-Kelly-Archiv [PKA], Nr.: 3115): 'Die Bürgerinitiativen sind damit eine Reaktion auf die Unbeweglichkeit des Staatsapparates und der großen Organisationen. Diese Entwicklung ist in allen Staaten der Europäischen Gemeinschaft zu verzeichnen. Die Bürgerinitiativen stellen besonders in Grenzregionen eine Bewegung mit transnationalem Bewusstsein dar. In der Erkenntnis, daß Umweltschutz und vor allem Radioaktivität keine Grenzen kennen, haben sich verschiedene internationale Komitees gebildet … 10.000 Holländer auf dem Marktplatz von Kalkar und entsprechend viele Elsässer auf dem Bauplatz von Wyhl haben mehr europäisches Bewusstsein hervorgebracht als die traditionellen Versuche europäischer Bildungsarbeit'.

10   For Petra Kelly's biography, see Saskia Richter, *Die Aktivistin. Das Leben der Petra Kelly* (Munich: DVA, 2010). For her engagement with Europe, see the detailed article by Robert Camp, '"Für ein Europa der Regionen. Für eine ökologische europäische Gemeinschaft". Über die Europapolitikerin Petra Kelly', in *Die Grünen in Europa. Ein Handbuch*, published by the Heinrich Böll Foundation (Münster: 2004), pp. 12–29.

with branches in various European countries. As to Vogt, he also coordinated cooperation between ecological and radical-democratic parties in Strasbourg. He emphasised the importance of Europe as a factor in his political biography, as part of his candidacy for the leadership position of the Green party (*Bundesvorstand*) in 1981. Vogt spoke of his own experiences in Larzac in 1974, which led to a research project with the weighty title of *'Möglichkeiten gewaltfreien Systemwandels in Westeuropa unter besonderer Berücksichtigung der zunehmenden Staatsqualität der Europäischen Gemeinschaft'* ('The Possibilities for a Peaceful Transformation of System in Western Europe in Light of the Increasingly State-like Nature of the European Community'). This project, Vogt explained, led him to Wyhl, where he ultimately became an antinuclear activist. He undertook initiatives and actions in Wyhl itself, but also in Kaiseraugst (Switzerland), Brokdorf, Malville (France), Kalkar and Gorleben.[11]

In addition to the influence of these networks, which were based on ecological movements, there were more restricted discussion circles of a more elitist character. One of the most influential was ECOROPA, founded in 1976. This European organisation brought together a large number of representatives from different European ecological movements, often including fairly eminent actors. In addition to protest activities, this group sought to address ecological challenges in a more theoretical fashion. The German participants in its discussions included the famous Bavarian novelist Carl Amery, who had left the SPD a few years earlier.[12] They were joined by other social democrats who were more from the left wing of the party, and who also took an interest in ecological questions, such as Freimut Duve and Johano Strasser. There were also futurologists such as Ossip K. Flechtheim or Robert Jungk. A few representatives from other countries also participated, at least temporarily, such as the conservative British ecologist Edward Goldsmith, Italian Aurelio Peccei from the *Club of Rome*, Paul Blau and Freda Meissner-Blau from Austria, and the French ecologists Brice Lalonde and Solange Fernex. Finally, they were joined by the Swiss writer and philosopher Denis de Rougemont, who coined the famous phrase a 'Europe of the regions'.

The idea to participate in the first direct elections for the European Parliament in 1979 emerged quickly within this group. In June 1976, Carl Amery recounted a meeting that had taken place in France:

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11   Kandidatenvorstellung Roland Vogt (PKA, Nr.: 2487).

12   See Silke Mende, 'Auf der Suche nach der verlorenen Orientierung – Carl Amery: Ein grüner Bewegungsintellektueller zwischen konservativer Bewahrung und progressiver Veränderung', *Revue d'Allemagne et des pays de langue allemande* **46** (2014): 365–379.

> The shared opinion was that we should leave behind our respective shells, that it was not a Europe of the fatherlands (*Vaterländer*), but a Europe of small countries (*Heimaträume*). We even wondered whether the elections for the European Parliament were not an ideal opportunity to present such a vision of Europe as part of an independent list.[13]

This idea became a reality three years later, when a German ecological list named *'SVP – Sonstige Politische Vereinigung Die Grünen'* ran alongside ecological or alternative lists from four other European countries during the first direct elections for the European Parliament,[14] garnering nearly 900,000 votes. Particular legal conditions allowed for the candidacy not just of parties but also of 'simple' lists, which were not even organised as parties. The first direct elections for the European Parliament thus opened an extraordinary 'window of opportunity' for all those who were still sceptical about forming actual parties with an entire organisational 'apparatus' – an oft-criticised characteristic of 'classical' parties. The elections were also an attempt to focus the different ideological and organisational forces of the new social movements – although many groups on the left preferred to remain on the sidelines.

Although the German list, with 3.2 per cent of the vote, was ultimately unable to join the European Parliament due to the five per cent clause, this was nevertheless a remarkable success. The list received a significant reimbursement for its electoral campaign, which it used to establish the organisation for the future party in the FRG. The French list, 'Europe Ecologie', also won nearly 900,000 votes, or 4.4 per cent. Even though no Green candidate joined the Parliament in Strasbourg, these commendable results motivated ecological movements to form parties and present candidates during elections. The first direct elections for the European Parliament also provided an opportunity to form the first organisational group on the European level, which included six Green-alternative parties: the German Greens were joined by the Green-Alternatives from Belgium, France, Great Britain, Italy and the Netherlands,

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13   'Die allgemeine Ansicht war, daß wir aus unseren jeweiligen regionalen Schneckenhäusern heraus müssen, daß es nicht um ein Europa der Vaterländer, sondern der Heimaträume geht. Ja, man überlegt sich schon, ob nicht möglicherweise bevorstehende europäische Parlamentswahlen der ideale Anlaß sein könnten, ein solches Europa auf einer unabhängigen Liste der Öffentlichkeit anzubieten'. Carl Amery to Bund Naturschutz in Bayern e. V., z. Hd. Herrn [Hubert] Weinzierl, 1 June 1976, p. 1 (Monacensia: NL Carl Amery, Mappe: Verlage an Amery: Ökologie). Weinzierl was the chairman of 'Bund Naturschutz Bayern'.

14   These were the Green-alternatives from Belgium, France, Great Britain and Luxembourg. See Ferdinand Müller-Rommel, 'Green parties and alternative lists under cross-national perspective', in Müller-Rommel (ed.), *New Politics in Western Europe. The Rise and Success of Green Parties and Alternative Lists* (Boulder: Westview Press, 1989), pp. 5–19.

who took part in *P.E.A.C.E.* A 'European bureau' was opened in Strasbourg, and served as a nerve centre in providing the European Parliament with ecological positions through extra-parliamentary work.[15]

In the eyes of many actors, Europe was not just an opportunity and source of motivation, but also a true need. For instance, in 1978 Petra Kelly noted:

> The upcoming European elections in 1979 are vitally important for the entire alternative movement – we must act transnationally and demonstrate that we need a balance based on confidence and not terror, that we need cooperation and not confrontation.[16]

This observation – along with the others cited earlier – has underscored some of the representations of Europe that marked the thought of the first Greens. In the second part of this essay, I will expand this subject by sketching out the Green Party's positions with respect to institutional Europe, and present some of their ideas for an 'alternative Europe'.

The Greens and Europe: Between reality and imagination

In the first part of this essay, I emphasised the influence of transnational experiences and genuinely European biographies, such as those of Roland Vogt and Petra Kelly. The latter is of special interest, for as someone who collaborated with the European Commission, she ended up being in the 'lion's den', so to speak. Since she was also a key figure at the intersection between different groups and networks of new social movements, her personal accounts have had a strong influence on the opinions of other members from alternative circles.[17] For instance, when she spoke about 'this crazy masculine bureaucracy',[18] or about her personal experiences in what for her was the 'soulless routine' of the European Commission's daily life,[19] she also shaped

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15 Camp, 'Für ein Europa der Regionen', p. 20.

16 Petra Kelly, 'Die Zukunft gehört der Güte', in *Frauen zum Lebensschutz. Vorträge auf dem in Troisdorf durchgeführten Deutschen Umwelttreffen 1978* (PKA, Nr.: 2940), pp. 13–16, here p. 16: 'Die kommenden Direkt-Wahlen zum Europäischen Parlament im Jahre 1979 sind für uns in der Gesamtalternativbewegung lebenswichtig – wir müssen transnational handeln und demonstrieren, daß wir ein Gleichgewicht des Vertrauens, nicht des Schreckens, daß wir Zusammenarbeit und nicht Konfrontation brauchen'.

17 For this and the following, see Camp, 'Für ein Europa der Regionen'.

18 Petra Kelly to August Haußleiter (und weitere Vorstandsmitglieder), 13 Nov. 1979 (PKA, Nr.: 950), p. 1: 'Ich habe seit 1972 diese irre Männerbürokratie in Brüssel durchhalten müssen und wollte nicht mit gesenktem Kopf dieses Pflaster hier verlassen'.

19 Petra Kelly to Manfred Quickert, 15 Mar. 1981 (PKA, Nr.: 2310), p. 1: 'und ich sitze nach einem seelenlosen EG Alltag (mit Asbeststudien, Stellungnahmen zu Mikrowellen, zu Behinderten in

the image that other Greens had of Europe, and vice versa. There are also elements of similar discourses in the communications of the Green list for the 1979 elections, which assert: 'Brussels and Luxembourg should not be a retirement or annuity for discarded functionaries'.[20] The Greens began speaking in 1979 of the need for a 'radical transformation of the European Community'.[21] Such a discourse, which was not necessarily anti-European, but instead emphasised a different conception of Europe, was also evoked by new social movements in both the FRG and France.[22]

This representation of an institutionalised Europe – negative in the eyes of most, and henceforth marked by classic stereotypes – prompted fairly different reactions to the question of how to engage with this Brussels-based Europe. As we saw earlier, criticism of Europe as it existed was a central motivation in running for elections, in an effort to 'take part in organising a future Europe in keeping with our own ideas'.[23] However, one's vision of Europe as it existed could also provoke the opposite effect, for many groups from the extra-parliamentary left did not intend to run for office in 1979, as they criticised the European Parliament's lack of competence,[24] or objected to traditionally institutional Europe. To cite Thomas Ebermann, an influential member of the Hamburg-based communist group *Kommunistischer Bund (KB)*:

> We had good reasons, based on the common sense of the left, to not pay much attention to these elections. What did we have to do with Europe? No election was as banal or unimportant as this one, or further reinforced the idea of a European superpower … At the time we ignored the European elections less out of a grandiose political and strategic calculation, than out of a habit of not taking interest in them.[25]

Europa usw.) wieder um 1 Uhr morgens vor meinem Schreibtisch und tippe in die tiefe Nacht hinein … '

20   Mitteilungsblatt der 'Sonstigen Politischen Vereinigung' (Achberger Kreis, AUD, FIU, GAZ, GLU, GLSH und BIs) zu den Europawahlen am 10. Juni 1979 (PKA, Nr.: 2476): 'Brüssel und Luxemburg dürfen nicht zum Altenteil für abgehalfterte Altfunktionäre werden'.

21   Die Grünen – Alternative für Europa, Was wir wollen… Einige Programmaussagen, p. 1: 'DIE GRÜNEN fordern daher einen radikalen Wandel der Europäischen Gemeinschaft …'.

22   See Tompkins, *Better Active*, p. 81.

23   Tätigkeitsbericht des Vorstands des Bundesverbandes Bürgerinitiativen Umweltschutz e. V. (BBU) für die Zeit vom 20.11.1976 bis zum 26.11.1977, p. 8 (Archiv BBU), p. 10: Ausgestaltung eines Europa der Zukunft im Sinne unseres Gedankengutes mitzuwirken'.

24   Manfred Zieran, 'Für die Spaltung', *Pflasterstrand* **94** (1980): 18–20, here 18.

25   Thomas Ebermann, 'Ich und meine Freunde sind bei den GRÜNEN gescheitert', in Michael Schroeren (ed.), *Die Grünen. 10 bewegte Jahre* (Vienna, 1990), pp. 213–221, here p. 215: 'Wir hatten ein gesundes und gutes linkes Motiv, diese Wahl nicht sonderlich zu beachten. Was interessiert uns Europa? Keine Wahl ist banaler, unwichtiger und fördert deutlicher den ideologischen Gedanken an eine Supermacht Europa … Wir haben damals die Europawahl weniger

A Touch of Green Amid the Grey

Yet what visions did these other Greens, who already took a certain interest in Europe, have for an ecological and alternative Europe? First, they were deeply marked by the perception of different crises that was so characteristic of the first Greens. Beyond the ecological crisis, it was the question of pacifism that fuelled different visions of Europe. At the turn of the 1980s in particular, many Greens imagined a Europe united on both sides of the Iron Curtain. The German ecological movement was not alone in speaking regularly about a 'neutral, non-aligned Europe without nuclear weapons',[26] stretching from 'the Atlantic to the Urals',[27] or at a minimum from 'Poland to Portugal', according to the famous phrase.

The same keywords were present, which at the time were fairly hazy and lacking in detail. This was true of a 'pacifist Europe of the regions', which was presented as an 'alternative to the European Community of bureaucrats, bombs, and mountains of butter'.[28] Behind this 'Europe of the regions' were recommendations for historic and self-determined – albeit interconnected – units. Among the more concrete demands, the idea of strengthening the weight of the European Parliament in relation to other institutions regularly appeared.[29] Already in the early 1970s, in the context of her own research for the Institute of Europe, Petra Kelly regretted an 'insidious de-democratisation'[30] of institutional Europe – a point that would be part of Green discourse on Europe in the ensuing years. The Commission and Council of Ministers, one read in 1984, 'have played into the hands of the destructive powers of industrial society'.[31]

In broad terms, one could say that the classic ideas of the ecological movement – such as 'decentralisation', 'self-determination', or 'thinking and acting

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aus einem großartigen politischen und strategischen Kalkül heraus ignoriert, sondern weil wir gewohnt waren, uns nicht dafür zu interessieren'.

26 Die Grünen Baden-Württemberg, Gegen den Rüstungswahn – für eine Politik des Friedens [1981] (PKA, Nr.: 2487), p. 2: 'Für ein atomwaffenfreies, neutrales und blockfreies Europa'.

27 Broschüre der AL Berlin, Paktfreiheit für beide deutsche Staaten, Atomwaffenfreies Europa vom Atlantik zum Ural, Einheit für Deutschland [1981] [PKA, Nr.: 74 (1)].

28 Bundesvorstand der Grünen (ed.), *Global denken*, p. 38: 'Die Alternative zur EG der Bürokraten, Bomben und Butterberge ist ein friedliches Europa der Regionen'.

29 For instance, the platform for the 1979 European elections: 'Die Grünen, Alternative für Europa', [1979], e.g. p. 10.

30 Petra Kelly, cited in Camp, 'Für ein Europa der Regionen', p. 13: 'schleichende Entdemokratisierung'.

31 Bundesvorstand der Grünen (ed.), *Global denken*, p. 6: 'Die EG-Kommission und der Ministerrat haben den zerstörerischen Kräften der Industriegesellschaft Vorschub geleistet'.

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from below' – were transposed onto the European scale: the same topics appear when we explore the Green's vision of their own party organisation, or when they spoke of the FRG's parliamentary system. It is worth noting that the four pillars of the German Greens' platform were mentioned for the first time in their European manifesto for 1979. It begins thus:

> The new European policy should be an overall policy guided by long-term future considerations, and should include four dimensions: it must be ecological, social, and should embody basic democracy as well as be non-violent, for Europe is threatened today by an ecological and economic crisis, military catastrophe, and permanent degradation of both democracy and fundamental rights.[32]

This final example once again clearly demonstrates that the perception of crises and criticism of the European *status quo* went hand in hand with outlines for an alternative Europe – however hazy it may have been at the time.

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I would like to end by drawing three conclusions. First, Europe was not central to the political discussions of the German Greens during their formative phase, although transnational experiences deeply marked the perception of many of them. The impact of this international element proved even more important for a handful of influential protagonists who greatly contributed to the creation of a Green 'European public sphere'. This has had a certain importance in the organisation and cooperation of future Green and alternative parties on the European scale. Second, the first direct elections to the European Parliament in 1979 played a major role. These elections were not just an important 'window of opportunity', but also a demonstration that participating in parliament could create opportunities to formulate demands, some of which have been heard today. Third, with respect to the more concrete visions of Europe held by Greens, fairly classic topics and vague concepts were dominant, at least initially. However, this characteristic is not specific to the history of the first Greens in Europe or elsewhere, as it appears to be a common characteristic of all formative periods for new political parties.

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32   'Die neue Europapolitik muß eine Gesamtpolitik sein, die von langfristigen Zukunftsaspekten geleitet wird und vier Dimensionen umfaßt: Sie muß ökologisch, sozial, basisdemokratisch und gewaltfrei orientiert sein; denn Europa ist heute bedroht durch die ökologische und ökonomische Krise, durch eine militärische Katastrophe und durch einen ständigen Abbau der Demokratie und der Grundrechte'. 'Die Grünen, Alternative für Europa', p. 1.

CHAPTER 12.

ENERGY AND THE ENVIRONMENT IN PARLIAMENTARY DEBATES IN THE FEDERAL REPUBLIC OF GERMANY, UNITED KINGDOM AND FRANCE FROM THE 1970s TO THE 1990s

Eva Oberloskamp

This contribution will explore the evolution of German, English and French parliamentary discourses regarding the connection between energy and the environment during the final three decades of the twentieth century. The central objective is to identify the historical roots of the discourse on the *energy transition* in Europe's 'big three', as they were expressed in parliamentary debates. The analysis will use a comparative perspective to retrace similarities and differences in the discursive structures of parliamentary debates. The central argument of my contribution is that the similarities between the three cases studied are largely insufficient to demonstrate the emergence of a European discursive space on the parliamentary level. The influence of political ecology on parliamentary debates varied considerably from one country to the other.

Parliament has a complex position with respect to the public sphere. Generally, within a democratic system, parliaments contribute to the formation of the public sphere, although they are also subject to numerous influences emanating from the extra-parliamentary space. While parliamentary debates do not reflect all facets of public opinion in identical fashion, they are nonetheless a place of crystallisation, where various points of view in society are expressed in condensed form. We should nevertheless keep in mind that the permeability of the parliamentary sphere to the concerns of the extra-parliamentary public varies according to the structural specificities of each country. With regard to the discursive connection between energy and the environment, it is important to examine the extent to which the environmental[1] and anti-nuclear move-

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1 In accordance with the dominant terminology used in the Anglophone literature on the subject, the term 'environmental movement' will be used hereinafter, despite the fact that it diverges from the terminology of the source language: in all three of the countries studied, relevant sections of social movements intentionally differentiated themselves by considering themselves to be 'ecological movements'.

ments succeeded in being heard by members of parliament. Furthermore, the intensity of the external influences directed toward parliaments varies according to their respective position in each country's political system.

Two developments arose during the 1970s that called into question the energy policies pursued during the *Trente Glorieuses*. First, in many countries the '*ecological turning point*' that occurred around the year 1970 politicised the link between energy and the environment. Second, growing awareness that fossil fuel resources were limited prompted concerns about energy security. The three countries analysed here had different starting points and forms of energy dependence: the Federal Republic of Germany (FRG) had major coal deposits, but imported oil and gas on a large scale, with commercial use of nuclear technology still in its initial stage; the United Kingdom (UK) had considerable coal deposits, had just launched the extraction of petroleum and gas in the North Sea and, during the 1950s, had already put into service nuclear power plants for electricity production, with the sector expanding substantially in the ensuing decade; France had modest deposits of fossil fuels, was dependent on oil imports, and connected its first atomic power station to the grid in 1959, with its nuclear programme subsequently being developed further. Despite these differences, the reactions to the oil crises of the 1970s were similar: development of nuclear energy, energy conservation, emphasis on domestic resources and research programmes in the field of renewable energy.

The body of sources studied mainly includes the plenary session debates of the Bundestag, the House of Commons and the Assemblée nationale. The parliamentary documents were examined using keywords established for each national context, which can be grouped in the following four semantic fields: *energy and air pollution*, *nuclear energy and the environment*, *energy transition,* and *energy, environment, and market forces*. For each of these fields, a qualitative analysis was conducted of central debates selected by way of example.

The chapter will, for each national case, emphasise the evolution of parliamentary discourse, and a series of contextual factors that influenced them. The conclusion will offer a comparative synthesis.

The Federal Republic of Germany

During the 1970s, the subject of air pollution was highly present in West German parliamentary debates. Its importance can be explained by the social liberal government's efforts to promote legislation protecting against

pollution.[2] Some debates focused on nuclear energy, but without making it a fundamental question. Only within a minority of the Social Democratic Party did a certain opposition to nuclear power gradually emerge in the late 1970s.[3] The initial drive for considering radical arguments against this energy source came from a hearing of experts organised in 1974,[4] and particularly from the Bundestag's 'Zukünftige Kernenergie-Politik' [Future Nuclear Energy Policy] Enquete Commission, which sat from 1979 to 1983.[5] Renewable energy was initially grasped mostly as an alternative to fossil energy, with the term 'renewable energy' becoming established only in the 1980s.

During the 1980s, all of the parties represented in the federal parliament developed their own thinking on the environment. Multiple reports from the Sachverständigenrat für Umweltfragen [German Advisory Council on the Environment],[6] along with a series of major debates, raised awareness regarding problems of air pollution.[7] At the same time, the German Greens joining the Bundestag in 1983[8] substantially widened the range of arguments regarding nuclear energy, which was fundamentally challenged by the new party. The social democrats gradually developed their own environmental and anti-nuclear conception, which sought to link environmental questions to economic policies and employment.[9] The debates that followed the

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2 See Bundestags-Plenarprotokoll (BT-PlPr. 7/74), 18.1.1974, pp. 4677–4691; BT-PlPr. 8/162, 22.6.1979, pp. 12899–12926.

3 See Gerhard Kiersch and Sabine von Oppeln, *Kernenergiekonflikt in Frankreich und Deutschland* (Berlin: Wissenschaftlicher Autoren-Verlag, 1983), pp. 43–48; Martin Tretbar-Endres, 'Die Kernenergiediskussion der SPD Schleswig-Holstein. Ein Beispiel innerparteilicher Willensbildung'. *Demokratische Geschichte* **8** (1993): 347–372.

4 Presse- und Informationszentrum des Deutschen Bundestages (ed.), *Das Risiko Kernenergie. Aus der öffentlichen Anhörung des Innenausschusses des Deutschen Bundestages am 2. und 3. Dezember 1974* (Bonn: 1975).

5 See Bundestags-Drucksache (BT-Drs.) 8/4341, 27.6.1980; BT-Drs. 9/2001, 27.9.1982; BT-Drs. 9/2438, 24.3.1983; Cornelia Altenburg, *Kernenergie und Politikberatung. Die Vermessung einer Kontroverse* (Wiesbaden: Verlag für Sozialwissenschaften, 2010).

6 BT-Drs. 9/872, 6.10.1981; BT-Drs. 10/113, 8.6.1983; BT-Drs. 11/1568, 21.12.1987.

7 See for example BT-PlPr. 10/22, 15.9.1983, pp. 1429–1535; BT-PlPr. 10/204, 13.3.1986, pp. 15692–15712; BT-PlPr. 11/131, 9.3.1989, pp. 9586–9658.

8 On the history of the party, see Silke Mende, *'Nicht rechts, nicht links, sondern vorn'. Eine Geschichte der Gründungsgrünen* (Munich: Oldenbourg Wissenschaftsverlag, 2011); Sebastian Bukow, 'The Green Party in Germany', in Emilie van Haute (ed.), *Green Parties in Europe* (London/New York: Routledge, 2016), pp. 112–139.

9 I would like to thank Felix Lieb, who is preparing a Ph.D. thesis on 'Sozialdemokratische Umwelt- und Energiepolitik 1975–1998', for his suggestions on this topic: https://www.ifz-muenchen.de/forschung/ea/forschung/sozialdemokratische-umwelt-und-energiepolitik-1975-1998/ (accessed 11 Feb. 2019).

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Chernobyl disaster in 1986 marked the height of this evolution.[10]

Beginning with the German Greens joining the Bundestag in 1983 and the Social Democrats becoming an opposition party, two competing conceptions formed within the parliament regarding the integration of environmental concerns in energy policy. On one side was the notion of a moderate technological adjustment to environmental requirements, defended by the Christian Democrats and Liberals. They fully acknowledged the existence of environmental challenges, but did not see a need for major changes. The objective of an energy supply compatible with environmental requirements was part of this conception, although emphasis was placed on goals of an economic nature.[11] On the other side were those who supported an *Energiewende* (energy transition), a concept initially defended by the German Greens, but that proved increasingly compatible with the programme of the Social Democrats. The primary concern of its supporters was to abandon nuclear power, with emphasis being placed on renewable energy and energy conservation. The central goal was environmental viability, which was seen as a prerequisite for profitability and long-term energy security. Furthermore, it added the goal of *social acceptability*, which included the idea of a decentralised energy supply organised in accordance with grassroots democracy.[12] It was defenders of *Energiewende* who demanded a liberalisation of energy markets, as they maintained that the current system had a distortion effect, subsequently preventing both greater energy conservation and the entry of renewable energy on the market.[13]

The basic pattern of two competing visions for energy policy within the Bundestag remained unchanged during the 1990s. The scenario of potential dangers connected to global warming gave renewed momentum to parliamentary debates.[14] The existence and gravity of the problem were hardly in doubt, regardless of any partisan interest.[15] Both international policy for

10   See the first major debate on the Chernobyl disaster: BT-PlPr. 10/215, 14.5.1986, pp. 16522–16574.

11   See for instance BT-PlPr. 10/94, 25.10.1984, pp. 6875–6907; BT-PlPr. 11/46, 3.12.1987, p. 3178; BT-Drs. 19/1773, 20.7.1984.

12   See for instance BT-PlPr. 10/94, 25.10.1984, pp. 6878–6881; BT-PlPr. 10/236, 3.10.1986, pp. 18266–18280; BT-PlPr. 11/16, 4.6.1987, p. 1015–1039.

13   See, for instance, BT-Drs. 8/4341, 27.6.1980, p. 75; BT-PlPr. 10/171, 7.11.1985, p. 12778f.

14   Initial impetus for this came from the report by the Sachverständigenrat für Umweltfragen, BT-Drs. 11/1568, 21.12.1987, p. 33.

15   See, for example, BT-PlPr. 12/152, 22.4.1993, pp. 13006–13026; BT-PlPr. 13/27, 16.12.1995, pp. 1860–1906; BT-PlPr. 13/166, 20.3.1997, pp. 14930–14959; BT-PlPr. 14/67, 5.11.1999, pp. 5985–6026.

preserving the climate and Enquete Commissions provided considerable impetus for the debates.[16]

Supporters of a moderate technological adjustment to environmental requirements placed greater emphasis on the need for nuclear energy,[17] although they henceforth had a more favourable view of renewable energy.[18] The latter's chance of accessing the market had improved with the Stromeinspeisungsgesetz (Electric Supply Act) of 1990, which ensured grid access and a guaranteed feed-in tariff for renewable energy. The rejection of nuclear power by supporters of *Energiewende* remained unquestioned.[19] The use of coal, however, was not seriously attacked. The *ökologische Steuerreform* (ecological tax reform) proposed by the German Greens and also by Social Democrats sought to create incentives for reducing the use of fossil fuels.[20] But at the same time, the Social Democrats continued to be indulgent toward coal, due to its economic and social significance, along with its importance for the party's very identity.[21] The German Greens, Social Democrats and, since 1990, the Party of Democratic Socialism/Die Linke, have continued to combine their efforts to exert strong pressure on the government. They submitted a string of questions and parliamentary motions to put forward their conceptions of *Energiewende*,[22] which finally began to be implemented with the Red-Green federal government in 1998.[23]

The evolution of the discourse in the Bundestag was deeply imbued with the exceptional force of the West German environmental and anti-nuclear movement.[24] The latter drew much of its dynamic from the fact that nuclear technology was criticised as essentially a totalitarian and immoral excess of

16   BT-Drs. 11/3246, 2.11.1988; BT-Drs. 11/7220, 24.5.1990; BT-Drs. 11/8030, 24.5.1990; BT-Drs. 12/8600, 31.10.1994.

17   See, for example, BT-PlPr. 13/101, 25.4.1996, pp. 8907–8908.

18   See, for example, BT-PlPr. 12/67, 12.12.1991, p. 5745; BT-PlPr. 12/226, 29.4.1994, p. 19546.

19   See, for example, BT-Drs. 13/4447, 24.4.1996, p. 1.

20   See, for example, BT-PlPr. 11/13, 21.5.1987, p. 769; BT-Drs. 12/1794, 11.12.1991.

21   See, for example, BT-PlPr. 12/179, 30.9.1993, pp. 15475–15477 and 15489–15491.

22   See Sonja Boehmer-Christiansen and Jim Skea, *Acid Politics. Environmental and Energy Policies in Britain and Germany* (London/New York: Belhaven Press, 1991), p. 198.

23   See Edgar Wolfrum, *Rot-Grün an der Macht. Deutschland 1998–2005* (Munich: C.H. Beck, 2013), pp. 214–269.

24   More recently, see Stephen Milder, *Greening Democracy. The Anti-Nuclear Movement and Political Environmentalism in West Germany and Beyond, 1968–1983* (Cambridge: Cambridge University Press, 2017); Andrew S. Tompkins, *Better Active than Radioactive! Anti-Nuclear Protest in 1970s France and West Germany* (Oxford: Oxford University Press, 2016).

modernity, with the history of the Holocaust being implicit.[25] In addition, the movement expanded significantly in scope because the political parties were initially reluctant to appropriate the criticisms made by activists,[26] who subsequently felt they were not represented in state policies,[27] resulting in the movement adopting a strong identity of fundamental opposition.

The FRG's political system was nevertheless able to eventually integrate this new oppositional force thanks to its proportional voting system.[28] The Green Party introduced into parliamentary discourse the concept of *Energiewende,* which was originally developed by the Öko-Institut in Freiburg, an institute of scientific counter-expertise that grew out of the anti-nuclear movement.[29] The lasting presence of a Green party in the Bundestag since 1983 has made *Energiewende* an enduring feature of parliamentary discourse. Furthermore, there has been persistent public interest in environmental subjects in the FRG.[30] The intense societal debates surrounding the decline of forests,[31] the Chernobyl nuclear disaster and, beginning in the second half of the decade, global warming,[32] were major sources of pressure that affected parliamentary debates.

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25 See, for example, Hans-Helmuth Wüstenhagen (head of the Citizens' Initiatives for Environmental Protection BBU), 'Nachbemerkung: Widerstand ist Pflicht', in Werner Biermann, *Plutonium und Polizeistaat* (Bonn: SPAK-Publikationen, 1977), pp. 113–114, here p. 113. 'Atommacht Deutschland. Die Wiege stand im 3. Reich', *Atomexpress* 15 (1979): 29–35; 'Sie haben versagt', *Die Zeit*, 23 May 1986 (poem published anonymously by Inge Aicher-Scholl and others).

26 See BT-PlPr. 7/215, 22.1.1976, pp. 14916–14953.

27 See, for example, Hans-Helmut Wüstenhagen, *Bürger gegen Kernkraftwerke. Wyhl – der Anfang?* (Reinbek bei Hamburg: Reinbek Rowoholt, 1977), p. 101; Hans-Helmut Wüstenhagen, 'Bürgerinitiativen, Atomenergie und Wissenschaft', *Blätter für deutsche und internationale Politik* **21** (1976): 1360–1367, here p. 1365.

28 See Karl-Werner Brand, 'Vergleichendes Resümee', in Karl-Werner Brand (ed.) *Neue soziale Bewegungen in Westeuropa und den USA. Ein internationaler Vergleich* (Frankfurt/New York: Campus Verlag, 1985), pp. 306–334, here pp. 323–324.

29 Florentin Krause, Hartmut Bossel and Karl-Friedrich Müller-Reißmann, *Energie-Wende. Wachstum und Wohlstand ohne Erdöl und Uran. Ein Alternativ-Bericht* (Frankfurt: S. Fischer 1980). This book applied the ideas developed by the American environmental activist Amory B. Lovins to the German case. See Amory B. Lovins, *Soft Energy Paths. Towards a Durable Peace* (Harmondsworth: HarperCollins, 1977).

30 See Frank Uekötter, *Deutschland in Grün. Eine zwiespältige Erfolgsgeschichte* (Göttingen: Vandenhoeck & Ruprecht, 2015), pp. 151–168.

31 See Birgit Metzger, *'Erst stirbt der Wald, dann du!' Das Waldsterben als westdeutsches Politikum (1978–1986)* (Frankfurt: Campus Verlag 2015); Roderich von Detten (ed.), *Das Waldsterben. Rückblick auf einen Ausnahmezustand* (Munich: oekom verlag, 2013).

32 See Peter Weingart, Anita Engels and Petra Pansegrau, *Von der Hypothese zur Katastrophe. Der anthropogene Klimawandel im Diskurs zwischen Wissenschaft, Politik und Massenmedien*, slightly revised 2nd edition (Opladen/Farmington Hills: Verlag Barbara Budrich, 2008).

Another factor that jumps out, especially in comparison with the UK, is the relatively minor significance of social conflicts in debates on energy policy, which might have contributed to excluding the environment from the agenda. In addition, liberal markets were less important in discourse in the FRG.

The United Kingdom

In the UK, the topic of air pollution was often present in parliamentary debates on energy during the 1970s.[33] In addition, the Parliament of the UK served very early on as an important discursive space in which the implications of nuclear energy were intensely discussed. These debates did not so much address the question of whether to approve or reject nuclear power, but rather the transition to new types of reactors.[34] New momentum was provided by the report published in 1976 by the Royal Commission on Environmental Pollution, entitled 'Nuclear Power and the Environment',[35] along with the public investigation of the possible construction of a reprocessing plant in Windscale, which was published in 1977.[36] All anti-nuclear arguments were present in these debates; in the Labour Party, Liberal Party and Scottish National Party, Members of Parliament (MPs) from constituencies particularly affected by the nuclear question defended highly critical positions.[37] From the 1970s onward, renewable energy was evoked in con-

33 See for example the debate on Clean Air in Commons Hansard, 19.7.1973, vol. 860, https://hansard.parliament.uk/Commons/1973-07-19/debates/a9518bea-5fe0-45f7-8533-f72cda678181/CleanAir?highlight=air%20pollution#contribution-87cf2a31-90f8-4ecf-aa28-f9051454b2db; the debate on the Control of Pollution Bill, 17.6.1974, vol. 875, https://hansard.parliament.uk/Commons/1974-06-17/debates/b743717c-51fe-4c5f-92bb-e191bc4c7b74/ControlOfPollutionBillLords?highlight=air%20pollution#contribution-67d6619a-05c1-4700-9788-42c675d4ff92 (accessed 20 July 2018). Considerable impetus for this came from a number of reports by the Royal Commission on Environmental Pollution.

34 For a general overview, see Stuart Butler and Robert Bud, *United Kingdom. Short Country Report* [on the History of Nuclear Energy and Society], http://www.honest2020.eu/d36-short-country-reports pp. 22–25 (accessed 19 July 2018).

35 *Royal Commission on Environmental Pollution, Sixth Report. Nuclear Power and the Environment*, London 1976, https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj9_oe_n4_aAhVOJ1AKHU3mDPoQFggnMAA&url=http%3A%2F%2Fwebarchive.nationalarchives.gov.uk%2F20110322143804%2Fhttp%3A%2F%2Fwww.rcep.org.uk%2Freports%2F06-nuclear%2F1976-06nuclear.pdf&usg=AOvVaw1s0-PODXUPRxqSEHxQE7D0 (accessed 28 Mar. 2018).

36 *Die Windscale-Untersuchung. Bericht des Hon. Mr. Justice Parker,* German trans. ed. by Deutsches Atomforum, Bonn 1979.

37 See, for example, Commons Hansard, 28.6.1977, vol. 934, https://api.parliament.uk/historic-hansard/commons/1977/jun/28/energy; 2.12.1977, vol. 940, https://api.parliament.uk/histor-

nection with environmental considerations, as demonstrated by the choice of terms: MPs spoke not only of 'renewable energy', but also of 'benevolent' or 'benign energy'.[38]

The two competing conceptions of energy policy, which have been analysed for the German case, were less explicit, although they emerged much earlier in the UK than in the FRG. On the one hand, conservative MPs and some Labour and Liberal MPs supported a *hard* strategy that relied on fossil fuels, nuclear power and energy conservation, giving priority to economic considerations. On the other were MPs who spoke of *soft energy*, emphasising renewables.[39] However, there were no calls for abandoning nuclear energy, or for the decentralisation or grassroots democracy inherent in the concept of *Energiewende* in Germany. Demands to liberalise energy markets were made by conservatives.[40]

After the fairly turbulent debates of the 1970s, the House of Commons grew less concerned with green energy during the ensuing decade. The bitter economic and social controversies over the privatisation projects for the energy sector proposed by the Conservative government that came to power in 1979, helped relegate environmental considerations to the background.[41] The debates over nuclear energy were primarily about a possible privatisation of the industry. The economic logic – in both a neo-liberal sense and a more traditional sense of the left's emphasis on social conflicts – took precedence over environmental logic, notably in discussions regarding the development of renewable energy.[42] For all that, environmental concerns did not disappear

ic-hansard/commons/1977/dec/02/nuclear-energy; 22.3.1978, vol. 946, https://api.parliament.uk/historic-hansard/commons/1978/mar/22/windscale-inquiry-report (accessed 20 July 2018).

38   See, for example, the debate on Energy in Commons Hansard, 28.6.1977, vol. 934, https://api.parliament.uk/historic-hansard/commons/1977/jun/28/energy (accessed 20 July 2018).

39   See, for example, the debate on Energy in Commons Hansard, 28.6.1977, vol. 934, https://api.parliament.uk/historic-hansard/commons/1977/jun/28/energy; the debate on Nuclear Energy, 2.12.1977, vol. 940, https://api.parliament.uk/historic-hansard/commons/1977/dec/02/nuclear-energy; the debate on Energy Policy and Nuclear Energy, 7.12.1977, vol. 940, https://api.parliament.uk/historic-hansard/commons/1977/dec/07/energy-policy-and-nuclear-energy; the debate on the Windscale Inquiry Report, 22.3.1978, vol. 946, https://api.parliament.uk/historic-hansard/commons/1978/mar/22/windscale-inquiry-report (all accessed 20 July 2018). On Lovins, see footnote 29.

40   See, for example, Commons Hansard, 28.6.1977, vol. 934, https://api.parliament.uk/historic-hansard/commons/1977/jun/28/energy (accessed 20 July 2018).

41   On the beginnings of Conservative privatisation policies, see David Parker, *The Official History of Privatisation. Volume I: The Formative Years 1970–1987* (London/New York: Routledge, 2009).

42   See, for instance, the debate on Energy (Alternative Sources) in Commons Hansard, 25.10.1985, vol. 84, https://api.parliament.uk/historic-hansard/commons/1985/oct/25/energy-alternative-sources (accessed 20 July 2018).

from discussions regarding energy,[43] as there was a certain trans-partisan consensus about the importance of environmental questions – all the more so when Margaret Thatcher began to ascribe considerable importance to environmental policy at the end of the decade.[44]

This created a favourable context during the 1990s for receiving new momentum from international climate protection policy. For conservatives, the combination of privatisation (which represented the 'key to unlock' the 'potential' of renewables), along with the Non-Fossil Fuel Obligation established in 1989 (which ensured that selected producers of nuclear and renewable energy would receive both orders and an agreed-upon purchase price), represented a decisive element in reducing greenhouse gas emissions.[45] The contraction of coal production pursued since the 1980s for economic reasons also took on an additional environmental justification in this context.[46] Labour MPs, on the other hand, asserted that 'the government's obsession' for privatisation was preventing the UK from honouring its international commitments in environmental matters.[47] There was ambivalence surrounding nuclear energy. On the one hand, since fundamental criticism had fallen silent, it was seen as being respectful of the environment;[48] on the other, the government's privatisation efforts underscored its problems of profitability, which gave this energy source a bad image from an economic point of view.[49] With regard to debates on coal, they primarily focused on economic and social matters, even though its environmental impact was not denied.

43   See the debate on Acid Rain in Commons Hansard, 11.1.1985, vol. 70, https://api.parliament.uk/historic-hansard/commons/1985/jan/11/acid-rain; the debate on Nuclear Power Stations (Safety) 23.5.1986, vol. 98, https://hansard.parliament.uk/Commons/1986-05-23/debates/548065c6-8c3a-41a3-9d3d-3a046080d7ac/NuclearPowerStations(Safety)?highlight=chernobyl#contribution-2c2cc158-917a-456b-879f-d6728737458a; and the debate on World Climate Change, 10.11.1989, vol. 159, https://api.parliament.uk/historic-hansard/commons/1989/nov/10/world-climate-change-1 (accessed 20 July 2018).

44   See Dieter Helm, *Energy, the State, and the Market. British Energy Policy since 1979* (Oxford: Oxford University Press, 2003), p. 346.

45   Commons Hansard, 20.2.1990, vol. 167, https://api.parliament.uk/historic-hansard/commons/1990/feb/20/electricity-industry (accessed 20 July 2018), quote from Malcolm Moss.

46   See Helm, *Energy*, pp. 346–352.

47   Commons Hansard, 20.2.1990, vol. 167, https://api.parliament.uk/historic-hansard/commons/1990/feb/20/electricity-industry (accessed 20 July 2018), quote from Frank Dobson.

48   See for example Commons Hansard, 25.6.1992, vol. 210, https://hansard.parliament.uk/Commons/1992-06-25/debates/d90b6a6e-8bcd-4681-bd9e-0738ab0d0bb5/CommonsChamber (accessed 20 July 2018).

49   On the partial privatisation of the nuclear sector completed during the 1990s, see Helm, *Energy*, pp. 186–203.

In the UK, the environmental and anti-nuclear movements did not have as widespread an impact as they did in the FRG. There were indeed groups that mobilised against the construction of nuclear installations, contributed to the Windscale investigation and took a close interest in alternative energy policies,[50] although they were less numerous and more moderate than in Germany. British ecologists generally remained in the shadows of established nature protection associations, while the anti-nuclear movement was largely absorbed during the 1980s by the pacifist organisation Campaign for Nuclear Disarmament. For all that, certain MPs were open to the arguments of activists, and transferred them to parliamentary debates.

At the same time, the UK's election by majority vote did not permit the establishing of a Green political force that could become a part of the national parliament and develop its own dynamic as a political actor.[51] Political ecology gradually ran out of steam during the 1980s, while the concept of *energy transition*, which was steeped in the anti-nuclear movement, did not become an enduring part of parliamentary debates in the 1980s and 1990s. Nature conservation was nevertheless firmly rooted in English society, and there was social pressure not to lose sight of these questions in the political sphere. As a result, environmental topics did not completely disappear from the agenda of parliamentary debates on energy.

A distinctive feature of British discourse – one that contributed to weakening political ecology – was the broad hegemony of economic thinking: its logic was present in both discourses steeped in Thatcherist ideals of privatisation and free markets, as well as discourses of the left giving priority to social conflicts.

France

During the 1970s and 1980s, debates on energy policy in the Assemblée nationale gave little consideration to environmental implications: there were no major debates about air pollution or the dangers of radiation from

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50 Important organisations were, inter alia, Friends of the Earth, Greenpeace, Conservation Society, Scottish Campaign to resist the Atomic Menace and Anti-Nuclear Campaign. See Heinz Rothgang, *Die Friedens- und Umweltbewegung in Großbritannien. Eine empirische Untersuchung im Hinblick auf das Konzept der 'Neuen Sozialen Bewegungen'* (Wiesbaden: Deutscher Universitats-Verlag, 1990), pp. 32–36; Detlef Murphy, 'Von Aldermaston nach Greenham Common. Politischer Protest und neue soziale Bewegungen in Großbritannien', in Brand, *Neue soziale*, pp. 140–199, here pp. 163–169.

51 On the British Greens, see Lynn Bennie, 'Greens in the United Kingdom and Ireland. Weak but persistent', in van Haute, *Green Parties in Europe*, pp. 196–216.

nuclear material.[52] Reports from the Office parlementaire d'évaluation des choix scientifiques et technologiques [Parliamentary Office for the Evaluation of Scientific and Technological Choices] for parliament broached these aspects, but without giving them a major sense of urgency.[53] French parliamentary discourse shows a strong consensus in favour of nuclear energy across all political groups.[54] Even the debates sparked by the Chernobyl disaster focused solely on international security systems.[55] Renewable energy was primarily grasped from the perspective of diversifying energy sources, as demonstrated by the use of the term 'new energies'.[56]

References to anti-nuclear arguments were instead found in presidential campaigns and the government's rhetoric.[57] The presidential elections of 1981 were an important moment, as the future socialist candidate François Mitterrand expressed criticism starting in 1979 of the *all-nuclear* path envisioned in France.[58] After his election, he decided to slow the expansion of the nuclear sector, with the creation of the Agence française pour la maitrise de l'énergie [French Agency for the Control of Energy] coming in 1982.[59] Still, French parliamentary debates after the change of government in 1981 – which for the first time revealed certain trends critical of nuclear power – concentrated almost exclusively on the political aspects of the energy

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52 The connection between air pollution and energy production was explored in Journal officiel/Assemblée Nationale, 3rd session from 18.12.1979, pp. 12235–12248; 2nd session from 24.6.1980, pp. 2228–2231.

53 See, for instance, Report No. 3192 (Assemblée Nationale, 7th legislature) by Georges Le Baill, appendix to the minutes for the session from 13.12.1985; Report No. 1156 (Assemblée Nationale, 8th legislature) by Jean-Marie Rausch/Richard Pouille, appendix to the minutes for the session from 17.12.1987.

54 See, for example, the very representative commentary on this consensus by the UDF deputy Pascal Clément: Journal officiel/Assemblée Nationale, 1st session from 4.4.1979, p. 2235.

55 On overall French reactions to the Chernobyl disaster, see Karena Kalmbach, *Tschernobyl und Frankreich. Die Debatte um die Auswirkungen des Reaktorunfalls im Kontext der französischen Atompolitik und Elitenkultur* (Frankfurt: Peter Lang, 2011).

56 See, for example, Journal officiel/Assemblée Nationale, 1st session from 4.4.1979, pp. 2220–2235; Minsters' responses to written questions, 14.12.1987, pp. 6782–6784.

57 Between 1988 and 1992, France had a Green (Brice Lalonde) in the ranks of the government, without there being any Green deputies in the Assemblée Nationale.

58 See Mitterrand's signing of the petition 'Pour une autre politique de l'énergie. Pour un débat démocratique sur l'énergie', *La Gazette Nucléaire* 28: http://gazettenucleaire.org/1979/28.html#sommmaire (accessed 13 May 2018); Pierre Michel, 'Les socialistes et l'énergie, un témoignage', *L'Économie politique* **56** (2012): 85–95, here 89.

59 See Marc Ambroise-Rendu, *Des cancres à l'Élysée. 5 Présidents de la République face à la crise écologique* (Paris: Jacob Duvernet, 2007), pp. 216–226.

source (centralism, bureaucratism and lack of transparency), without alluding to its environmental implications; there was no question of a possible abandonment of nuclear power.[60]

Beginning in the 1990s, environmental criteria were taken somewhat into account. This can be seen, for instance, in more frequent use of the terms 'green energies' or 'renewables'.[61] When Minister for the Environment, Ségolène Royal, reported in 1992 on the progress of negotiations in advance of the Earth Summit in Rio, she deemed it necessary to first give deputies a fairly basic explanation of the problem of global warming, in order then to claim that it represented a 'genuine civilisational problem'.[62] The Earth Summit and the negotiations that followed regularly sparked debates.[63] This is why the connection between energy and the environment largely came down in French discourse to the problem of CO_2 emissions. In this context, the transpartisan consensus in favour of nuclear energy generally remained intact,[64] as it was seen as beneficial to the environment because it did not contribute to air pollution.[65] The national energy system was considered 'a considerable advantage' for France,[66] and a model for the rest of the world.[67] At the same time, all parties were highly reserved

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60   See the Journal officiel/Assemblée Nationale, 2ⁿᵈ session from 6.10.1981, pp. 1504–1520; 3ʳᵈ session from 6.10.1981, pp. 1522–1547; 1ˢᵗ session from 7.10.1981, pp. 1561–1572; 2ⁿᵈ session from 7.10.1981, pp. 1574–1600.

61   Journal officiel/Assemblée Nationale, 1ˢᵗ session from 13.1.1994, p. 73.

62   Journal officiel/Assemblée Nationale, 2ⁿᵈ session from 3.6.1992, p. 1882. For other examples, see Michel Destot (Socialist), 2ⁿᵈ session from 25.11.1993, p. 6416.

63   See, for example, Journal officiel/Assemblée Nationale, 2ⁿᵈ session from 25.11.1993, p. 6416; 1ˢᵗ session from 15.6.1996, p. 10.

64   This is true despite an entire series of reports by the Office parlementaire d'évaluation des choix scientifiques et technologiques that explored the subject of nuclear energy during the 1990s. See Report no. 1839 (Assemblée Nationale, 9ᵗʰ legislature) by Christian Bataille, appendix to the minutes from the session from 14.12.1990; Report no. 2624 (Assemblée Nationale, 9ᵗʰ legislature) by Jean-Yves Le Déaut, recorded at the Presidency of the Assemblée Nationale on 22.4.1992; Report no. 2689 (Assemblée Nationale, 10ᵗʰ legislature) by Christian Bataille, recorded at the Presidency of the Assemblée Nationale on 27.3.1996; Report nos. 1008, 1496, 1825, 2417, 2651, 2765, 3491 (Assemblée Nationale, 9ᵗʰ – 11ᵗʰ legislatures) by Claude Birraux, recorded at the Presidency of the Assemblée Nationale on 4.12.1991, 10.6.1992, 10.2.1994, 19.12.1994, 19.3.1996, 2.4.1997, 25.3.1999; Report nos. 978 and 1359 (Assemblée Nationale, 11ᵗʰ legislature) by Christian Bataille and Robert Galley, recorded at the Presidency of the Assemblée Nationale on 11.6.1998, 2.2.1999.

65   See, for example, the remarks by the communist deputy Roger Meï, Journal officiel/Assemblée Nationale, single session from 9.4.1998, p. 10.

66   Journal officiel/Assemblée Nationale, 2ⁿᵈ session from 25.11.1993, p. 6399.

67   Ibid., p. 6415; Journal officiel/Assemblée Nationale, single session from 15.6.1996, p. 28.

regarding a possible liberalisation of energy markets.[68]

With much French electricity coming from nuclear power, there was a belief that mobility was the only domain in which action was required. With respect to transportation policy, some socialist deputies posited the need for radical changes during the second half of the 1990s.[69] The first debate in the Assemblée nationale that included an in-depth discussion of the connection between energy and the environment took place in 1996, as part of examining the bill 'on air and the rational use of energy'. This debate largely concentrated on transportation policy.[70]

With seven ecologist deputies joining the Assemblée for the first time in 1997, anti-nuclear voices favourable to deeper changes began to speak out in the Assemblée nationale.[71] This was also the first time that deputies voiced support for opening markets, which was assumed to be favourable to the development of renewable energy.[72]

Although France saw a considerable rise in environmental and anti-nuclear movements during the 1970s,[73] these were unable to exert substantial influence on parliamentary discourse, as the large majority of the French elite continued to support nuclear power, and its hegemonic discourse proved difficult to penetrate. Moreover, in the institutional system of the Fifth Republic, parliament seemingly had no more than a limited capacity to transmit social demands to the decision-making centre of the state. As a result of its relatively weak position, it was seen to a certain extent as being outside the heart of political life. Furthermore, due to the Fifth Republic's election by majority vote, attempts to create a national green party achieved less success

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68   See, for example, Journal officiel/Assemblée Nationale, 2nd session from 25.11.1993, pp. 6395–6432; 1st session from 20.6.1994, pp. 3225–3234.

69   Michel Destot, Journal officiel/Assemblée Nationale, 2nd session from 25.11.1993, p. 6416.

70   Journal officiel/Assemblée Nationale, 1st session from 15.6.1996, pp. 10–30; 2nd session from 15.6.1996, pp. 12–53; 2nd session from 19.6.1996, pp. 4–58; 1st session from 20.6.1996, pp. 4–41; 2nd session from 22.11.1996, pp. 41–57, 1st session from 26.11.1996, pp. 3–34; single session from 27.11.1996, pp. 14–46.

71   See, for example, Journal officiel/Assemblée Nationale, single session from 9.4.1998, pp. 7–8.

72   See, for example, Journal officiel/Assemblée Nationale, 3rd session from 17.2.1999, pp. 1596–1597, 1601.

73   On the French anti-nuclear movement, see Tompkins, *Better Active than Radioactive!* and Milder, *Greening Democracy*. On ecological thinking and protest, see Michael Bess, *The Light-Green Society. Ecology and Technological Modernity in France, 1960–2000* (Chicago: University of Chicago Press, 2003); Graeme Hayes, *Environmental Protest and the State in France* (Houndmills: Palgrave Macmillan, 2002).

than in West Germany.[74] Overall, environmental thinking gradually began to spread in French parliamentary discourse due to international policy for climate preservation rather than strong social pressure.

An additional factor that slowed the integration of environmental discourse in the language of political elites was the persistent division between the right and the left in the French political arena – which seems more important than the actual impact of existing social conflicts. By contrast, the economic ideas of liberalisation and privatisation, which were so influential in the UK, did not have a major impact.

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A comparison of the three analysed cases first and foremost reveals clear differences between West German, British and French parliamentary discourse:

1. Importance of specific environmental subjects: in the FRG, air pollution was a highly visible and enduring subject in the parliamentary agenda, with very little doubt regarding its importance; it was nuclear energy that nonetheless became the focal point in debates surrounding the connection between energy and the environment, along with encouragement for conceiving radical alternatives for energy policy. In the UK, air pollution was generally recognized as a pressing problem in energy policy, although conflicts surrounding nuclear power were less important than in the FRG, and rejection of this technology did not become the driving force behind a global conception of energy transition. In France, air pollution long played a subordinate role, while the supposed environmental performance of nuclear energy prevented an in-depth formulation of the link between energy and the environment in French parliamentary discourse.

2. Discourse structures corresponding to environmental logic: environmental perspectives pervaded all discourses in West Germany. This led to the formation of two distinct discourses on the problem of integrating environmental considerations in energy policy. In the UK, environmental perspectives were only one factor among others taken into account; the divisions in debates over energy were primarily structured according to economic criteria. In France, discourse was relatively homogenous. The environment was not a structural element before French ecologists joined the Assemblée nationale in 1997, with its impact remaining weak.

3. Capacity attributed to the market: in the FRG, discourse was dominated by the idea that the energy sector should only be partially exposed to free market forces, and

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74   On the history of the French Greens, see Pierre Serne, *Des Verts à EELV, 30 ans d'histoire de l'écologie politique* (Paris: Les Petits Matins, 2014); Bruno Villalba, 'From the Greens to Europe ecology – The Greens. Renaissance or more of the same?' in van Haute, *Green Parties*, pp. 92–111.

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that a certain degree of state intervention in energy markets was justified; however, supporters of *Energiewende* called for more liberalisation, which was supposed to promote energy conservation and remove market distortions that placed renewable energies at a disadvantage. In the UK, the environmental argument gave conservatives an additional justification for the liberalisation of markets. In France, the self-regulating power of the market was generally seen with scepticism in the field of energy; an alternative perspective emerged only in the late 1990s, when French ecologist deputies joined the parliament.

4. Evolution of discourses over time: in Germany, the 1980s were a particularly virulent phase, whose spirit continued during the 1990s. In the UK, the high-water mark of environmental considerations in matters of energy policy came in the late 1970s, with this dynamic running out of steam in the ensuing decade, followed by a certain resumption during the 1990s. In France, the environment became a part of parliamentary debate on energy only during the 1990s.

5. National and Transnational Impetus: in the FRG, the drive to include the environment in energy policy came in very large part from national forces that perpetuated themselves through their enduring impact on the party system; during the 1990s, international policy also contributed to developments in West Germany. In the UK, intrinsic factors prompted thinking on the environmental effects of energy, but the country did not see the emergence of a Green political force to consolidate this momentum; beginning in the 1990s, it was international policy on climate preservation in particular that provided decisive impulsion. Finally, in France national driving forces were very weak, with UN policy in favour of the climate in the 1990s serving as the primary motor.

The differences are therefore largely predominant, and so extensive as to conclude that a European discursive space regarding the link between energy and environment did not exist on the parliamentary level. The question of a broader European public arena beyond this topic would nonetheless require a study of the relative public debates, notably the social movements of each country. In any event, we can deduce from the differences observed that the permeability of the parliamentary sphere to environmental concerns varied greatly from one country to another.

PART IV.

EUROPEANISING ENVIRONMENTAL POLICIES FROM BELOW?

CHAPTER 13.

RESPONDING TO THE EUROPEAN PUBLIC? PUBLIC DEBATES, SOCIETAL ACTORS AND THE EMERGENCE OF A EUROPEAN ENVIRONMENTAL POLICY

Jan-Henrik Meyer

'The public is the most important ally of the environment!'[1] Officials working in the European Commission's Service for the Environment and Consumer Protection (set up in 1973), and subsequently DG XI (Environment), such as the German official Ludwig Krämer quoted here, were acutely aware of the importance of the public for the new policy area. Indeed, debates in the media and scandals contributed decisively to the rise of environmental policy around the world in the early 1970s. From the late 1960s, environmental issues were increasingly present in the media in many European countries and the United States. Critical experts pointed to problematic developments, such as the deterioration of air and water quality; journalists increasingly specialising in the issue publicised what they described as the scandalous destruction of nature and the pollution of human environments. Sweden and the United States were pioneer countries in this respect.[2] Environmental groups such as the newly founded international non-governmental organisations (NGOs) Friends of the Earth, Greenpeace or the WWF (created by 1961) used the new awareness in the public sphere to campaign for environmental causes using emotionally compelling images of despoliation and animals suffering.[3] At the time, such campaigns often triggered concrete and specific environmental action.

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1   Interview with Ludwig Krämer, former head of unit in the European Commission, conducted by Jan-Henrik Meyer, 19 Sept. 2017, Madrid.

2   Adam Rome, *The Genius of Earth Day: How a 1970 Teach-In Unexpectedly Made the First Green Generation* (New York: Hill & Wang, 2013); David Larsson Heidenblad, 'Mapping a new history of the ecological turn: The circulation of environmental knowledge in Sweden 1967', *Environment and History* **24** (2) (2018): 265–284.

3   Frank Zelko, *Make It a Green Peace!: The Rise of Countercultural Environmentalism* (Oxford: Oxford University Press, 2013). On Greenpeace's campaigns in Europe, see Anna-Katharina Wöbse, 'Greenpeace and the Brent Spar campaign. A platform for several truths', in Frank Uekötter (ed.), *Exploring Apocalyptica* (Pittsburgh: University of Pittsburgh Press, 2018), pp. 129–149; Liesbeth van de Grift, Hans Rodenburg and Guus Wieman, 'Milieuactivisten in maatpak: de Europeanisering van Greenpeace International (1987–1993)', *Tijdschrift Voor Geschiedenis* **130** (1) (2017):

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The West German 'Waldsterben' debate of the early 1980s is a case in point. Cover stories conjuring up fear-inspiring visions of a treeless Germany put sufficient pressure on the national government to undertake a reform of emissions control legislation for large combustion plants. The public debate helped to overcome opposition from important economic interests and find sufficient political support to implement international commitments, notably the Long-Range Transboundary Air Pollution Treaty of 1979.[4] A technical solution was found for coal-fired power plants: scrubbers were installed to remove the sulphur dioxide from the exhaust. Furthermore, responding to the 'Waldsterben' debate, Christian democratic politicians fearful of the rise of the electorally successful Green Party also committed to introducing stricter limits on car emissions. Catalytic converters, a technological fix that major German car-makers were already using in automobiles produced for export to the United States, would help cleaning the exhaust. In order to avoid a disproportionate burden for domestic industry, the West German government sought to extend the obligation to use this technology to the entire European Communities (EC).[5] This example demonstrates that the impact of the public sphere on environmental policy could sometimes be indirect. National politicians 'uploaded' to the European level issues that were discussed primarily in national public spheres.

Assuming that a European public – directly – contributed to the rise of a European environmental policy seems counterintuitive at first sight. For a long time, one of the key tenets about the European Union (EU) (and its predecessor the EC), has been that it lacked a European Public Sphere. While deemed necessary as a counterpart to the emerging EU political system to enable truly democratic decision making at the European level, it simply did not seem to exist.[6] Even those researchers who have diagnosed a certain progress towards a more integrated, more active and more effective European public sphere have conceded that a European public sphere is indeed fragmented along national lines, 'segmented', uneven and asym-

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83–100; Frank Zelko, 'The Umweltmulti arrives: Greenpeace and grass roots environmentalism in West Germany', *Australian Journal of Politics & History* **61** (3) (2015): 397–413.

4   Rachel Rothschild, 'Burning rain: The long-range transboundary air pollution project', in James Rodger Fleming and Ann Johnson (eds), *Toxic Airs: Chemical and Environmental Histories of the Atmosphere* (Pittsburgh: University of Pittsburgh Press, 2014), pp. 181–207.

5   Birgit Metzger, '*Erst stirbt der Wald, dann du!*'. *Das Waldsterben als westdeutsches Politikum (1978–1986)* (Frankfurt: Campus, 2015).

6   E.g. for the more sceptical view: Dieter Grimm, 'Does Europe need a constitution?' *European Law Journal* **1** (3) (1995): 282–302.

metric in its structures of transnational exchange. Compared to the national model it is much more episodic – i.e. responding to and thus 'existing' only around crucial events.[7]

Thus, the impact of such a weak and haphazard public sphere on a specific policy area, such as European (environmental) policy, would likely be very limited. If the EU indeed continued to be characterised by nationally segmented public spheres, any impact on European policymaking would have to go via national public spheres and member states' 'uploading' to Europe only those issues they cared about.[8]

This chapter seeks to explore the link between the (European) public sphere and European environmental policymaking. It argues that, despite the supposed deficits of a European public sphere, European publics indeed impacted on the rise and the contents of the new policy. They did so in different ways. The national route was only one of the channels available. In fact, if an issue was debated in public spheres in more than one of the member states this increased the likelihood that the issue would make it to the European policy agenda. The nascent European environmental movement was aware of this and cooperated and campaigned transnationally. The chapter also argues that the importance of the public sphere varied across different stages of the policy process – from agenda setting to policy implementation. Empirically, the chapter focuses on the emerging environmental policy of the 1970s. The chapter is organised as follows. First, given the controversy about the European public sphere, I will start with a conceptual clarification. Secondly, I will examine the contribution of the public sphere, its mediation into the institutional system of the EC/EU. For this purpose I will draw on three different cases of the emergent environmental policy of the EC

7   Jan-Henrik Meyer, *The European Public Sphere. Media and Transnational Communication in European Integration 1969–1991* (Stuttgart: Franz Steiner, 2010); Thomas Risse, 'European public spheres, the politicization of EU affairs, and its consequences', in Risse (ed.), *European Public Spheres: Politics Is Back* (Cambridge: Cambridge University Press, 2014), pp. 141–164; Risse, 'No demos? Identities and public spheres in the Euro crisis', *JCMS: Journal of Common Market Studies* **52** (6) (2014): 1207–1215; Ruud Koopmans and Paul Statham (eds), *The Making of a European Public Sphere. Media Discourse and Political Contention* (New York: Cambridge University Press, 2010); Stefanie Sifft et al., 'Segmented Europeanization: Exploring the legitimacy of the European Union from a public discourse perspective', *Journal of Common Market Studies* **45** (1) (2007): 127–155.

8   Conceptually, this would reflect a variant of the simple two-level game model that Andrew Moravcsik claimed to be the essence of EU policy making: national public spheres (instead of the business lobbies Moravcsik held to be all-powerful) impacting on national governments who in turn dominate European policy decisions. Andrew Moravcsik, 'Preferences and power in the European Community: A liberal intergovernmentalist approach', *JCMS: Journal of Common Market Studies* **31** (4) (1993): 473–524.

in the 1970s: first, the introduction of environmental policy between 1969 and 1973; second, the emergence of the EC birds directive; and, thirdly, the conflict at the EC level about the controversial issue of nuclear power. These cases demonstrate how the role of the public sphere varied with a view to its functions, its structure and its impact. Finally, I will assess the impact of the European public sphere in the 1970s on European (environmental) policymaking, as well as the functions it fulfilled.

What is a (European) public sphere?

Historians have frequently used a concept of the European public sphere that encompassed a wide range of cultural as well as political phenomena.[9] At its core, however, the notion of a public sphere is a political concept with strong normative connotations, dating back to the Enlightenment.[10] In the 1960s, the German political philosopher Jürgen Habermas re-inserted the concept into social scientific and political discourse by revisiting its eighteenth-century origins, albeit in a slightly idealised fashion.[11] According to the most widely accepted conceptualisation a public sphere designates a space between state and society, a sphere in which citizens can freely engage with and discuss political issues. From a normative point of view, the existence of such a sphere is indispensable for the functioning of democracy, because it ensures that citizens can exchange their views independently of the state. Only thus can they deliberate, develop and voice their preferences and form opinions. In a well-functioning public sphere, citizens are free to criticise their respective governments and hold them to account.[12]

Researchers have highlighted different functions the public sphere fulfils in democracy. The first and most fundamental function is to ensure transparency, to overcome official secrecy and put information out in the open. Transparency is a crucial precondition for opinion formation, which is the second function. Ideally, in forming opinions, citizens should freely exchange and

9   Robert Frank et al. (eds), *Building a European Public Sphere. From the 1950s to the Present. Un espace public européen en construction. Des années 1950 à nos jours* (Brussels: PIE Peter Lang, 2010).

10   Lucian Hölscher, 'Öffentlichkeit', in Otto Brunner, Werner Conze and Reinhardt Koselleck (eds), *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Klett-Cotta, 1978), pp. 413–467.

11   Jürgen Habermas, *The Structural Transformation of the Public Sphere: an Inquiry into a Category of Bourgeois Society* (Cambridge, MA: MIT Press, 1989 [1962]). For a critical reflection see: Craig J. Calhoun (ed.), *Habermas and the Public Sphere* (Cambridge, MA: MIT Press, 1992).

12   Meyer, *The European Public* Sphere, pp. 24-26.

weigh their views in rational discourse. In real-world public spheres, however, rational arguments go hand in hand with emotions and stereotypes. Political actors and the media 'frame' issues to influence the public. Such aspects are crucially important in processes of opinion formation.[13] Thirdly, grievances, claims and demands discussed and assembled in the public sphere are to be inserted back into the political system. This 'input function' is crucial for political 'agenda-setting',[14] the first step in the policy process. At the same time, and this is a fourth function, the public sphere is to hold authorities and governments to account, evaluate and criticise their action and suggest alternative avenues. This function is essential for democracy as a system of checks and balances. A fifth function of the public sphere is its role in forming collective identities. This is also important for democracy, because collective identities underlie any political community. Scholars of identity and nationalism have demonstrated how public spheres shape the formation of imagined communities, instilling a sense of belonging and of solidarity.[15]

In terms of the scope of the public sphere, three levels can be distinguished analytically. First, and most simply, a public sphere of encounters, i.e. face-to-face and often dialogical exchanges between citizens. Such a sphere is very open to participation. Equality between participants is easy to establish, and it is usually very informal. At the same time, encounters rarely have an important impact on politics. Secondly, public spheres of assemblies are more organised and less egalitarian as to who is able to talk, and which issues are selected. Even in protest meetings, there is often a clear distinction between an 'elite' of speakers and audiences. On the other hand, assemblies still allow for some dialogue, covering specialist issues in a more discursive and in-depth manner than mediated debates. Assemblies may have a strong impact on politics. Events are often picked up by media and thus raise further attention in a broader public sphere. The third level, the public sphere of the media, reaches a large number of citizens, via printed or audiovisual media. However, mediated debates are most unequal, limit-

13   Falk Daviter, *Policy Framing in the European Union* (Houndmills: Palgrave, 2011); Juan Díez Medrano, *Framing Europe: Attitudes to European Integration in Germany, Spain, and the United Kingdom* (Princeton, NJ: Princeton UP, 2003).

14   Jan-Henrik Meyer, 'Getting started: Agenda-setting in European environmental policy in the 1970s', in Johnny Laursen (ed.), *The Institutions and Dynamics of the European Community, 1973–83* (Baden-Baden: Nomos, 2014), pp. 221–242; Sebastiaan Princen, 'Agenda-setting strategies in EU policy processes', *Journal of European Public Policy* **18** (7) (2011): 927–943.

15   Meyer, *The European Public Sphere*, pp. 52–57; Thomas Risse, *A Community of the Europeans: Transnational Identities and Public Spheres* (Ithaca: Cornell University Press, 2010).

ing most citizens to a passive recipient role. At least in the days before the internet, the number of speakers (and writers) was severely circumscribed. The selection of issues is left to professional journalists and media corporations (both public and private).[16]

The concept of the public sphere is an ambiguous one. It refers to empirical realities, but it is at the same time an analytical as well as a normative concept. Hence, we can analyse the public sphere on the one hand as a 'structure of communication', by studying media discourses, and on the other hand as a 'sphere of action', as a battleground between different actors struggling for attention and political influence.[17] This essay will consider both aspects. Emphasis will however be placed on the second aspect, namely by enquiring how political actors mobilised and used the (European) public sphere to advance (or limit) European environmental policy.

What makes a public sphere a European one? Three aspects have been highlighted. First, the 'Europeanness' of a public sphere can be defined by its contents, and by the political system it addresses. Any communication directly or indirectly referring to Europe and the EC/EU as a political system can pragmatically be considered part of a European public sphere, because it serves to fulfil political functions for European democracy.[18] Hence, according to this definition, all communication calling for or addressing European level environmental action would count as part of a European public sphere.

Secondly, a European public sphere in the sense of a transnational public sphere must be constituted by cross-border communication. It is a sphere of action in which actors from different European countries interact, discuss, struggle about (European) politics, ideally referring to each other. Thirdly, drawing on Habermas, a European public sphere can be defined as a sphere of synchronous and structurally similar communication across borders. A

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16   Jürgen Gerhards and Friedhelm Neidhardt, 'Strukturen und Funktionen moderner Öffentlichkeit. Fragestellungen und Ansätze', in Stefan Müller-Dohm and Klaus Neumann-Braun (eds), Öffentlichkeit, Kultur, Massenkommunikation. Beiträge zur Medienkommunikationssoziologie (Oldenburg: BIS, Bibliotheks- u. Informationssystem der Universität Oldenburg, 1991), pp. 31–89, here 50–56; Meyer, *The European Public Sphere*, pp. 54–55.

17   Bernhard Peters, 'Der Sinn von Öffentlichkeit' *Kölner Zeitschrift für Soziologie und Sozialpsychologie. Öffentlichkeit, öffentliche Meinung, soziale Bewegungen. Sonderheft* **34** (1994): 42–76, here 50–56.

18   This understanding underlies the most recent research projects on the issue, which all draw on key-word searches of large electronic databases: Ariane Brill, *Abgrenzung und Hoffnung: 'Europa' in der deutschen, britischen und amerikanischen Presse 1945–1980* (Göttingen: Wallstein, 2014); Enrico Bergamini et al., Talking about Europe: Le Monde 1944–2018 (2019) Bruegel, http://bruegel.org/2019/03/talking-about-europe-le-monde-1944-2018/# (accessed 25 Mar. 2019).

European public sphere in this sense discusses 'the same issues at the same time using the same criteria of relevance'.[19]

All these criteria seek to conceptualise a European public sphere as a coherent whole. Many researchers have refuted claims that European democracy is impossible without a European public sphere, and that a European public sphere is impossible because of the lack of a common language.[20] Thus they have attempted to demonstrate that indeed there is a European public sphere mirroring the European Union's political system, cutting across linguistic divisions and across nationally organised media systems. Some researchers have argued that one should rather speak of European public spheres in the plural. Varying 'issue publics' are referring to different political topics or problems. They are composed of different actors, and characterised by different media. They may exist – to a varying degree – in different countries.[21] For the purpose of this study, such distinctions are less relevant. Nevertheless, it is worthwhile to use these distinctions to explore the scope and structural features of the European public sphere dealing with environmental issues.

Subsequently, I will explore how different aspects of a European public sphere impacted on the nascent environmental policy of the EC/EU in the 1970s: first, the emergence of the policy in the early 1970s; secondly, the creation of the birds directive as a first element of policymaking in the area of nature conservation, an issue previously considered the prerogative of the Council of Europe; and thirdly, nuclear policy, an issue that was forced into the public sphere by a transnational alliance of anti-nuclear activists, against the backdrop of protest and increasingly critical reporting in the media. These cases not only provide a glimpse into the origins and early development of EC environment policy. They also differ in many ways with a view to the role of a European public sphere.

19   Meyer, *The European Public Sphere*, pp. 26–28, 64–65; quote: Klaus Eder and Cathleen Kantner, 'Transnationale Resonanzstrukturen in Europa. Eine Kritik der Rede vom Öffentlichkeitsdefizit' in Maurizio Bach (ed.), *Die Europäisierung nationaler Gesellschaften* (Opladen: Westdeutscher Verlag, 2000), pp. 306–331, at 315.

20   Grimm, 'Does Europe need a constitution?'

21   W. Lance Bennett, Sabine Lang and Alexandra Segerberg, 'European issue publics online: the cases of climate change and fair trade', in Thomas Risse (ed.), *European Public Spheres: Politics Is Back* (Cambridge: Cambridge University Press, 2014), pp. 108–138.

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Transnational public spheres and the creation of a European Environmental Policy

Most textbook introductions to the EC / EU's environmental law and policy attribute the origins of the new policy to what supposedly was an initiative by the heads of state and government meeting in October 1972, when at the Paris summit they gave the go-ahead for the start of an environmental policy.[22] The policy eventually took shape in the first Environmental Action Programme issued in November 1973. Formally, this claim is correct, and reflects the wording of the official documents. Nevertheless, the timing in the aftermath of the Stockholm UN Conference on the Human Environment in 1972 suggests that the heads of state and government responded to broader political debates in a transnational, perhaps global, public sphere.

In fact the preparations for a European environmental policy go almost three years further back, and they started with a transnational scandal. On 19 June 1969, a massive fish kill happened in the Rhine. The river was not only Western Europe's main artery for transport, but also its largest sewer, transporting only partially treated wastewater from Switzerland, West Germany and Eastern France into the Netherlands, where it meets the sea. Being situated downstream, Dutch citizens, agriculture and industry relied on the river for fresh water. The fish kill was caused by the Frankfurt chemical works Hoechst. On a regular basis, and apparently tolerated by the authorities, Hoechst emitted residues of a highly potent insecticide into the river Main, a tributary to the Rhine. In June 1969, low water levels limited the river's capacity to sufficiently dilute this pollution, so that the fish in the river were poisoned and killed. The Dutch authorities found the cause of the pollution relatively quickly, but they had not been warned by their German counterparts upstream.[23]

This contributed to cross-border resentment and public debate on the issue in the countries along the Rhine, notably the Netherlands and West

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22 E.g. Stibbe Simont and Monahan Duhot, *Environment and Europe. European Union Environmental Law and Policy and its Impact on Industry* (Deventer: Kluwer, 1994), p. 1; Tom Delreux and Sander Happaerts, *Environmental Policy and Politics in the European Union* (London: Palgrave, 2016), p. 18.

23 Mark Cioc, *The Rhine. An Eco-Biography, 1815–2000* (Seattle: University of Washington Press, 2002), p. 141; idem, 'Europe's river. The Rhine as a prelude to transnational cooperation and the Common Market', in Erika Marie Bsumek, David Kinkela and Mark Atwood Lawrence (eds), *Nation-States and the Global Environment. New Approaches to International Environmental History* (Oxford: Oxford University Press, 2013), pp. 25–42; Christoph Bernhardt, *Im Spiegel des Wassers. Eine transnationale Umweltgeschichte des Oberrheins (1800–2000)* (Cologne: Böhlau, 2016).

Germany.[24] Dutch members of the European Parliament (EP) raised the issue in the Strasbourg assembly. They convinced the EP's Committee on Public Health and Social Affairs to produce an own initiative report, one of the key instruments the unelected assembly had. Even if the EP had no meaningful say in the process of European law-making, it was able to use this instrument to engage in agenda-setting.[25] Against the backdrop of international efforts – notably in the United States, and in various international organisations – to promote environmental policy,[26] and of environmental scandals – such as the *Torrey Canyon* oil spill of 1967[27] – MEPs used this incident to raise a concrete environmental issue. The Rhine was a highly appropriate starting point for such an attempt, because it demonstrated the transnational interdependence and interconnectedness of Europe's economies, ecosystems and livelihoods.[28] In that sense, the Rhine was also the prototype of a European river: except for Italy, all the EC's founding members shared parts of its floodplain. Hence, raising the issue in a European forum seemed more than appropriate. Expanding the issue in the report from the pollution of the Rhine to river pollution more generally was part of the agenda setting that the European Parliament undertook.[29]

The rapporteur, the Dutch Christian Democratic labour unionist Jacob Boersma emphasised the role of the public by inserting a subsection on 'The response of the public to the growing pollution of rivers', which starts out with a description of scandal of 1969, the Thiodan-induced fish kill. The content

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24   E.g. NN, 'Flüsse. Rheinvergiftung. Nur ein Sterben', *Der Spiegel* 30 June 1969, 65-66; Sepp Binder, 'Die Ratten verließen den Rhein. Gift in Deutschlands größter Kloake – tote Fische in Richtung Holland', *Die Zeit* 4 July 1969.

25   Meyer, 'Getting started'.

26   Meyer, Appropriating the Environment. How the European Institutions Received the Novel Idea of the Environment and Made it Their Own, *KFG 'The Transformative Power of Europe' Working Paper*: 31 (2011), 1–33, http://userpage.fu-berlin.de/kfgeu/kfgwp/wpseries/WorkingPaperKFG_31.pdf (accessed 25 Mar. 2019); Evanthis Hatzivassiliou, *The NATO Committee on the Challenges of Modern Society, 1969–1975. Transatlantic Relations, the Cold War and the Environment* (London: Palgrave, 2017). See also contributions in Wolfram Kaiser and Jan-Henrik Meyer (eds), *International Organizations and Environmental Protection. Conservation and Globalization in the Twentieth Century* (New York: Berghahn, 2017).

27   Timothy Cooper and Anna Green, 'The Torrey Canyon disaster, everyday life, and the "greening" of Britain', *Environmental History* **22** (1) (2017): 101–126.

28   Cioc, 'Europe's river'.

29   Jacob Boersma, 'Bericht im Namen des Ausschusses für Sozial- und Gesundheitsfragen über die Reinhaltung der Binnengewässer unter besonderer Berücksichtigung der Verunreinigung des Rheins, 11 November 1970', Historical Archives of the European Parliament (HAEP) PEO-AP RP/ASOC.1967 AO-0161/70 (1970).

and wording is remarkably similar to German newspaper reports on the issue from the summer of 1969.[30] Clearly, the rapporteur was aware of the version of the scandal presented in European news media.[31] Indeed, in the subsequent paragraph that stressed the urgency of taking action, Boersma actually invoked the 'European public sphere'. 'The European public sphere was deeply concerned about this catastrophe and voiced its concern about the possibility that accidents of this kind may happen again – at an even larger scale'.[32] At a factual level, such a usage of the term 'European public sphere' describes an actual cross-border sphere of communication, covering those affected by the event. At the same time, it plays on a familiar rhetorical tradition. For the past 200 years journalists and dissident writers have used rhetorical appeals to a 'European public sphere' to scandalise ethically problematic behaviour, as Jörg Requate and Martin Schulze-Wessel have demonstrated.[33]

Furthermore, Boersma's report points to the immediate reaction by the Council of Europe, which drew up a response within a week of the scandal, on 25 June 1969. Such arguments played on the growing competition among international organisations, which at the time tried to stake their claims in the emerging new policy area of the environment.[34] The report also relayed the demands of one of the few European-level societal actors in the European public sphere existing at the time.[35] In the aftermath of the accident, the European consumers' association BEUC (Bureau Européen des Unions de Consommateurs, founded in 1962),[36] had called on the member

30   E.g. NN, 'Flüsse. Rheinvergiftung. Nur ein Sterben'; Binder, 'Die Ratten verließen den Rhein'.

31   Boersma, 'Bericht im Namen des Ausschusses für Sozial- und Gesundheitsfragen über die Reinhaltung der Binnengewässer unter besonderer Berücksichtigung der Verunreinigung des Rheins, 11 November 1970', §28.

32   Ibid., § 29. Translated by the author, here and in the following.

33   On the traditions of the rhetorical invocation of a European Public Sphere as a 'court of appeal', see Jörg Requate and Martin Schulze-Wessel, 'Europäische Öffentlichkeit. Realität und Imagination einer appellativen Instanz', in Requate and Schulze-Wessel (eds), *Europäische Öffentlichkeit. Transnationale Kommunikation seit dem 18. Jahrhundert* (Frankfurt: Campus, 2002), pp. 11–39.

34   Jan-Henrik Meyer, 'Who should pay for pollution? The OECD, the European Communities and the emergence of environmental policy in the early 1970s', *European Review of History: Revue européenne d'histoire* **24** (3) (2017): 377–398.

35   On the concept of societal actors, see Wolfram Kaiser and Jan-Henrik Meyer, 'Beyond governments and supranational institutions. Societal actors in European integration', in Kaiser and Meyer (eds), *Societal Actors in European Integration. Polity-Building and Policy-Making 1958–1992* (Basingstoke: Palgrave, 2013), pp. 1–14.

36   On the consumer associations' activities in the public sphere in the 1970s, see Liesbeth van de Grift, 'Representing European society. The rise of new representative claims in 1970s European politics', *Archiv für Sozialgeschichte* **58** (2018): 263–278.

states to establish a supranational authority to control water pollution and prevent future accidents.[37]

The own initiative report on water pollution and the Rhine of 1970 was followed by another report on air pollution in 1971.[38] Connecting the European institutions to a transnational public sphere of the media on concrete environmental issues, the EP inserted the issue into the EC political process, encouraging the European Commission – the sole proposer of European law – to take action. Given its limited role in law making, the EP itself functioned as a public sphere of assembly, acting as a (self-declared) proxy for the European people. Through its deliberations, it raised attention and pushed the Commission to act, and it used various references to voices and reports in the European public sphere as an argument for European policy action.

Indeed, the Commission subsequently produced a first proposal for environmental policy in 1971. The so-called 'First Communication of the Commission about the Community's Policy on the Environment' picked up the concrete focus on water and air pollution the EP had flagged.[39] At the end of the document's introductory section, which described the issues to be covered by the new policy, the Commission highlighted the urgency of combating the pollution of rivers, notably the Rhine. This demonstrates the relevance of this issue in a European public sphere, and the EP's intermediary role in relaying it to the Commission: 'Lastly, problems like the cleaning-up of rivers and waterways, e.g., the Rhine and its tributaries, passing through a number of member states, ... are immediate and urgent.'[40] Subsequently, the EP commented thoroughly on the Commission's subsequent proposals in 1972[41] and 1973[42] with reports, discussions in relevant committees and in the plenary.

37   Boersma, 'Bericht im Namen des Ausschusses für Sozial- und Gesundheitsfragen über die Reinhaltung der Binnengewässer unter besonderer Berücksichtigung der Verunreinigung des Rheins, 11 November 1970', § 30.

38   Hans Edgard Jahn, 'Bericht im Auftrag des Ausschusses für Sozial- und Gesundheitsfragen über die Notwendigkeit einer Gemeinschaftsaktion zur Reinhaltung der Luft, 15.12.1971', HAEP PE0 AP RP ASOC.1967 0181/71 (1971).

39   European Commission, First Communication of the Commission about the Community's Policy on the Environment. SEC (71) 2616 final, 22 July 1971, Archive of European Integration, http://aei.pitt.edu/3126/1/3126.pdf 12–13 (accessed 26 Mar. 2019).

40   Ibid., 5.

41   European Commission, 'Communication from the Commission to the Council on a European Communities' programme concerning the environment (submitted on 24 March 1972)', *Bulletin of the European Communities. Supplement* **5** (5) (1972): 1–69.

42   Commission of the European Communities, Programme of Environmental Action of the European Communities. Part II: Detailed description of the actions to be undertaken at Community level

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'Save the birds' – The European Public Sphere and the birds directive of 1979

The birds directive of 1979 established strict European rules against the hunting of songbirds and introduced the protection of birds' habitats.[43] The European public sphere played an important role in the making of this first concrete project of EC nature protection policy, in two respects: First, references to the 'public' served as an *argument* for supranational institutions, the EP and the European Commission, to argue in favour of establishing bird protection at the European level. Secondly, environmental protest in the European public sphere as a '*sphere of action*'[44] clearly mattered in particular to supranational European policymakers. In the 1970s, the European institutions were intent on bringing Europe closer to citizens, and on demonstrating the 'added value' of European integration.[45] Campaigns in the media and actions of societal actors such as environmental groups proved crucial in mobilising sufficient political support to actually enact relevant environmental legislation.

Calls for EC action on the protection of migrant birds against hunting predated the establishment of the EC environmental policy. In December 1967, Hans Richarts, a German Christian Democrat from Trier and long-serving MEP (1958–1973), raised the issue of nationally different legislation on animal and bird protection and bird hunting. He pointed to 'the interest' this 'aroused' within a 'broader public sphere', and to media reporting about the mass hunting of songbirds for human consumption in some member states. This, he suggested, undermined the efforts at strict protection of these same bird species in other member states.[46] In 1967/68, before the international breakthrough towards the environment as a political issue, the Commission was not convinced that this was a concern for EC political action. Responding to Richarts' question in March 1968, the Commission suggested that it was neither competent to act on the issue nor entitled to

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over the next two years. Forwarded by the Commission to the Council, COM (73) 530 final C, 10 Apr. 1973, 1973, http://aei.pitt.edu/5451/01/001084_1.pdf (accessed 11 Mar. 2012).

43   On the origins of the birds directive, see Jan-Henrik Meyer, 'Saving migrants. A transnational network supporting supranational bird protection policy in the 1970s', in Wolfram Kaiser, Brigitte Leucht and Michael Gehler (eds), *Transnational Networks in Regional Integration. Governing Europe 1945–83* (Basingstoke: Palgrave, 2010), pp. 176–198; Andrew L.R. Jackson, *Conserving Europe's Wildlife, Law and Policy of the Natura 2000 Network of Protected Areas* (Abingdon: Routledge, 2018).

44   Peters, 'Der Sinn von Öffentlichkeit', 50–56.

45   Grift, 'Representing European society', 268.

46   Hans Richarts, 'Written Question No. 254/67, 11 December 1967, to the Commission concerning the harmonisation of rules for bird protection', HAEP PE0 AP QP/QE E-0254/67 (1967).

recommend to the member states to harmonise their respective laws.[47]

However, in April 1973, when the Commission presented its draft of an environmental action programme, it justified the inclusion of bird protection by pointing to 'worldwide protests against the countries which allow the trapping of birds', and promised to promote 'joint action by the member states of the Council of Europe and other international organisations' and to study the possibility of harmonising bird protection legislation by the end of 1974.[48] This change of mind may also be attributed to a barrage of Parliamentary questions in 1971–1973 by various MEPs, who urged the EC to take action. In their questions, MEPs explicitly asked for EC action and inclusion of the issue into the Environmental Action Programme. For instance, the German Christian Democrat Hans Edgar Jahn,[49] who had already served as rapporteur on the issue of air pollution and the early Commission proposals, backed up his demand for EC action by reference to 'worldwide protest activities' by 'animal protection groups and action committees' against the killing of '200 million birds in Italy'.[50] At the time, when the environment was still a nascent policy area, the Commission was particularly receptive to ideas for European action.

The presence of the bird hunting issue in transnational public spheres was clearly relevant for the inclusion of bird protection in the Environmental Action Programme. However, it was the activities of societal actors in the European public sphere that convinced the Commission to draft a concrete legal proposal and to eventually getting it into the statute book. Indeed, in the course of the 1970s, transnational networks of bird protection activists cooperating with the European institutions managed to successfully push for a birds directive. Their action involved both cooperating with European institutions and organising protest campaigns in the public sphere.

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47   European Commission, 'Answer to Written Question No. 254/67, 1 March 1968, by Mr Richarts, concerning the harmonisation of rules for bird protection', HAEP PE0 AP QP/QE E-0254/67 (1968).

48   Programme of Environmental Action of the European Communities. Part II: Detailed description of the actions to be undertaken at Community level over the next two years. Forwarded by the Commission to the Council, COM (73) 530 final C, 10 Apr.1973, §II.67–68.

49   On Jahn, see Jan-Henrik Meyer, 'A good European. Hans Edgar Jahn – anti-Bolshevist, Cold-Warrior, environmentalist', in Ann-Christina L. Knudsen and Karen Gram-Skjoldager (eds), *Living Political Biography. Narrating 20th Century European Lives* (Aarhus: Aarhus University Press, 2012), pp. 137–159.

50   Hans Edgar Jahn, 'Written Question No. 620/72, 15 February 1973, concerning mass killing of migratory birds in Italy', *Official Journal of the European Communities* **16**: C 39, 7.6.1973 (1972): 12.

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This happened in three steps, in three different contexts.[51] First, an incipient network of radical bird protection groups, led by the Dutch Stichting Mondiaal Alternatif, sent a petition to various international organisations, including the EP. This encouraged Jahn, the deputy chair of the relevant EP committee to produce an own initiative report demanding EC bird protection legislation.

Secondly, informally collaborating with various MEPs, who continued to submit parliamentary questions, bird protection groups engaged in public relations activities, press conferences, media work and organised letter-writing campaigns. When the Commission – after consulting with experts, many of whom were themselves members of traditional bird protection groups such as the British Royal Society for the Protection of Birds (RSPB) – actually submitted a proposal for legislation, the officials justified this step by referring to the about 50,000 letters the Commission had apparently received on the issue.[52]

Thirdly, when the issue lingered in Council, where the proposal required unanimous support of the member state governments, bird protection groups established a European network, the Working Group of Bird Protection Groups (WEBS), in order to better coordinate their work at the national levels. Apart from occasional direct lobbying of governments, notably in the UK where the large and influential RSPB enjoyed access to government, bird protection activists mainly acted via the public sphere. Again, they used letter-writing campaigns – this time to the Council – and cooperated with journalists and media at national levels. For instance, after its most well-known leader, Zoo director and TV show host Bernhard Grzimek had already been involved as an expert in the European bird protection policy project, the first campaign of the newly established West German environmental group BUND (Bund für Umwelt und Naturschutz Deutschland) was called 'Save the Birds'. For this purpose, they collaborated with a widely distributed popular weekly magazine to further press the salience of the issue in the (national) public sphere. These activities took place in a transnational European public sphere as a sphere of action, in which environmental groups tried to promote the same issue at the same time 'using the same criteria of relevance',[53] and clearly contributed to the eventual adoption of the birds directive.[54]

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51   For further detail and full references, see Meyer, 'Saving migrants'.

52   Ibid., 185.

53   Eder and Kantner, 'Transnationale Resonanzstrukturen in Europa', 315.

54   Meyer, 'Saving migrants', 188–190.

Nuclear power – Demanding transparency and accountability

The nuclear issue, which was arguably the most contentious environmental issue in the public sphere across Europe in the 1970s,[55] did not feature very prominently in the EC's environmental policy, not least because it fell within the scope of the separate Euratom Treaty. Nevertheless, the issue was present at the European level, right from the start. This reflects the close connection between the European public sphere and European institutions, mediated via various channels.

The nuclear issue already featured in the EP's first report on water pollution and the Rhine, mentioned above. In 1970, when plans for the siting of nuclear installations in many countries became public, the first environmental critique of nuclear plants, however, did not concern radiation, but thermal pollution of rivers. Along the river Rhine, Swiss, French and West German utilities competed for the ample cooling water the large river provided.[56] The 1970 EP report thus flagged the need to address the transnational issue of thermal pollution. The wording of the EP report closely mirrors media reports published in early 1970, which back up this concern with recent research in Germany and experiences from the United States.[57] The issue of thermal pollution continued to feature in discussions by different EC institutions during the 1970s about the need for European rules for the siting of nuclear power plants at intra-Community borders.[58]

In 1975, protests around the nuclear power plant at Wyhl on the Franco-German border, involving participants from the neighbouring Alsace, Switzerland, and West Germany, not only kicked off a series of massive protests

55 Helmuth Trischler and Robert Bud, 'Public technology: Nuclear energy in Europe', *History and Technology* **34** (3–4) (2019): 187–212, here 199–200.

56 Arne Kaijser and Jan-Henrik Meyer, 'Nuclear installations at the border. Transnational connections and international implications. An introduction', *Journal for the History of Environment and Society* **3** (2018): 1–32.

57 Spiegel, 'Tod im Strom. Industrie Kernkraftwerke', *Der Spiegel* 23 Feb. 1970, 46; Theo Löbsack, 'Wenn der Rhein dampft. Zu den geplanten Atommeilern darf nicht geschwiegen werden', *Die Zeit* 24 Apr. 1970, 67; Boersma, 'Bericht im Namen des Ausschusses für Sozial- und Gesundheitsfragen über die Reinhaltung der Binnengewässer unter besonderer Berücksichtigung der Verunreinigung des Rheins, 11 November 1970', 4 §12; 6–7 §11.

58 E.g. Hanna Walz, 'Report drawn up on behalf of the Committee on Energy, Research and Technology of the European Parliament on the Conditions for a Community Policy on the Siting of Nuclear Power Stations taking account of their Acceptability for the Population, doc. 392/75, 26 November 1975', HAEP PE 40.985/fin (1975).

against nuclear power plants in West Germany and France.[59] To a group of young pro-European left-wingers, such transnational protest appeared like the embodiment of the European spirit. Wyhl seemed to epitomise a Europe from below. It looked very different from the Europe of big business the EC seemed to represent and that they resented.[60] Among these young people were members of the Young European Federalists (Junge Europäische Föderalisten, JEF) including the young German Social Democrat Petra Kelly, who worked as an official in the secretariat of the EC's Economic and Social Committee. She was to become one of the founders of the German Green Party and lead candidate in the European elections of 1979.[61] Among them was also Jo Leinen, a young lawyer and alumnus of the College of Europe, who was working for the German Young Socialists at the time. Unlike Kelly, he stayed with the Social Democrats, and served as chairman of the EP's environmental committee until 2014; he continued to be a member until 2019.

From 1974 both of them had collaborated on JEF's magazine *Forum Europa*, which devoted much attention to the new policy issues of the 1970s, such as the environment and nuclear power. JEF organised events to address the lack of a 'democratic European public' and sought to help construct such a space via their own publications and events.[62] In particular, they aimed at encouraging a more open debate on nuclear energy also at the level of the EC, along the lines of public hearings and debates conducted in various European countries at the time.[63] They reasoned that international organisations, and in particular the EC, were important promoters of nuclear energy, through Euratom's research programmes and assistance in funding nuclear projects.

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59   Andrew Tompkins, *Better Active than Radioactive! Anti-nuclear Protests in 1970s France and West Germany* (Oxford: Oxford University Press, 2016); Stephen Milder, *Greening Democracy. The Anti-Nuclear Movement and Political Environmentalism in West Germany and Beyond, 1968–1983* (Cambridge: Cambridge University Press, 2017).

60   For a more detailed account, with full references, see Jan-Henrik Meyer, '"Where do we go from Wyhl?" Transnational anti-nuclear protest targeting European and international organisations in the 1970s', *Historical Social Research* **39** (1) (2014): 212–235.

61   Saskia Richter, *Die Aktivistin. Das Leben der Petra Kelly* (Munich: DVA, 2010).

62   'Special Issue: Atomenergie: politischer und sozialer Sprengstoff', *Forum Europa Zeitschrift für transnationale Politik* **6** (3–4) (1976): 2; Josef M. Leinen, 'Protokoll des Forum Europa-Seminares zu dem Thema "Europa ohne demokratische Öffentlichkeit" vom 14./15. Januar in Bonn, Hotel Eden, Teilnehmerliste', *Archiv Grünes Gedächtnis (AGG)* PKA: 2249 (1976): 1–5; 'Umweltschutz Themenheft', *Forum E Bulletin der Jungen Europäischen Föderalisten* **3** (3) (1972).

63   E.g. in Denmark, Jan-Henrik Meyer '"Atomkraft – Nej tak". How Denmark did not introduce commercial nuclear power plants', in Astrid Mignon Kirchhof (ed.) *Pathways Into and Out of Nuclear Power in Western Europe: Austria, Denmark, Federal Republic of Germany, Italy, and Sweden* (Munich: Deutsches Museum 2020), pp. 74–123, here pp. 94–99.

Responding to the European Public?

Indeed, in debates on nuclear power in the EP in the mid-1970s, MEPs almost unanimously perceived the expansion of nuclear energy as the only possible response to the oil crisis and ever-growing energy consumption, and routinely disparaged critics of nuclear power as 'motivated by emotional irrationality'.[64]

Collaborating within the European Environmental Bureau (EEB), the federation of environmental groups in Brussels, and with the Brussels-based Euro-federalist group 'agenor', of which they both were members, the JEF first attempted to organise 'hearings' on nuclear energy in Brussels. Their goal was to encourage a more critical public debate about the risks of radioactivity, the impact of nuclear power on the environment, economic, political and ethical issues.[65] However, it proved difficult to convince pro-nuclear politicians and experts to attend an event organised by a civil society group consisting of mainly young people with anti-nuclear credentials. Commissioner for Energy Henri Simonet, who had promised his participation, apparently declined to attend at the very last minute.[66]

The JEF and agenor activists changed strategy. They addressed the new Commissioner for Energy and Research Guido Brunner, a member of the German Free Democrats. At the time, the German liberals presented themselves as the party of the environment. After all, as minister of the interior, party leader Hans-Dietrich Genscher had introduced environmental policy in Germany in the early 1970s, and claimed to have coined the German word term 'Umweltschutz' (i.e. environmental protection).[67] JEF activist John Lambert, who had organised the agenor hearings in Brussels, not only managed to persuade Brunner to hold 'Open Debates on Nuclear Energy' but also instructed Brunner's cabinet on how best to organise such an event and how to achieve maximum credibility and impact, notably by publishing the

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64   In the debate on the report by Hanna Walz on the Siting of Nuclear Power Stations (see above), only the Scottish Labour MEP William Winter Hamilton voiced his concern about leaving behind large quantities of nuclear waste to subsequent generations. Hamilton rejected Walz' suggestion that critics of nuclear power were 'motivated by emotional irrationality', believing that they were 'highly qualified academics, highly qualified scientists, highly qualified technologists' (p. 64). Mr Hamilton, 'Speech in European Parliament, 13 January 1976, on Community Policy on the Siting of Nuclear Power Stations', *Official Journal of the European Communities, Annex: Proceedings of the European Parliament* January 1976: 63–64.

65   Agenor, 'Europäische Hearings und Arbeitsgruppen über Atomenergie, Brüssel, 5.-8. November 1975, veranstaltet von Agenor', *Archiv Grünes Gedächtnis (AGG)* Petra Kelly Archiv: 1913 (1975).

66   Agenor, 'Hearings report', *Agenor* **58** (1976): 1–4, at 2.

67   Hans-Dietrich Genscher, *Erinnerungen* (Berlin: Siedler, 1995), pp. 125–138.

results.[68] Brunner's cabinet collected information on national experiences.[69] Brunner managed to convince his fellow Commissioners and the reluctant member states to organise such hearings. They eventually took place in two sessions from 29 November to 1 December 1977 and from 24 to 26 January 1978 at the exhibition centre Heysel in Brussels underneath the iconic Atomium, with Brunner in the chair.

Cooperation between JEF/agenor and Brunner's cabinet on the organisation of the event did not preclude continued controversy on substance. Even if the Commission invited the EEB to suggest suitable counter-experts with anti-nuclear credentials, this did not stop the EEB and its member organisations from publishing critical press releases.[70] In any case, apart from functioning as a European public sphere of an assembly, the event drew substantial attention of an – albeit temporary – European public sphere of the media to European aspects of nuclear energy and the environment. Numerous newspaper articles on the event collected by the European Commission provide evidence of this.[71] Furthermore, the event provided an opportunity for environmental and anti-nuclear organisations from all over Europe, such as the Danish Organisation for nuclear information (OOA)[72] or the German Federation of Citizen Action Groups (BBU), to reach out to this European public sphere with their own messages. They were routinely critical of the event as well as of the Commission's generally pro-nuclear stance. Thus they provided both a structure of communication and a sphere of action at the same time.[73]

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68   John Lambert, 'For Guido Brunner: Thoughts on Commission hearings about energy policy, Group Agenor, Brussels, 25 January 1977', *Historical Archives of the European Commission* (HAEC) BAC 144/1987, 254 (1977): 84–86. The results were actually published in 1978 as European Commission, *Open Discussions on Nuclear Energy. Held by the European Commission, Brussels, 29/11-1/12/1977 and 24-26/1/1978* (Luxembourg: Office for Official Publications of the European Communities, 1978).

69   E.g. Helmut Hirsch and Helga Nowotny, 'Europe's nuclear debate (1): Austria: a case study. Helmut Hirsch and Helga Nowotny assess Austria's nuclear energy information campaign. Nature Vol. 266, 10 March 1977, 107–108', HAEC BAC 144/1987, 254 (1977): 186–187.

70   EEB, 'Various press releases by the European Environmental Bureau', HAEC BAC 144/1987, 255 (1977-1978): 248-258, 264-265; id., 'Response to the communication on the conclusions drawn by the Commission from the public debates on nuclear energy, Brussels, 14 July 1978', HAEC BAC 144 1985: 250 (1978): 75–77.

71   European Commission, Cabinet Brunner, 'Presse Nuklear-Hearings, 29.11.-1.12.1977, 24.-26.1.1978', HAEC BAC 144/1987, 255 (1977–1978): 16–241.

72   On the OOA, see Meyer "'Atomkraft – Nej tak'", pp. 82–84.

73   BBU, '"Energie-Debatte: Öffentliche Show ohne Konsequenzen oder Beginn einer energiepolitischen Neuorientierung?" Press release by Bundesverband Bürgerinitiativen Umweltschutz (BBU), 1 December 1977', HAEC BAC 144/1987, 255 (1977): 267–268; OOA, 'Press release by the Organisationen til Oplysning om Atomkraft, 1 December 1977', HAEC BAC 144/1987, 266.

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This chapter has examined how and to what extent a (European) public sphere was relevant for the emergence and development of a European, that is, EC/EU level, environmental policy. It studied the interaction between debates in the media and the public sphere and the development of European environmental policy and certain environmental measures. Three empirical examples were discussed, which differed with a view to the role of the public sphere.

First, the start of an EC environmental policy can be viewed as a response to a wider transnational public sphere in which environmental issues as issues of public policy increasingly featured at the same time 'using the same criteria of relevance'. The EP proved an important mediator between these transnational and international debates on environmental issues, which often reflected very concrete local impacts, such as the quality of the water of the Rhine in the Netherlands. The EP – itself a European public sphere of an assembly – also fulfilled some of the functions of the public sphere, trying to hold the EC institutions to account.

This role of the EP was very similar in the second case, on bird protection. This issue was discussed in a more fragmented European public sphere: at the same time but not necessary 'using the same criteria of relevance'. In some countries – the Netherlands, West Germany and the UK – bird protection and the fight against bird hunting were much more important. These issues were viewed very differently in Italy or France, where trapping and hunting small birds was not frowned upon, but considered part of local traditions. Italian bird protection activists however, were important players in a transnational public sphere – in the sense of a sphere of action. Together with their partner groups in other EC member states, they played a crucial role in scandalising the issue, using the public sphere to convince national and EC policy makers to enact European legislation. Such pressure – increasingly coordinated across borders – contributed to successfully guiding the issue through the legislative process, which at the time required a substantial threshold, namely the unanimous support of member state governments.

Thirdly, on the environmental impacts of nuclear installations again the European Parliament proved an important mediator of public debates into the Brussels institutions. The EP proved much less receptive to the controversies on nuclear power than to the less divisive bird issue. Most MEPs remained

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committed to the pro-nuclear elite consensus, even if members worried about the social acceptability of what they considered an indispensable energy source. Nevertheless, through direct lobbying, pro-European anti-nuclear activists convinced the European Commission to hold 'Open Discussions on Nuclear Energy' in 1977/78. Thus they helped create a European public sphere of an assembly which intensely and controversially discussed the issue beyond the usual experts' forums, thus contributing to transparency, opinion-formation and accountability. Even if the wider impact on a broader European public sphere was temporary, this was an important achievement in the face of a clear pro-nuclear consensus within the institutions.

Thus, we can conclude that the European public sphere mattered very concretely with a view to European environmental policymaking – from agenda setting to policy implementation. It even instigated controversial 'open discussions' in a European public sphere on an policy that the EC was committed to by the Euratom Treaty. Thus this concrete study of the role of the European public sphere in policymaking arrives at different results from what media studies found regarding the European public sphere. While media studies have stressed the incipient and fragmented nature, we can conclude that the European public sphere on the environment was able to fulfil some of its most important functions. The European public sphere clearly had an impact on the rise and shaping of European environmental policy. Societal actors, notably environmental groups, used and thereby constructed the European public sphere as a 'sphere of action' and used it in their favour.

The European public sphere on the environment also engaged in European identity formation. Remarkably, most of the voices in the debates in a European public sphere on environmental issues invoked and constructed a European identity. This is also reflected in the various emphatic rhetorical invocations of a European public sphere as a normative benchmark or authority. Three reasons may account for this predominance of European identity constructions: First, the self-selection of those civil society groups, societal and institutional actors who were involved and interested in a European environmental policy; second, for strategic reasons, when demanding European policy action, it made sense to talk the European talk and appeal to familiar federalist convictions shared by those working for the EC institutions. This, thirdly, was clearly more appealing at the time than today. In the 1970s, European policy was considered weak, almost insignificant. European Union was a vision, not a reality. At the time of the supposed 'permissive

consensus',[74] demands for more Europe, and emphatic constructions of European identity, were much less controversial than today.[75]

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74   Leon N. Lindberg and Stuart A. Scheingold, *Europe's Would-be Polity. Patterns of Change in the European Community* (Englewood Cliffs, NJ: Prentice-Hall, 1970).

75   This finding is well in line with Meyer, *The European Public Sphere*, pp. 291, 297.

CHAPTER 14.

THE MAJOR STAGES IN THE CONSTRUCTION OF EUROPEAN ENVIRONMENTAL LAW

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The environmental norms of the European Union are among the most substantial and strict in the world. The environment is not a concept defined in the Treaty of Rome, which would have risked fixing a domain that is constantly evolving alongside scientific and technological progress. The first definition was proposed by the European Commission in its first communication regarding the environment: it is 'the combination of elements whose complex interrelationships make up the settings, the surroundings and the conditions of life of the individual and of society'.[1] As this definition is not the only one available, a broader definition of the notion of the environment is needed. One could say that European environmental law corresponds to a series of measures taken to combat pollution and environmental nuisances, in an effort to protect the essential elements of nature (flora, fauna, etc.) and the environment.

European environmental law is strict because it adheres to a high level of environmental protection, and should actually be understood as a law for environmental protection. Procedures ensuring this protection have been available to each individual since the adoption of the Aarhus Convention in 2001 (right to access to environmental information, public participation in the decision-making process and access to justice in environmental matters).

European environmental law was conspicuously absent from the treaties that established the first communities; as a result, the environment was firstly a matter of international law. In fact, despite the Commission's first communications in 1973 on the need to ensure environmental protection, it was in the context of the United Nations Conference on the Human Environment held in Stockholm in June 1972 that 'the starting signal for the environment'[2] was launched, at the initiative of Scandinavian countries, as a

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1   First communication of the Commission about the Community's policy on the environment. SEC (71) 2616 final, 22 July 1971.

2   Guy Corcelle, '20 ans après Stockholm, la conférence des Nations-Unies de Rio de Janeiro sur l'environnement et le développement : point de départ ou aboutissement ?' *Revue du marché commun et de l'Union européenne* **365** (1993): 107.

major concern for states and citizens. Against this backdrop, heads of state and of government decided, during the Paris Summit in October 1972, to develop a European environmental law, on account of the advantages offered by Community law, which is a law of integration that notably involves the transfer of competence to institutions independent from the member states.[3]

The silence of the Treaty of Rome that established the EEC meant that the first environmental measures would be taken on the basis of the First Environment Action Programme (EAP), which was launched in 1973 in the form of a declaration. Originally, member states established their own environmental norms; since these internal measures were likely to pose an obstacle to trade in connection with implementation of the Common Market, they were harmonised.

The implementation of the Single European Act (SEA) of 1 July 1987 marked the creation of a new Community environmental law, by introducing within the Treaty of Rome a dense title relating to the environment (current title XX of part 3 of the Treaty on the Functioning of the European Union (TFEU) grouping together articles 191 to 193). This new and specific legal foundation emphasises a series of principles: the prevention principle, which consists of taking measures to avoid the repetition of a risk and/or to limit its consequences; the polluter pays principle, in which damage is paid for by polluters; the principle of subsidiarity, which regulates the division of competence between the Communities and member states; and the integration principle, which enables the environment to become a component of all other policies. This new title also introduced the possibility of adopting environmental measures with a qualified majority, in order to facilitate decision making.

The coming into effect of the Maastricht Treaty on 1 November 1993 was important especially because it inserted environmental policy in article 3 of the treaty, which instituted the European Community. With regard to the environment, it included a corollary principle to that of prevention, namely the precautionary principle, which states that, in the absence of scientific certainty, when an initial scientific evaluation provides sufficient reasons to fear potential harmful consequences for the environment or health, measures must be taken to prevent this risk even if it has not been demonstrated. It also extended the decision-making procedure of a qualified majority to almost all areas of the environment, made the co-decision procedure the

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3   See Sophie Baziadoly, *La politique européenne de l'environnement* (Brussels: Bruylant, 2014), pp. 10–16.

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standard legal procedure in the domain of the environment, and placed the European Parliament and Council on equal footing.

The implementation of the Treaty of Amsterdam in late 1999 marked a major change in environmental decision-making procedure (expansion of the qualified majority vote, etc.). The environment also had a role in the Treaty of Nice from 2001, as environmental questions were regularly on the European Union's agenda, and played an increasingly important role in the implementation of policy.

The Treaty establishing a Constitution for Europe enshrined the environment as one of the EU's priorities: environmental protection and sustainable development represent the EU's third objective, after peace and free trade. The Charter of Fundamental Rights considers environmental law to be a fundamental right, and the EU's accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms strengthened this protection. The constitutional treaty established an environmental law more in touch with citizens, thanks to institutional advances such as the introduction of a right to petition, which gives one million citizens from a significant number of states the right to ask the Commission to present a bill. The constitutional treaty reinforced the planetary dimension of the issues of European environmental law, especially by emphasising the fight against climate change. As the ratification process for the constitutional treaty did not come to a successful conclusion, the measures relating to environmental protection that it contained were nevertheless implemented through inclusion in a renegotiated treaty, the Treaty of Lisbon.

Hence, it was chiefly the consideration of objectives, principles, and framework conditions that conferred legal competence on the EU to act in all areas of environmental protection. These requirements have led to the adoption of a large body of secondary law texts during the last three decades. Since the 1970s, European environmental law has continued to evolve under the guidance of a key actor of its implementation, the European Commission.

Consideration of objectives, principles and framework conditions

European environmental law was built around objectives to be met. It is based on fundamental principles. It was developed in accordance with framework conditions.

The Major Stages in the Construction of European Environmental Law

A European Environmental Law built around objectives to be met

There are two kinds of objectives that underpin European environmental legislation: a priority objective in sustainable development, and general objectives.

A priority objective, sustainable development

Sustainable development was defined in 1987 by the United Nations World Commission on Environment and Development as a development 'that meets the needs of the present without compromising the ability of future generations to meet their own needs'.[4] This notion means that, at a strict minimum, the natural systems that sustain life, such as the atmosphere, water, land and living beings, must not be endangered.[5] Also, in order to meet this objective, economic growth and the environment must be balanced. Sustainable development grew out of ecological catastrophes that occurred in the 1980s, such as Bhopal (India) in 1984 and Chernobyl (Ukraine) in 1986.

This objective was established by the Preamble of the Treaty on European Union (paragraph 9), articles 3 and 11 of the TFEU, and article 37 of the Charter of Fundamental Rights.

The concept of sustainable development materialised in different ways. For instance, it served as a basis for the Fifth EAP (1994), which underpins a great deal of legislation. Today it is expressed through the mediation of an effective principle of European environmental law, the principle of integration, which allows the EU to engage in ambitious strategies, such as the one seeking to combat climate change.[6]

The general objectives of European Environmental Law

Article 191, § 1, TFEU provides a list. It is not possible to separate them from the numerous environmental problems that relate to multiple objectives.[7] The establishing of general objectives opens a large field of action.

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4   This definition was taken from the Brundtland Report of April 1987.

5   See Philippe Léger (ed.), *Commentaire article par article des traités UE et CE* (Paris-Brussels: Dalloz-Bruylant, 2000), pp. 159–163.

6   See Sophie Baziadoly, *Le droit communautaire de l'environnement depuis l'Acte unique européen jusqu'à la Conférence intergouvernementale* (Brussels: Bruylant-ULB, 1996), pp. 76–77.

7   See Léger, *Commentaire article,* pp. 1328, 1330–1331 and 1334–1335; see also Baziadoly, *La politique européene*, pp. 24–30.

The preservation, protection, and improved quality of the environment represent the primary objectives identified by the EU in taking environmental measures. They allow for approaching all aspects of environmental protection, including the sudden appearance of new and unforeseen problems, or problems detected outside the EU.

Protecting the health of individuals is the second objective, and is connected to the first, as the quality of the environment has important consequences for public health.

The prudent and rational use of natural resources is an objective that flows from the first objective. This third objective targets natural resources in the broader sense, which is to say both those that are renewable (water, etc.), and those that are not (oil, etc.). The concept of prudent and rational use of renewable natural resources entails using renewable resources so that their regular renewal is not compromised; for non-renewable resources, all waste must be avoided.

The fight against climate change is the EU's new priority (Treaty of Lisbon), and has no equivalent. It confers an international dimension to environmental protection, and is in keeping with the broader objective of sustainable development.

A European Environmental Law Based on Fundamental Principles

Article 191, § 2, sentence 2 of the TFEU distinguishes the specific principles that apply only to matters of environmental protection (1), and general principles that involve not just the environment, but all European policies (2).[8]

The specific principles

The precautionary principle is the most recent. It entails adopting appropriate measures of prevention against threats of serious and irreversible harm to the environment and the health of humans, animals or plants, without having to wait for the proof of an immediate danger to be fully reported. It is thus based on uncertain scientific results, unlike the prevention principle, which applies when we know the dangers of a measure. At the outset, prevention and precaution did not exclude one another, for it was because of the shortcomings of the prevention principle that the European Com-

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8   See Léger, *Commentaire article,* pp. 1336–1344 and 1350–1355; also Baziadoly, *La politique européenne,* pp. 30–36 and 37–41.

mission established the precautionary principle. The precautionary principle was highlighted as part of the fight against climate change, which admitted scientific uncertainty regarding the polluting impact of human activities.

The First EAP in 1973 formulated the prevention, rectification at source of environmental damage and polluter pays principles, which have been constantly reaffirmed since.

The prevention principle, which is a corollary to the precautionary principle, recommends avoiding pollution and environmental nuisances by adopting or adapting measures to eradicate a known risk. The objective of the prevention principle is therefore not to eliminate the pollution and nuisances that occur, but rather to take measures to prevent such events from taking place. It is an essential principle that involves the use of prior environmental impact assessments, which necessitates the study of environmental effects before the implementation of a plan or project, the establishing of systems requiring authorisation for any activity producing a serious effect on the environment, and monitoring and control of authorised emissions.

The principle of rectification at source is a corollary to the prevention principle, in the sense that it involves the rectification of environmental damage at the source, for instance the use of pesticides or fertiliser in agriculture.

The polluter pays principle (PPP), initially developed by the OECD in 1972, is an economic principle that became a legal one with the first treaty amending the provisions of the Treaty of Rome. The instruments for the application of the PPP were identified through a Council Recommendation in 1975 as binding legal norms.[9] These include environmental quality norms that prescribe a level of pollution or environmental nuisance not to be surpassed within a particular environment, in addition to economic and fiscal instruments such as water pollution charges, which offer a way of changing the behaviour of polluters. The PPP signifies that the costs for reducing environmental pollution are to be borne by those who caused the pollution, or who risk causing pollution. It has three facets: it can be applied preventively, which is to say before the damage takes place; it can be applied after environmental damage occurs; and in certain conditions, it authorises controlled pollution, with the polluter paying an ecotax. The PPP can be invoked in connection with the elimination of waste, water pollution, or environmental responsibility.

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9   See Council Recommendation 75/436/CEE, from 3 Mar. 1975, regarding cost allocation and action by public authorities on environmental matters, *JOCE* L 194, 25 July 1975.

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General principles

The principle of integration is based on the fact that all the EU's policies and actions can have an impact on the environment, especially key sectors of the economy (common agricultural policy, transportation, energy, industry, tourism). It is an innovative principle because it requires legislators to take environmental protection into consideration in all domains, and at all stages, in which they intervene, from design to realisation. This principle has created an integrated policy for energy and the environment, notably in order to fight climate change. The principle of integration prompted a change in working methods within the European administration, with the Commission's Directorates-General (DGs) possessing a department or sector exclusively addressing environmental problems.

The principle of subsidiarity does not apply to the exclusive competence of the EU, which is to say the domains in which member states do not intervene, such as the management of marine natural resources. This principle is applicable to shared competence, that is the domains in which the EU has not yet passed legislation; when it does so, the member states no longer intervene. The objective of the principle of subsidiarity is to determine whether the EU can act within a shared domain of competence, or whether it must allow member states to regulate the matter. Article 5, § 3, TEU states the condition for initiating an action, namely that the member states are unable to sufficiently meet the treaty's objectives, and consequently these objectives can be better achieved on the EU level. The principle of subsidiarity is bolstered by the Treaty of Lisbon, which established measures for control over the subsidiarity carried out by national parliaments. It is, for instance, an effective principle for combatting pollution on the international and European level. It is also a principle whose definition and implementation criteria offer the advantage of less regulation of the environment on the European level.

The principle of international cooperation applies in matters of shared competence, member states and the EU in concluding external agreements relating to environmental protection: this principle enabled, for instance, the conclusion of the Kyoto Protocol in 1990 to combat climate change.

The principle of proportionality is antithetical to the principle of subsidiarity, as it applies only in the context of a normative action conceded to the European Union, and therefore only if subsidiarity does not apply. Provided for by article 5, § 4, TEU, it requires the actions of European institutions not to surpass the limits of what is appropriate and necessary for achieving

objectives legitimately pursued by the regulation in question; it is understood that, when there is a choice between a number of appropriate measures, the least restrictive should be used, and that the resulting disadvantage should not be measured based on the established goal.

A European Environmental Law developed in accordance with framework conditions

In developing European environmental law, the EU takes into consideration both framework measures and national mechanisms for dispensation and safeguard.

Framework measures

Framework measures are general conditions that the EU must adhere to in establishing environmental protection measures. Included in the Treaty of Rome by the SEA at the request of multiple member states facing specific national difficulties, they are three in number.[10]

The taking into consideration of available scientific and technical data is due to the United Kingdom, which lamented the lack of a scientific foundation for environmental measures during the mad cow affair; it conveys the idea of a constantly evolving environment that must adapt to technological advances and the evolution of scientific knowledge. In this sense, it combines with the application of the prevention and precautionary principles. For example, this data is systematically taken into consideration in directives granting marketing authorisation for medicine.

The advantages and burdens that can result from action or inaction entail taking environmental protection measures that do not lead to excessive costs, and that subsequently take economic situation into consideration, particularly for companies. It also entails, with regard to member states, not to hinder the need for balanced economic and social development of different regions in the EU. High-performance and non-polluting technologies can prove financially costly for companies, and can lead to major economic and social changes, such as offshoring to third countries that do not have these obligations. With this in mind, the EU engages in a dual balancing, between the positive and negative consequences of its action, and the consequences between its action and inaction.

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10   See Léger, *Commentaire article,* pp. 1360–1364; see also Baziadoly, *La politique européenne*, pp. 47–51.

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The environmental, economic and social elements of the various regions of the EU (article 191, § 3, TFEU), which less developed countries particularly insisted on (Ireland, Greece, etc.), calls for considering the level of economic and social development of members states in environmental decision-making. As a result, since the Treaty of Amsterdam, this framework condition involves consulting the Committee of the Regions before adopting a measure pertaining to the environment. It notably provides for support mechanisms, so that environmental protection does not represent an obstacle to development.

National mechanisms for dispensation and safeguarding[11]

The minimal protection clause (article 193 TFEU) allows member states such as Germany, which feared having to accept European measures offering little environmental protection, to maintain and even establish stricter national rules for protection in domains in which the EU has not yet acted.

The safeguard clause (article 191, § 2, TFEU) enables member states, as part of the harmonisation of national legislation needed to create the internal market, to apply national provisions when they deem it necessary, and when EU provisions are justified for reasons of the general interest considered to be urgent, such as protection of the environment. These measures must be compatible with the treaties; for example, they must not be disproportionate in relation to the objective being pursued – environmental protection – in view of the obstacles they create. The Commission must be notified of them. Today, given that there are many Europeans texts in environmental protection, member states have little latitude to invoke such dispensations.

A voluminous body of texts of secondary legislation

Normative actions revolving around environmental protection form the primary source of European environmental law for member states, but environmental protection also goes beyond the European norm.

Normative actions, the primary sources of European Environmental Law

Since the 1970s, European environmental law has developed through the creation of environmental action programmes; EAPs are notably supple-

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11   See Baziadoly, *La politique européenne*, pp. 51–56.

mented by the working programme that the Commission produces each year, whose content varies according to the presidency of the member states.[12] EAPs are powerful drivers of strong environmental legislation; the adoption of numerous legal acts regulates the various fields.

Environmental action programmes, a powerful driver for strong environmental legislation

The first environmental measures were developed in the form of action programmes. Today there are seven EAPs: the first was adopted by the Council in 1973, and was followed by six others in 1977, 1983, 1987, 1992, 2001 and 2012. The EAPs formulate a philosophy for the protection and improvement of the environment; they also define a calendar of specific actions to undertake during the years covered by these general programmes. With the exception of the first EAP, they are inspired by the results from preceding programmes, their shortcomings and successes and especially the evolution of environmental problems in Europe and the world (climate change, etc.).

The first two EAPs were essentially in the fairly restrictive domain of combatting pollution and environmental nuisances. As the situation had improved thanks to the adoption of legal instruments, the Third EAP changed direction by recommending the development of a global policy strategy for the environment, based notably on the inclusion of environmental concerns within the conception of all EU activity.

The Fourth EAP was innovative in that it accompanied the taking into effect of the SEA, and hence the creation of a new European environmental law. As a result, all while calling for the continuation and acceleration of earlier programmes that had not been executed, it insisted on the need to fix stricter norms, ensure the effective application of directives, and develop more active information and education policy for the environment. The Fifth EAP, entitled 'towards sustainability', gave new momentum to environmental protection by seeking to balance the environment and development.

The Sixth EAP, inspired by the Fifth EAP, covered a period of approximately ten years (2002–2012). It set out from the consideration that our environment would be subject to constant constraints as a result of the global pursuit of growth, prompting the identification of fundamental priorities. In order to have more effective environmental protection, it recommended the use of economic and financial instruments in addition to legislation.

12   See Ludwig Krämer, *EC Environmental Law* (London: Sweet and Maxwell, 2007), pp. 147–148.

The Seventh and final EAP, concluded for the period running from 2012 to 2020, is based on an evaluation of the penultimate programme. Its content seems to be more targeted, as it is in keeping with both the environment and the economy. It highlights the cost, fifty billion euros, of poor application of environmental legislation, and hence the need to improve implementation.

The first five EAPs were not legally binding, as they were adopted in the form of declarations, resolutions and decisions, and did not emanate solely from the Council, but also from member states; they can be seen as policy guiding principles that led to the adoption of many European legal acts.

The TEU established a new legal framework for the adoption of the Sixth EAP and the programmes for the coming years: action programmes henceforth had to be made by co-decision between the Council and European Parliament as part of ordinary legislative procedure (article 294 TFEU); this provision created a legal effect enabling either co-legislator to bring an action for failure to comply against the Commission, if this institution does not develop proposed legislation in the sectors targeted by the EAP.[13]

The adoption of numerous legal acts for regulating various environments

For the most part, European directives enable legislating in various domains. They contain general arrangements that member states can flexibly interpret as they integrate them within their internal legal order. Until the late 1990s, directives took a sectoral approach to environmental protection, and were issued as environmental problems appeared. The development of the integrated approach to the environment prompted the EU to change strategy in order to regulate the different environments.

Water was the first sector in which the EU legislated. The EU has taken an evolving approach to water pollution, as it manages water pollution comprehensively rather than based on one sector. It did so by replacing the directives from the 1970s and 1980s – for instance fixing acceptable levels of pollution for bathing water – by a directive (2000/60/CE) that established a European framework to provide member states with water supplies sufficient in quantity and quality, with a view to the sustainable use of this resource.[14] With this in mind, member states had to establish integrated

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13   Ibid., p. 47.

14   See Baziadoly, *La politique européenne*, pp. 97–99; Krämer, *EC Environmental Law*, p. 296; Patrick Thieffry, *Droit de l'environnement de l'Union européenne* (Brussels: Bruylant, 2011), pp. 282–342; Gérard Druesne, *Droit de l'Union européenne et politiques communautaires* (Paris: PUF, 2006), p.

water resource management programmes by creating hydrographical territories, which are areas possessing abundant water (including especially streams, lakes and rivers flowing into the sea); they were also required to establish districts (water agencies of a sort) tasked with managing water resources. Furthermore, the directive reaffirmed the polluter pays principle by including the cost of water pollution in the price of water provided by an economic operator to a consumer.

Air is a sector in which the European Union was late in legislating,[15] with the first directives relating to air pollution dating from the 1980s, as a result of both the 1973 oil crisis and energy constraints weighing on member states. Today there is an integrated approach to air pollution thanks to a 2008 directive (2008/50/CE), which, for instance, requires monitoring pollution from road traffic (PM 2.5) presenting a substantial negative impact on human health (establishing a limit for particles emitted by transportation, harmonisation of air quality monitoring in Europe by establishing days without cars, etc.).

The improvement of air quality is also a global priority in the fight against climate change, as air pollution is responsible for global warming. With this in mind, the EU initiated an ambitious strategy for adapting its economy to this requirement, by planning measures in all sectors that emit polluting gases (carbon dioxide, etc.), such as industry. The European Union's climate strategy has existed since the 1990s, in particular with the Kyoto Protocol and later the Copenhagen Agreement in the 2000s. It led in 2006 to a proposal to develop a new integrated policy, which notably enabled the adoption of the Climate and Energy Package in late 2008, and the issuing of a directive, upgraded a number of times (2009/29/CE), establishing an emissions trading system (authorising companies that have surpassed their pollution quota to purchase the emissions rights of other companies that reduced their greenhouse gas emissions). The definition of climate policy remains a major challenge for the EU. The minimalist Copenhagen Agreement led to new meetings in Paris in 2015. It may appear, for that matter, difficult to reconcile environmental objectives with the preservation of European competitiveness.

537. See also Raphaël Romi, Thomas Dubrueil, Sandrine Rousseaux and Mary Sancy, *Droit international et européen de l'environnement*, 2nd edition (Paris: Montchrestien, 2013), pp. 185–193; Louis Dubouis and Claude Blumann, *Droit matériel de l'Union européenne* (Paris: Montchrestien, 2012), no. 382.

15   Baziadoly, *La politique européenne*, pp. 100–105; Thieffry, *Droit de l'environnement,* pp. 197–279; Druesne, *Droit de l'Union européenne*, pp. 539–542. See also Romi et al., *Droit international*, pp. 201–210; Dubouis and Blumann, *Droit matériel*, no. 380.

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Member states produce tons of waste each year, including dangerous waste. The landfilling of this waste is unsatisfactory, especially due to long-term impacts that are poorly understood. The best solution for managing waste emphasises the prevention of waste production, along with reintroducing it in the life cycle of products by recycling the materials of which they are made.[16] EU waste management takes place through the adoption of successively reinforced framework directives.[17] A number of specific measures were taken on the basis of this general framework, such as the implementation of a system for granting ecological labels.

Regarding action for the protection of nature, it is important to begin by citing a binding legal instrument, the Bern Convention on the Conservation of European Wildlife and Natural Habitats, adopted in Switzerland on 19 September 1979, and coming into effect on 6 June 1982. Forty-seven of the signatories, including the European Union, committed to granting special importance to the protection of both natural habitats in danger of disappearing and endangered species (including migratory species). Furthermore, the EU's application of the Bern Convention was primarily carried out by the implementation of Birds and Habitats Directives. With regard to habitats, the requirements of the Bern Convention were satisfied by designating protected areas as part of the Natura 2000 Network.[18]

Manipulation of genetic material, which is increasingly frequent, presents risks for both health and the environment. Since 1990, the European Community and later the European Union adopted directives to supervise the bringing to market of genetically modified organisms; these directives require that trials be conducted in order to proceed with marketing by the member states.

Greater awareness of the harmful effects of certain industrial activities during the 1960s and 1970s – using chemical products that generate major risks – raised constant concerns for environmental protection.[19] For instance, the first directive issued in this domain (67/548/CEE) concerned dangerous

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16   See Baziadoly, *La politique européenne*, pp. 106–110; Thieffry, *Droit de l'environnement*, pp. 391–487; Druesne, *Droit de l'Union européenne*, pp. 546–547. See also Romi et al., *Droit international,* pp. 251–257; Dubouis and Blumann, *Droit matériel*, no. 388.

17   See, for example, directive 2008/98/CE of the European Parliament and of the Council from 19 Nov. 2008, on waste and repealing certain directives, *JOUE* L 312, 22 Nov. 2008, pp. 3–30.

18   See Maguelonne Dejeant-Pons, 'Les droits de l'homme à l'environnement dans le cadre du Conseil de l'Europe', *Revue trimestrielle des droits de l'homme* **60** (2004): 861–888.

19   Baziadoly, *La politique européenne*, pp. 114–119; Thieffry, *Droit de l'environnement*, pp. 506–547.

chemical substances. Today the REACH system authorises the bringing to market of existing chemical products.

Serious and environmentally catastrophic industrial accidents, such as those in Seveso (Italy) in 1976 and Toulouse (France) in 2011, prompted the EU to issue directives (Seveso) to regulate the storage of dangerous products. The latest Seveso directive (2012/18/EU) has been in effect since 2015, and provides for informing the public living near industrial installations that produce dangerous chemical products.

The implementation of less normative instruments

The integrated approach to the environment is based on instruments that are not always legislative in nature, and that can change the behaviour of individuals or administrations. These instruments are different from more traditional regulation, as they often have the distinguishing basis of inciting manufacturers and consumers to adopt behaviour more compatible with environmental requirements. These include trans-sectoral directives, as well as economic and financial instruments.

Trans-sectoral directives

Trans-sectoral directives apply to the various sectors in which the EU has legislated. For instance, the impact assessment directive (2001/92/EU) provides for member states to assess, in advance of the European environmental decision, the realisation of public and private projects likely to have a notable impact on the environment. This was the case, for instance, with the construction of freeways or railway lines that could interfere with the protection of habitats for protected birds. It was supplemented by another directive (2001/42/CE) that provided for establishing a system of environmental assessment prior to the planning stage, in other words before decisions are made, insofar as the impact assessments for projects sometimes came after strategic decisions that proved decisive for them.

Impact assessment directives are instruments to help in decision making, although the incomplete nature of impact assessments conducted in advance of environmental decisions makes it difficult to gauge the potential impact of the measures proposed by the Commission.

Due to the impossibility of establishing a general system of environmental responsibility following the failure of the Lugano Convention of 21 June 1993 on civil responsibility for environmental damage caused by dangerous activities, the environmental responsibility directive (2004/35/CE) estab-

lished minimum common rules for preventing damage to the environment, and ensuring it is repaired by those responsible. The economic operator could thus be held responsible for damage caused to species and habitats protected by Birds and Habitats legislation; once the harm is proven, re-parative measures should be taken by the operator (restoration of protected habitats, establishment of an animal or plant species in a space other than the one restored, etc.).

Economic and financial instruments

The Eco-label economic instrument (regulation (CE) no. 66/2010) is granted by a national organisation to products and services that reduce negative impact on the environment (paints and varnishes, etc.). The Eco-label is awarded for five years, and its use is subject to a usage fee. It is recognisable by its logo, a daisy, and is generally awarded to companies that include social and environmental concerns in their activities.

The Eco-label can be supplemented by another economic instrument, EMAS (regulation (CE) no. 1221/2009), a European system of analysis for the environmental practices of companies in all sectors of economic activity (waste management, etc.). The objective is to work towards a more respect-ful view of the environment. It is expensive to implement, with millions of companies operating in the European Union not using this system.

A number of financial instruments are affected by environmental protec-tion (structural funds, European Bank investment, state aid, etc.), however the Life + programme is the only financial instrument specifically devoted to environmental protection. Funding allocated through co-financing with national budgets has made it possible to finance, for the 2014–2020 period, the implementation of the primary European regulations on the protec-tion of nature (fifty per cent resources from Life); this includes Birds and Habitats directives, and notably creation of the European protected areas network called Natura 2000, which grew out of these two directives and the European Union's action in combatting climate change.

A European environmental law implemented by a central actor, the European Commission

European environmental law is developed and applied by central actors, with the European Commission playing an active role due to its powers and organisation. This European institution also played an essential role in estab-

lishing environmental protection measures, and exercised increased control over the application of instruments relating to environmental protection.

An active role in environmental protection thanks to its powers and organisation

The European Commission plays an active role in environmental matters, thanks to its power to propose legislation, as well as its power of control over adherence to European environmental law. For instance, as part of its right of initiative, the Commission makes proposals in which the environment can be combined with other areas of EU action via application of the principle of integration. Integrating the environment can be improved through the Commission's verification of the environmental impact of all proposed legislation. Moreover, as the guardian of treaties, the Commission conducts procedures for infractions and complaints.

The dynamism of the Commission is also based on its composition and functioning. For instance, in order to emphasise that the fight against climate change is an EU priority, the President of the Commission appointed a European Commissioner for Climate Action to go alongside the European Commissioner for the Environment. Furthermore, the Environment DG was created in 1973, at the same time as European environmental policy: it is presided over by a senior European civil servant who provides reports of its environmental action to the European Commissioner for the Environment. It is among the Commission's larger DGs due to the issues it addresses and its human and financial resources.[20]

An essential role in developing environmental protection measures

In broad outlines, within the context of developing environmental protection measures, the Environment DG consults with different actors (representatives of governments, non-governmental organisations such as Greenpeace, interest groups such as industry, technical experts such as engineers, public opinion). The text is then transmitted by adoption to the European College of Commissioners. If the proposed legislation is selected, it is in principle transmitted as part of ordinary legislative procedure to the Council, European Parliament, and the DGs concerned, as the environment is horizontal in nature.

The negotiations and discussions surrounding a proposal of environmen-

20   See Krämer, *EC Environmental Law*, p. 38.

tal legislation can lead to a certain amount of back and forth between the three actors in the institutional triangle, and can notably modify an initial version.[21] Proposals for environmental legislation are regularly added to the Council's agenda in an effort to generate a common policy position on one or more negotiating points. Depending on the results from the working groups, propositions can be submitted one final time to the Council in order to be definitively settled.

Increased control over the application of environmental protection instruments

Concern for better application of European environmental law is present in a number of EAPs, especially the most recent. In order to ensure compliance with instruments relating to environmental protection, the European Commission has measures of control at its disposal in order to take action. Complaints, for instance, represent one of its primary sources of information for the poor application of environmental legislation; they often come from NGOs, the general public, and the European Parliament, a partner of the Commission. To contend with the increasing number of complaints, the Commission has proposed penalising the most serious infractions of environmental protection, for example the dumping of certain substances in water, such as hydrocarbons.[22]

As the increase in environmental legislation was not compensated by an improvement in environmental protection, in 1982 the Commission created, in cooperation with the Dutch presidency of the time, the Impel network, a discussion forum that brings together the environmental organisations of member states a few times a year around problems relating to environmental policy, such as the creation of an environmental inspector corps.

As the guardian of treaties, the Commission can conduct a stern policy to improve the effective application of environmental directives. It initiates numerous failure to comply proceedings before the Court of Justice of the European Union (CJEU), on the basis of articles 258 to 260 of the TFEU, against member states that do not adhere to environmental legislation (for instance member states that do not transpose or are late in transposing a directive into their internal legal order). The CJEU simply records a member

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21   See Baziadoly, *La politique européenne*, pp. 154–156.

22   See directive 2008/99/CE of the European Parliament and of the Council from 19 Nov. 2008 on the protection of the environment through criminal law, *JOUE* L 328, 6 Dec. 2008, pp. 28–37.

state's violation of an obligation; it is then up to the member state to acknowledge the consequences and conform to European environmental law. In cases where this is not executed, a new procedure can lead to a second failure to comply decision. Beginning with the first failure to comply decision, the Court can assess dual punishment by imposing the payment of a lump sum and a penalty on member states, following where necessary the amounts established by the Commission. The Commission began actively to pursue recalcitrant member states in the mid-1980s following the Seveso disaster. However, decisions imposing severe financial penalties were issued only in the 2000s. For instance, in 2015 France was required to pay a lump sum of twenty billion euros, and a quarterly penalty of 57.67 million euros, for its insufficient controls of fishing.[23]

Governing bodies were created over the last decades to assist the Commission in accomplishing its work, and to ensure the public is sufficiently informed about the state of the environment. The most important is the European Environmental Agency (EEA), which is based in Copenhagen, in a country that is attentive to environmental protection. The EEA gathers environmental data that is used to implement European legislation; it is also tasked with evaluating progress in the fight against climate change.[24]

The major stages in the construction of European environmental law show that environmental problems were neglected for a long time, as environmental protection was not considered to be an economic factor. It was in 1968 that the decision was made to organise a major international conference on humans and their environment, held in Stockholm in 1972. Today environmental problems occupy an important role in international relations, especially commercial relations. In this respect, the EU has chosen the policy of including sustainable development provisions in the bilateral trade agreements it concludes with its partners, to secure their participation in improving environmental and societal norms.

The simultaneous emergence of global environmental problems such as climate change has led to the negotiation and signing of numerous international agreements, such as the decision to establish binding objectives for

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23   See ECJ, 12 July 2005, case C – 304/02, Commission against France, Rec., 2005, p. I – 06263.

24   See Baziadoly, *La politique européenne,* pp. 169–171. See also Krämer, *EC Environmental Law,* p. 45.

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the reduction of greenhouse gases, especially as part of the Paris Agreement in 2015. The question of climate change also deserves to be approached from the perspective of security, in the sense that it can threaten growth, prosperity and stability on a global level.

The major stages in the construction of European environmental law demonstrate growing environmental awareness, as well as the development of an environmental movement based on citizens protesting against the destruction of their environment, in parallel to protests held by scientific experts (Stockholm). This environmental awareness has renewed the concept of citizenship, and has also politicised the environmental movement, with the creation of Green and Ecology parties in a number of EU member states, the European Parliament and third countries (the United States, etc.).

CHAPTER 15.

MULTI-LEVEL LEARNING: HOW THE EUROPEAN UNION DRAWS LESSONS FROM WATER MANAGEMENT AT THE RIVER BASIN LEVEL.

Marjolein van Eerd and Duncan Liefferink

Transboundary water management and River Basin Commissions

Rivers function as veins on the world's continents and many human, economic and ecological systems depend on rivers that cross state borders.[1] Initially, water management followed a technical and instrumental approach, often being the exclusive task of technical and state experts. The main presumption was that water resources could be predicted, managed and controlled. Yet, the urgency of cross-border cooperation and changing climatic conditions have triggered a paradigm shift towards more integrated, transboundary water management.

Challenges for water management, such as water quality issues, flood events and the impact of climate change do not stop at man-made, historical, geographical and territorial borders. Governing water resources should therefore be approached from a transboundary perspective. An example of such perspective is the application of a river basin approach, which inherently leads to challenges for existing, conventional and often deeply embedded governance frameworks.[2] Collaboration across borders is complex due to upstream-downstream asymmetries. Upstream and downstream located states are likely to have different interests, discourses, approaches and problems, yet are dependent upon each other for river basin management. In addition, state sovereignty may hinder the development of cross-border cooperation.[3]

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1   See M.C.J. van Eerd, , M. Wiering and C. Dieperink, 'Exploring the prospects for cross-border climate adaptation between North Rhine-Westphalia and the Netherlands', *Utrecht Law Review* **10** (2014): 91.

2   See W. Steele, I. Sporne, P. Dale, S. Shearer, L. Singh-Peterson, S. Serrao-Neumann, F. Crick, D. Low Choy and L. Eslami-Andargoli 'Learning from cross-border arrangements to support climate change adaptation in Australia', *Journal of Environmental Planning and Management* **57** (5) (2014): 682–703.

3   See T. Bernauer, 'Explaining success and failure in international river management', *Aquatic Sciences* **64** (2002): 1–19; M.C.J. van Eerd, M. Wiering and C. Dieperink, 'Exploring the prospects for

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The current trend of addressing water issues from a river basin management perspective is stimulated by, for example, the European Union (EU).[4] The catchment level plays an important role in today's water management, since it is considered logical to govern water issues along hydrological boundaries. River Basin Commissions (RBCs) can be seen as mediating platforms bridging the gap between various territorially organised organisations concerned with water management at multiple levels.[5] RBCs are unique and functional platforms of collaborative management, involving governmental and non-governmental actors from multiple levels and sectors.[6] In this contribution we assess the International Commission for the Protection of the Rhine River (ICPR) and its role in sparking off learning processes in other institutional contexts, notably the EU. The ICPR has been chosen since collaboration in the Rhine basin has often been referred to as one of the most successful examples of cross-border water management.[7]

Multi-level learning from practical experiences

Actors ranging from the local to the international and supra-national level are concerned with the daily governance of water quality and quantity issues in Europe. Continuous interplay and interaction take place between these levels of governance, for example via the exchange of knowledge, information and expertise. Such exchanges may enable multi-level learning, which occurs when actors adjust their cognitive understanding of, for instance, policies, and modify them in the light of experiences gained elsewhere.[8]

cross-border climate adaptation between North Rhine-Westphalia and the Netherlands', *Utrecht Law Review* **10** (2014): 91.

4   See E. Mostert, 'Conflict and cooperation in international freshwater management: a global review', *International Journal of River Basin Management* **1** (3) (2003): 267–78.

5   See J.R. Warner, 'More stakeholder participation? Multi-stakeholder platforms for integrated catchment management', *International Journal of Water Resources Development* **22** (2006): 15–35.

6   See D. Huitema and S. Meijerink, *The Politics of River Basin Organisations: Coalitions, Institutional Design Choices and Consequences* (Cheltenham: Edward Elgar Publishing, 2014).

7   See T. Bernauer and P. Moser, 'Reducing pollution of the river Rhine: the influence of international cooperation', *Journal of Environment and Development* **5** (1996): 389–415; C. Dieperink, 'From open sewer to salmon run: lessons from the Rhine water quality regime', *Water Policy* **1** (1998): 471–85.

8   See P. Hall, 'Policy paradigms, social learning and the state: the case of economic policymaking in England', *Comparative politics* **25** (3) (1993): 275–96; M. Reed, M.A.C. Evely, G. Cundill,

Multi–Level Learning

The practical implementation of policies and their subsequent interaction with implementing agents and target groups generates information about how policies are actually received and work out in practice.[9] This information, which we refer to as *implementation experiences*, is an important resource that can be used to influence the ongoing policy process also in other contexts. It may, for instance, affect processes of setting implementation issues on the agenda, adapting implementation elements or changing policies. Implementation experiences consist of 'all knowledge, expertise and information acquired by actors during or as the result of the practical implementation of … policies'.[10] In the specific context of the EU, the European Commission is concerned with monitoring and enforcing policy implementation, yet EU institutions are not directly involved in executing policy implementation at the domestic level. The European Commission is therefore highly dependent upon the implementation experiences of domestic implementing agents to improve the practicability, workability and legitimacy of EU legislation.[11]

Since RBCs have unique expertise about the management of water resources along hydrological boundaries and concerning the collaboration between multiple water-related actors in an international setting, expertise in RBCs may be assumed to be an important additional knowledge resource for agents concerned with EU water governance. However, little is known about how and under which conditions these RBC experiences feed back from the catchment to the EU level.

Policy feedback and implementation experiences

In this contribution we focus on the process of *policy implementation feedback* from the ICPR to the EU, by which practical implementation experiences gathered at the river basin level are taken up in the EU policy process. Such feedback may lead to a reconsideration of existing policies

I.R.A. Fazey, J. Glass, A. Laing, J. Newig, B. Parrish, C. Prell, C. Raymond and L. Stringer, 'What is social learning?', *Ecology and Society* **15** (4) (2010): 1.

9   See A.R. Zito and A. Schout, 'Learning theory reconsidered: EU integration theories and learning', *Journal of European Public Policy* **16** (2009): 1103–1123.

10   See M.C.J. van Eerd, C. Dieperink and M.A. Wiering, 'Opening the black box of Implementation feedback: an analysis of reloading strategies in EU water governance', *Environmental Policy and Governance* **28** (6) (2017): 426–40.

11   See European Commission, *Better Regulation* (Brussels: European Commission, 2016), http://ec.europa.eu/info/law/law-making-process/better-regulation-why-and-how_en (accessed 16 Dec. 2016).

or their implementation. Considering the literature on policy change, it is unlikely that the feedback of experiences will lead to more radical types of policy change, which are rare anyway. Yet, we assume that implementation experiences are an important factor to consider for understanding incremental policy change.[12]

Both the EU and ICPR are institutional arrangements that interact and exchange knowledge and expertise, including implementation experiences. *Institutional arrangements* are (temporarily stabilised) institutions concerned with the governance of a specific policy field, and can be understood as sets of working rules and procedures determining who is eligible to make decisions in a bounded area, and what actions are allowed or constrained. An arrangement consists of four interdependent dimensions: actors and coalitions, resources and power, rules of the game and discourses.[13]

In this study, the ICPR is studied as the 'sending' institutional arrangement, where actors are acquiring and mobilising implementation knowledge. The EU is seen as the 'receiving' institutional arrangement, which might be affected by these experiences. By reviewing the relevant literature, we found that characteristics of both the sending and the receiving institutional arrangements, the relation between them, and contextual conditions affect the exchange of implementation experiences and policy implementation feedback in general. Examples of relevant characteristics of the sending RBC are: its trustworthiness and perceived success,[14] the role and type of actors involved[15] and their resources, capacities and skills[16] as well as

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12 See F.R. Baumgartner and B.D. Jones, *Agendas and Instability in American Politics* (Chicago and London: The University of Chicago Press, 1993); P.A. Sabatier, 'The Advocacy Coalition Framework of policy change and the role of policy-oriented learning therein', *Policy Sciences* **21** (1988):129–68.

13 See B. Arts and P. Leroy (eds), *Institutional Dynamics in Environmental Governance* (Dordrecht: Springer, 2006); in particular D. Liefferink, 'The dynamics of policy arrangements: turning round the tetrahedron', pp. 45–51; and F.G.W. Jaspers, 'Institutional arrangements for integrated river basin management', *Water Policy* **5** (2003): 77–90

14 See C.M. Radaelli, 'Policy transfer in the European Union: institutional isomorphism as a source of legitimacy', *Governance* **13** (1) (2000): 25–43

15 See P. Hall, 'Policy paradigms, social learning and the state: the case of economic policymaking in England', *Comparative Politics* **25** (3) (1993): 275–96.

16 See G. Dudley and J. Richardson, 'Competing advocacy coalitions and the process of "frame reflection": a longitudinal analysis of EU steel policy', *Journal of European Public Policy* **6** (1999): 225–48; D. Pesendorfer, 'EU environmental policy under pressure: chemicals policy change between antagonistic goals', *Environmental Politics* **15** (2006): 95–114.

its information management,[17] organisational structure, problem-solving capacity and bindingness.[18] Explanatory characteristics of the receiving arrangement, here the EU, include its openness and responsiveness to experiences.[19] With regard to the relation between these arrangements, the degree of 'fit' between discourses prevalent in both arrangements[20] and the dependency between them, for instance in terms of rules or resources, are important for policy feedback to occur.[21] In addition, contextual conditions provide opportunities and barriers for policy implementation feedback. For instance, the existing network of actors and venues for exchanging implementation knowledge is important,[22] as well as the timing of the exchange of experiences, since a policy momentum and political or social attention are essential.[23]

Aim and structure of this contribution

The main objective of this contribution is to better understand the interaction and multi-level learning between the river basin and the EU level, by exploring conditions affecting the policy feedback of implementation knowledge between a river basin commission (the ICPR) and the EU. This contribution is based upon earlier studies conducted by the authors, in

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17   See P. Huntjens, C. Pahl-Wostl, B. Rihoux, M. Schlüter, Z. Flachner, S. Neto, R. Koskova, C. Dickens and I.N. Kiti, 'Adapative water management and policy learning in a changing climate: a formal comparative analysis of eight water management regimes in Europe, Africa and Asia', *Environmental Policy and Governance* **21** (2011): 145–63.

18   See A. Underdal, 'Conclusions: patterns of regime effectiveness', in L.M. Edward, A. Underdal, S. Andersen, J. Wettestad, J.B. Skjaerseth, E.M. Carlin (eds), *Environmental Regime Effectiveness: Confronting Theory with Evidence* (Cambridge, MA: MIT Press, 2002), pp. 433–65.

19   See M. Howlett, M. Ramesh and A. Perl, *Studying Public Policy: Policy Cycles and Policy Subsystems* (Toronto: Oxford University Press, 2009); B.D. Jones and F.R. Baumgartner, 'From there to here: punctuated equilibrium to the general punctuation thesis to a theory of government information processing', *The Policy Studies Journal* **40** (1) (2012): 1–19.

20   See D. Huitema and S. Meijerink, *The Politics of River Basin Organisations: Coalitions, Institutional Design Choices and Consequences* (Cheltenham: Edward Elgar Publishing, 2014); E. Mostert, C. Pahl-Wostl, Y. Rees, B. Searle, D. Tabara and J. Tippett, 'Social learning in European River-Basin Management: barriers and fostering mechanisms from 10 river basins', *Ecology and Society* **12** (1) (2007): 19.

21   See M.S. Yebra, *Learning, Policymaking and Market* (Cambridge: Cambridge University Press, 2009).

22   See S. Meijerink and D. Huitema, *Water Transitions, Policy Entrepreneurs and Change Strategies: Lessons Learned* (Cheltenham: Edward Elgar Publishing, 2010); S.B. Pralle, 'Venue shopping, political strategy and policy change: the internationalization of Canadian forest advocacy', *Journal of Public Policy* **23** (2003): 233–60.

23   See J. Kingdon, *Agendas, Alternatives and Public Policies* (Harlow: Pearson Education Ltd., 2014).

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particular the 'Knowledge for Climate' research project.[24]

We structured this contribution as follows: the next section presents a historical overview of the development and role of the ICPR and describes the key characteristics of this institutional arrangement. After that, the management of water resources at the European level over time is elaborated upon, characteristics of EU water governance are described, as well as the interaction between this policy domain and the ICPR. Learning and interaction between the ICPR and EU are then assessed, based on two cases of policy feedback between the two arrangements. Whereas the first case deals with water pollution issues, i.e. water quality, the second case focuses on flood risk management, i.e. water quantity. The final section consists of our concluding remarks.

The International Commission for the Protection of the Rhine river

A historic overview

The Rhine is one of the largest rivers in Europe, and flows through some of the most populated and industrialised regions of West Europe. This river is used for several functions, such as drinking water supply, navigation and irrigation.

The first international initiatives of collaboration in this basin date back to 1449. Collaboration to deal with water quality issues in 1950 can be seen as the start of the International Commission for the Protection of the Rhine (ICPR). The ICPR got an official mandate by the 1963 Treaty of Bern, which was renewed in 1999. Germany, France, Luxembourg, the Netherlands, Switzerland and the European Community are formal

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24   See for example M.C.J. van Eerd, M. Wiering and C. Dieperink, 'Exploring the prospects for cross-border climate adaptation between North Rhine-Westphalia and the Netherlands', *Utrecht Law Review* **10** (2014):. 91; M.C.J. van Eerd, M. Wiering and C. Dieperink, *Possibilities for Transboundary Climate Adaptation Governance: Some Lessons from the Rhine and Danube Commissions* (Nijmegen: Radboud University, Knowledge for Climate research project deliverable 5.2.10, 2014); S. Veenman and D. Liefferink, 'Balanced policy networks: the cases of airport noise', *Journal of Environmental Policy and Planning* **15** (3) (2013): 387–402; S. Veenman and D. Liefferink, 'Transnational communication and domestic environmental policy learning' , *ESSA-CHESS - Journal for Communication Studies* **7** (1) (2014): 147–67; H. Joergens, A. Lenschow and D. Liefferink (eds), *Understanding Environmental Policy Convergence. The Power of Words, Rules and Money* (Cambridge: Cambridge University Press, 2014).

members of the ICPR.[25] Next to delegates of member states, NGOs and other stakeholders participate in this RBC as well. The ministers from the ICPR member states are responsible for water policy, i.e. they determine the RBC's mandate, working programme and political goals. The ICPR is organised in quite a hierarchical structure: it consists of a plenary assembly, a strategy group and several working and expert groups that concern topics like flood and low water, water quality and emissions, and ecology. In addition, a secretariat supports the Commission.

Between 1950 and 1970, the main activities of the ICPR were monitoring of water quality and knowledge gathering and dissemination.[26] During the early years of collaboration, the Rhine Commission's role can be characterised as learning facilitator and connector, as it institutionalised the exchange of information between the Rhine members. Over time, the frequency and intensity of this information exchange increased due to the establishment of a strong network consisting primarily of government representatives and experts. Close interaction between the members of this network led to a considerable degree of socialisation and the development of common views about problems and solutions.[27] The role of the ICPR thus broadened from being solely a facilitator for collaboration to multiple roles: as an expert organisation, educator, mediator and coordinator.[28]

The substantive role of the ICPR has broadened over time as well, which was enabled by article 2 of the Bern Treaty stating that the ICPR is competent for all tasks that Rhine members jointly agree upon.[29] In the early years of collaboration, the ICPR focused on visible pollution problems and tasks were quite narrowly defined. Awareness concerning other water issues increased over time. Combined with the occurrence of a number of shock events – e.g. the Sandoz pollution accident in 1987 and the floods of 1993 and 1995 – this led to expansion of the ICPR's scope to a broader

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25   See ICPR, *Organisation ICPR*, https://www.iksr.org/en/international-cooperation/about-us/organisation/index.html (accessed 15 Sept. 2017).

26   See Bernauer and Moser, 'Reducing pollution of the river Rhine'; K. Wieriks and A. Schulte-Wülwer-Leidig, 'Integrated water management for the Rhine river basin, from pollution prevention toe cosystem improvement', *Natural Resources Forum* **21** (2) (1997): 147–156.

27   See Bernauer and Moser, 'Reducing pollution of the river Rhine'.

28   See van Eerd, Wiering and Dieperink, *Possibilities for Transboundary Climate Adaptation Governance.*

29   See M.C.J. van Eerd, C. Dieperink and P. Leroy, 'Building upon implementation experiences? Learning lessons from policy feedback between the Rhine catchment and EU water governance', *Water Resources Management* (under review).

range of issues, such as habitat restoration and water quantity management, aiming at the redevelopment of the Rhine's ecosystem. Examples of important programmes are the Rhine Action Programme against pollution (1987), the Rhine Action Programme on Floods (1998) and the Rhine 2020 programme on the sustainable development of the Rhine (2001).[30] Whereas early programmes had a quite sectoral focus, the latest ones are more integrated, comprehensive plans. Since 2007, topics such as climate change, drought issues and micro pollutants have become important elements of the ICPR agenda as well.[31]

ICPR programmes, however, are not formally binding, as the ICPR does not have sanctioning or legal enforcement powers and decisions are based on consensus between states.[32] Yet, peer and social pressure for compliance with ICPR agreements increased over time. In the early years of collaboration, the process can be characterised as 'gentlemen's consultations' with particularly senior officials participating. During the 1990s, the ICPR became more open and transparent by enabling the participation of international NGOs and business organisations, by organising conferences and workshops and by creating informative brochures and a website.[33]

Over time, the ICPR has been identified as a frontrunner for cross-border water governance and served as a best practice example to inspire the development of new international river basin commissions, such as those for the Oder, Elbe and Danube basins.[34] Currently, as an increasing number of (international) actors are dealing with river basin issues, e.g. the European Union and the Danube Commission, the leading role of the ICPR is becoming less prominent.

ICPR as sending arrangement: Key characteristics

One can conclude that the ICPR has a relatively long tradition of international collaboration on water issues. As a result, a strong network has

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30   See Bernauer and Moser, 'Reducing pollution of the river Rhine'; ICPR, *Rhine 2020 – Program on the Sustainable Development of the Rhine*, http://www.iksr.org/en/international-cooperation/rhine-2020/index.html (accessed 27 Mar. 2017).

31   See van Eerd, Wiering and Dieperink, *Possibilities for Transboundary Climate Adaptation Governance*

32   See Bernauer and Moser, 'Reducing pollution of the river Rhine'; van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

33   See ibid.; Wieriks and Schulte-Wülwer-Leidig, 'Integrated water management for the Rhine river basin'.

34   See van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

been created.[35] This network is relatively open to member state representatives, NGOs, IGOs, experts and societal actors. Due to the strong and inclusive network, participating agents are familiar with each other and readily exchange implementation experiences. The European Commission also directly participates in the ICPR network. Over time, a stable ICPR secretariat has been established, which possesses an important knowledge base concerning river basin management. Other institutional arrangements have great confidence in this expertise.[36]

The ICPR functions as a platform for (sub-)national experts to exchange implementation experiences. The ICPR is technically very advanced and considered as a frontrunner concerning (technical) implementation. In comparison to the EU, the innovative and adaptive capacity of the ICPR is positively affected by the greater distance of its working and expert groups to the political level. Although member state representatives are involved at the ICPR's strategic level, it is fair to say that the political accountability of the ICPR is lower as compared to the EU. Another characteristic affecting the ICPR's freedom to act is its weak bindingness. Although the ICPR is based on the Rhine Treaty (1999) and its policies comprise deadlines and norms, their legal bindingness and enforceability is low. At the end of the day, their impact is based on mutual commitment. According to the actors involved, the lower bindingness in comparison to the EU has enabled the establishment of more ambitious objectives and innovative programmes.[37]

Furthermore, the ICPR's member states have a comparable socio-economic and cultural background and have developed a largely comparable understanding about good water governance. Hence, the ICPR favours consensus relatively easily, which enables policymaking at the ICPR level.[38]

EU Water Management

A historic overview

The broadening scope of the ICPR's focus, i.e. towards high water issues, is not unique and should be placed in a European perspective. Concern-

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35   See C. Dieperink, 'Successful international cooperation in the Rhine catchment area'. *Water International* **25** (3) (2000): 347–55.

36   See van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

37   See ibid.

38   See ibid.

ing flood risk management, for instance, EU INTERREG projects were conducted parallel to the ICPR's development. These parallel tracks of international river basin management enabled a reciprocal exchange of expertise. For understanding interaction and learning between the EU and ICPR level in the upcoming section, we first summarise key developments in EU water management in this section.

In the EU context, water governance is part of the environmental policy field and thus comes under the responsibility of the Directorate–General for the Environment (DG ENV). Environmental policy has gradually developed in the EU since the early 1970s. It acquired a formal Treaty basis in 1987. Since then, it has evolved into a sophisticated, multi-level governance system, constituting one of the EU's major fields of activity.[39] Water was among the first subsectors of EU environmental policy to be developed. It still is one of its most comprehensive sectors.[40]

Three waves of EU water governance can be identified. The first directives focused predominantly on water quality standards, public health and the protection of surface waters allocated for drinking. The second wave, from 1991, focused not only on setting acceptable water quality standards, but also on controlling emission levels as a means of achieving desired standards. Hence, focus was broadened to pollution control and environmental management.[41] The key policy output in this phase was the Nitrates Directive (Directive 91/676/EEC) which is aimed at protecting ground water and surface water against nitrates from 'diffuse' (i.e. mainly agricultural) sources.

The third wave combines the preceding approaches and seeks to integrate them. It started with the adoption of the Water Framework Directive (WFD) in 2000 (Directive 2000/60/EC). This Directive provides an ambitious and innovative framework for water policy based on a river basin approach. It aims to achieve a good chemical and ecological water status for all water bodies. Hence, a paradigm shift from pollution control to integrated river basin management can be identified.[42] The WFD was

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39   See C. Knill and D. Liefferink, *Environmental Politics in the European Union. Policy-making, Implementation and Patterns of Multi-level Governance* (Manchester: Manchester University Press, 2007).

40   See G. Kallis and P. Nijkamp, 'Evolution of EU water policy: a critical assessment and hopeful perspective', *Journal of Environmental Law and Policy* **3** (2000): 301–55; J. Richardson, 'EU water policy: uncertain agendas, shifting networks and complex coalitions', *Environmental Politics* **3** (4) (1994): 139–167.

41   See Kallis and Nijkamp, 'Evolution of EU water policy'.

42   See B. Boeuf and O. Fritsch, 'Studying the implementation of the Water Framework Directive in Europe: a meta-analysis of 89 journal articles', *Ecology and Society* **21** (2) (2016): 19; B. Page

followed in 2007 by the Floods Directive (FD) (Directive 2007/60/EC), which requires Member States to assess risks of flooding and to prepare comprehensive flood risk management plans.[43] Both the WFD and the FD will be introduced and discussed in more detail below.

Hundreds of stakeholders can be identified in the water policy field, ranging from water suppliers and polluting industries to environmental groups and consumer organisations. Therefore, the EU water policy process has been described as 'a rather messy amalgam of interrelationships between non-governmental actors and formal institutions'. A potentially large constituency of European level interest groups is interested in the policy area of water, yet only some, such as EUREAU (European Federation of National Associations of Water Services) and ECPA (European Crop Protection) are continuously participating in the EU policy process.[44] The policy domain of EU water management is often referred to as an open policy system, due to, for instance, the extensive public access to information and the multiple venues and channels in which (new) actors can engage.[45] Another example of open collaboration and exchange of expertise in the field of EU water management is the Common Implementation Strategy (CIS), which is an institution for harmonising and enabling the implementation of EU water legislation. The CIS provides a well-organised network for the exchange of information and expertise.[46]

As issues addressed in water policy are quite technical and complex, and include a high degree of uncertainty and ambiguity, the scientific community has a big influence on the EU water agenda. Experts play a key role in identifying issues and providing technologies and solutions.[47] Hence, the water policy domain is dominated by experts and governmental actors.[48] National ministries are ultimately responsible for the implementation of EU water legislation. Governmental actors at the national level transpose

and M. Kaika, 'The EU water framework directive: Part 2 policy innovation and the shifting choreography of governance', *European Environment* **13** (6) (2003): 328–43.

43   See M.C.J. van Eerd, C. Dieperink and M.A. Wiering, 'A dive into floods: exploring the Dutch Implementation of the Floods Directive', *Water Policy* **17** (2) (2015): 187–207.

44   See Richardson, 'EU water policy'.

45   See T. Moss, 'The governance of land use in river basins: prospects for overcoming problems of institutional interplay with the EU Water Framework Directive', *Land Use Policy* **21** (2004): 85–94; Richardson, 'EU water policy'.

46   Van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

47   See Richardson, 'EU water policy'.

48   See Kallis and Nijkamp, 'Evolution of EU water policy'.

these directives to national legislation and set up a framework for practical implementation. In practice, however, regional and local water authorities are concerned with the daily implementation

The EU as receiving arrangement: Key characteristics

Over time, multiple issues have arisen concerning democratic legitimacy in the EU, its so-called implementation deficit and its transparency. Since the early 1990s, the EU has taken steps to increase its transparency and openness.[49] This trend has also affected the policy sector of EU water management, which used to be relatively open anyway (see above). The policy subsystem's increasing openness enables policy implementation feedback. However, it also means that there are many actors competing for influence.[50]

Responsiveness of EU actors to the needs, preferences and experiences of their stakeholders is important for the political legitimacy of EU policies.[51] The relevance of implementation experiences in this regard is increasingly acknowledged by EU institutions. The Commission, for instance, seeks to improve the quality and legitimacy of EU legislation by learning from practical experiences in the ongoing 'Better Regulation' programme. As the EU is not directly involved in the practical implementation of its policies, it is dependent upon other actors to acquire implementation experiences.[52] Hence, EU agents, such as the Commission, are willing to learn from other actors' experiences.[53]

The relationship between the ICPR and the EU

Over the years, a strong relationship was established between the ICPR and EU. Three types of links that favour the exchange of implementation experiences exist between these arrangements.

First, since 1976, the European Community, represented by the EU Commission, has been a formal member of the ICPR. The EU's direct participation in the ICPR put pressure on the establishment of agreements

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49   See Knill and Liefferink, *Environmental Politics in the European Union*.

50   See van Eerd, Dieperink and Wiering, 'Opening the black box of implementation feedback'.

51   See M. Bovens, 'New forms of accountability and EU-governance', *Comparative European Politics* **5** (2007): 104–20.

52   See European Commission, *Better Regulation*.

53   See European Commission, Personal communication staff member European Commission DG Environment, Feb. and Sept. 2016; van Eerd, Dieperink and Wiering, 'Opening the black box of implementation feedback'.

in the Rhine RBC, as a supra-national organisation was now looking over the shoulder of the ICPR member states. Furthermore, lessons drawn from the ambitious collaboration agreed upon for the Rhine basin could be used by EU institutions as input for EU legislation, which is – in contrast to ICPR policies – legally enforceable. At certain periods in time and for topics that fit the European interest, the EC has been a very active ICPR member. The EU was particularly pro-active in the period after the Sandoz accident (1986) and preceding the development of the Nitrates Directive (1991).[54]

Second, and inversely, the ICPR also participates in EU working groups and the EU strategic coordination group of the CIS network. Initially, this participation consisted merely of observing EU actions. Yet, over the last decades, the ICPR has actively started to mobilise its expertise at EU workshops, meetings and conferences. Capacity constraints, however, hamper the representation of ICPR staff in all EU CIS meetings.

A third, yet more informal, link for policy implementation feedback are the ICPR and EU's common delegates. In practice, national representatives and experts participating at the EU and ICPR level are often the same people. This overlap and ongoing exchange strengthens the network and enables effective learning.[55]

Understanding multi-level learning: Two cases of policy feedback

In this section, two cases of policy implementation feedback between the catchment and EU level are elaborated upon in order to gain a better understanding of multi-level learning. The first case concerns ecological issues, while the second has to do with flood issues. Selection of these specific cases can be justified since both have been – and still are – key issues on the EU water governance agenda. The WFD and the FD that focus on these issues constitute the cornerstones of EU water management. For both cases, learning and the feedback of implementation experiences from the RBC to the EU level is assessed by applying a process-tracing analysis. Data collection consisted of semi-structured interviews, policy document and scientific literature analysis, and observation research at both the EU and ICPR level.[56]

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54   See van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

55   See ibid.

56   See ibid.

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Case One: Addressing Ecological Challenges

Since its inception, the ICPR has been a frontrunner in water governance. The initial work of the ICPR concentrated on water pollution problems in the Rhine basin.[57] This central concern resulted in the Chemical and Chlorides Convention in 1976. More ambitious goals came in reach after 1 November 1986, when a disaster hit the Rhine as a chemical site at Sandoz, near Basel, caught fire. Chemicals flowing into the Rhine and inadequate handling by the fire brigade caused a toxic wave downstream, killing almost all organisms. This accident triggered a lot of publicity and public concern, which put pressure on the ICPR to formulate transboundary actions to prevent comparable accidents in the future. This resulted in the Rhine Action Programme (RAP) of 1987.[58] The RAP had a broader chemical, biological and ecological scope than earlier ICPR policies.[59] It envisioned redevelopment of the Rhine's ecosystem by stimulating ecology and habitat restoration and the return of previously indigenous species by the year 2000, of which the salmon became a symbol. Concrete pollution reduction goals were included. The riparian states, for instance, agreed on a reduction of at least half of the river's load of heavy metals, organic pollutants and fertilisers. Other actions included the building of fish ladders and improving spawning conditions. Compared to other international agreements at this time, the Rhine policies, and in particular the RAP, were very ambitious, comprehensive and specific.[60] Development of this ambitious programme was enabled by social and political pressure, the ICPR's history of collaboration, the involvement of primarily experts and the ICPR's relatively low bindingness. Although the programme was not legally binding, it yielded an active and significant tackling of pollution issues in the Rhine basin.[61]

After failed attempts to introduce a somewhat more ecological ap-

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57 See Dieperink, 'From open sewer to salmon run'.

58 See ibid.; ICPR, *Rhine Action Programme ICPR against Pollution*, Strasbourg, 8th Conference of the Ministers, 1 Oct. 1987, http://www.iksr.org/en/international-cooperation/rhine-2020/index.html (accessed 22 May 2017).

59 See Bernauer and Moser, 'Reducing pollution of the river Rhine'; Dieperink, 'From open sewer to salmon run'.

60 See ibid.

61 See Dieperink, 'Successful international cooperation in the Rhine catchment area'; ICPR, *Rhine Action Programme ICPR against Pollution*; and see ICPR 1998, *Action Plan on Floods*, Rotterdam, 12th Conference of Ministers, 22 Jan. 1998.

proach in EU water policy in the early 1990s, pressure for a fundamental rethink of EU water policies came to a head in 1995, as actors continued their call for deregulation and decentralisation of the complex water policy patchwork. This resulted in the design of an integrated directive.[62] The ICPR's experiences concerning the practical implementation of comprehensive water governance provided significant input during the five-year drafting process of what eventually would become the WFD. More specifically, the ICPR's RAP served as a key model for the WFD, since it was widely acknowledged as an innovative and concrete programme that had proved its success. The European Commission, moreover, was eager to draw upon this programme, as the RAP was, at that time, the only international plan that had been implemented in practice and which covered all aspects of water quality management.[63] Examples of WFD elements based on lessons learned from the ICPR relate to integrated water management, the river basin principle and transboundary cooperation, the involvement of stakeholders and the public, dealing with groundwater issues and using programmes of measures.[64] However, not all RAP elements were taken over in the WFD. For example, the ICPR's work was more advanced with regard to integrated water management since it already combined water quantity and quality measures to create win-win situations, and the WFD focuses less on the return of species.[65]

In this case, the existing links between the EU and ICPR supported the exchange of implementation experiences. Common delegates placed the RAP's measures and actions in the spotlight at EU venues. Representatives of Rhine riparian states, for example, defended the river basin management approach, and this concept eventually became a cornerstone of the WFD. Moreover, the EU representative in the ICPR at this time was a very active participant at the Rhine catchment level while the ICPR's president was a former EU staff member. This established an additional, more direct link enabling the mobilisation of implementation experiences. Finally, ICPR

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62   See European Commission, *Introduction to the New Water Framework Directive* (Brussels: European Commission, 2017), http://ec.europa.eu/environment/water/water-framework/info/intro_en.htm (accessed 24 Apr. 2017); Kaika, 'The Water Framework Directive'.

63   European Commission, *Personal communication staff member European Commission DG Environment*, Feb. and Sept. 2016.

64   Ibid.

65   See ICPR, *Rhine Action Programme ICPR against pollution*, Strasbourg, 8th Conference of the Ministers, 1 Oct. 1987, http://www.iksr.org/en/international-cooperation/rhine-2020/index.html (accessed 22 May 2017).

staff members participated in EU workshops throughout the drafting process of the WFD.[66] Important venues for exchanging expertise included EU working and expert groups in the CIS process as well as the ICPR's ecology working group. Learning took place as experiences were repeatedly discussed at these venues. The continuous exchange of implementation experiences in all stages of the policy process enabled decision makers at the EU level to use their knowledge base during the WFD's agenda setting and policy formulation stages. Throughout the process, moreover, the EU Commission remained keen on additional experiences from the ICPR.

Case Two: Addressing Flood Issues

Following the floods of 1993 and 1995 in the Rhine basin, the focus of the ICPR was broadened from water quality to water quantity management. Pressure from the downstream riparians in the Netherlands and Germany triggered the ICPR to also include high water issues in its policies.[67] Policies were relatively easily established due to the ICPR's long history of collaboration, the established trust, network, and the existing ICPR structure. As a result, the Rhine Action Plan on Floods (RAPF) was established in 1998, aiming to improve flood protection by 2020 and to extend and enhance floodplains of the Rhine. Five principles were considered leading: the storage of water, giving space to the river, alignment with other sectors, creating awareness for flood risks, and integrated river basin action in the spirit of solidarity.[68] The plan was a bundle of activities and measures, which acts as a target framework that is continuously adapted. An important outcome was the Rhine Atlas (2001, renewed in 2015), mapping flood risks along the Rhine system, which was and still is important for information management and increased public awareness.[69] The latest evaluation of the RAPF shows that the Rhine riparians successfully implemented integrated flood risk management (IFRM) between 1995 and 2010.[70]

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66   European Commission, Personal communication staff member European Commission DG Environment.

67   See van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

68   See M. Disse and H. Engel, 'Flood events in the Rhine basin: genesis, influences and mitigation', *Natural Hazards* **23** (2001): 271–90; ICPR, *Action Plan on Floods*. Rotterdam.

69   See ibid.

70   See ICPR, *Evaluation of Measures to Reduce the High Water Levels in the Rhine: Implementation of the Action Plan on Floods 1995–2010 including foresight for 2020 and 2020+*, report 199 (Koblenz:

Multi–Level Learning

Parallel to the ICPR's shifting focus towards flood issues, several developments can be identified at the EU level. INTERREG projects focusing on high water management across borders were implemented from the 1990s onwards.[71] In 2004, the urgency of flood issues was formally recognised in an EU Communication, calling member states to express their thoughts about an EU FD. This directive was established after a relatively short drafting period in 2007 (Directive 2007/60/EC).[72] Initiating members were France and the Netherlands. Austria, having the Presidency of the EU Council of Ministers at that time, was also strongly involved in the development of the FD. The expertise of representatives from those countries provided important input and enabled the drafting process, as they were involved in both the EU and ICPR network, had a long tradition with domestic IFRM and had experiences with the RAPF's implementation process in the Rhine basin.[73] Due to capacity constraints and the distance between Brussels and daily water governance, actors involved at the EU level were keen on input from these implementing agents. Because of its direct involvement in the ICPR, the EU was well informed about IFRM measures taken in the Rhine basin. Furthermore, the staff of the ICPR was consulted to present best practices of the RAPF in order to convince reluctant EU member states about the need for a FD. Evaluations of the RAPF's implementation (2000 and 2005), and in particular its clear and ambitious measures and targets (e.g. for flood forecasting and water retention) provided important input for the establishment of the FD. However, the ICPR was not the only source of implementation experiences. Flood risk management practices from the Danube Commission, INTERREG projects and other (domestic) institutional arrangements were also important. Implementation experiences concerning the rigorous and detailed WFD also strongly influenced the drafting process of the FD. These experiences, in combination with the limited EU mandate to

ICPR, 2014); ICPR, *Action Plan on floods 1995–2010: Action Goals, Implementation and Results. Short Term Balance*, report 200 (Koblenz: ICPR, 2014).

71   See M.M. van der Giessen, *Coping with Complexity. Cross-border Cooperation between the Netherlands and Germany*, dissertation (Nijmegen: Radboud University, 2014).

72   See European Commission, *Communication form the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions: flood risk management, flood prevention, protection and mitigation* (Brussels: European Commission, 2004), COM 2004/0472.

73   See van Eerd, Dieperink and Wiering, 'A dive into floods: exploring the Dutch Implementation of the Floods Directive', *Water Policy* **17** (2) (2015): 187–207.

work on spatial governance, resulted in a more flexible and largely procedural directive.[74] Several elements from the RAPF were used in the FD. Both policies are based on the solidarity principle, identify similar phases of IFRM (assessment of risks, mapping, and taking action) and offer a framework setting (ICPR 1998). Yet, overlap is less clear when compared to the ecological case described earlier.

Implementation experiences were exchanged particularly at the working group level, i.e. in the ICPR and EU flood working groups. The EU flood working group falls under the institutional structure of the WFD's implementation guidance institute, the CIS network. As flood issues are strongly expert-based and technical, often the same persons represent the Rhine member states at both the EU and the Rhine catchment level, which enabled learning between these institutions. Both during agenda-setting and policy formulation, as well as during the implementation of the FD, experiences of members played an important role.

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The two case studies confirm that implementation experiences of the ICPR affected complex water resource management at the EU level. Key ICPR policies served as models for the development of EU water legislation. This can be explained by the *innovative, ambitious* character of these ICPR policies and their reliance on *clear and concrete* programmes, norms and measures that had *proven to be successful*. The relatively high innovative capacity of ICPR policymaking and implementation can be explained by the RBCs relatively *low political accountability*, the *involvement of primarily expert oriented agencies* and its *lower degree of institutionalisation* and *bindingness* in comparison to the EU setting. Furthermore, the ICPR's *long tradition of collaboration*, its *well-organised and stable secretariat* and *mutually familiar members* facilitated reaching consensus. These institutional characteristics determined the ICPR's freedom to act and explain its front-running position in substantive and regulative precision and coverage of water governance.

In addition, evidence from this study shows that the *institutional context* in which both arrangements are embedded played an important role as well. The *existing network and links* between these arrangements, and in particular

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74   See van Eerd, Dieperink and Leroy, 'Building upon implementation experiences?'

the large share of actors who have a *combination of memberships* at both the RBC and EU level, enables the exchange of implementation experiences. *Existing venues*, and in particular the working and expert groups at both the EU and ICPR level, can be seen as important platforms for actor interaction and the exchange, bundling and selection of implementation experiences.

Concerning the condition of timing, we found that policies in both cases were established following *external (shock) events* and related public and political *pressure*, e.g. accidental pollutions or flood events. However, timing appeared less relevant for explaining policy implementation feedback between the studied arrangements, which was observed to entail a more long-term, continuous and reciprocal process of exchange.

Furthermore, the two cases suggest that the chance for feedback of implementation experiences is higher when the receiving arrangement is open and responsive to such expertise. In both cases, the EU appeared as *accessible, open* and *eager to learn* from the expertise of RBCs. However, the *responsiveness* of EU institutions to the ICPR's implementation experiences differs between the cases. With regard to water quality, the ICPR's RAP was the only international and integrated plan that had been implemented in practice at the time. Hence, the European Commission was eager to learn from the unique front-running expertise of the ICPR. With regard to flood risk management and the RAPF, however, more expertise was available, decreasing the responsiveness and lowering the EU's exclusive reliance on the ICPR's knowledge. Furthermore, as the formal authority of the EU and the ICPR differ with regard to flood risk management, and the EU lacks formal competence to work on spatial issues, the ICPR's experiences and policies could not serve as a blueprint so easily (*discursive and institutional misfit*). Hence, variation in the relation between both arrangements, the competition for expertise and the characteristics of the receiving institution explain differences between both cases in the extent to which experiences of the RBC have affected EU water governance.

We can conclude that, in our two cases, learning based on implementation experiences predominantly draws upon informal communication and actor interaction. Mutually familiar members, combined membership, the exchange at working group level and existing networks appear as important explanatory factors. This is in line with findings from other research,[75]

75   E.g. see K. Holzinger, C. Knill and B. Arts, *Environmental Policy Convergence in Europe: the Impact of International Institutions and Trade* (Cambridge: Cambridge University Press, 2008); Joergens, Lenschow and Liefferink (eds), *Understanding Environmental Policy Convergence*; S.A. Veenman,

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which also provide evidence of the prevalence of communicative, often informal, channels of exchange over the impact of formal regulation or competitive pressures through the market mechanisms in the transfer of policies – or aspects of policies – from one institutional arrangement to another.

Future EU water governance is not likely to progress without implementation experiences from daily water governance at both the local, regional, national and river basin level. Our analysis has shown that river basin organisations can have a key role in providing these experiences, by acting as best practice examples on river basin management for EU water resources management. Following current developments in the EU water policy domain, we expect that river basin organisations will contribute to new EU policies in the field of climate adaptation, micro pollutants and combating medicines and hormones in the EU's water systems.

Domestic Environmental Policy and Transnational Communication. The Cases of Contaminated Land and Noise around Airports (Delft: Eburon, 2008).

CHAPTER 16.

ENVIRONMENTAL PROTECTION AND THE EVOLUTION OF THE FRENCH AND GERMAN ENERGY SYSTEMS FROM 1973 TO THE 2000s

Christopher Fabre

The French and German energy systems are generally presented in terms of their differences, by focusing to a great extent on the nuclear dimension, and implicitly on a relation to the environment deemed to be distinct. Without challenging these elements of differentiation, this chapter will, on the contrary, determine whether the development of environmental protection contributed to phenomena of convergence.

In order to do so, the present analysis will broaden the approach by examining energy systems as a whole, doing so within a long historical perspective from 1973 to 1990. Energy, in the broad sense of the word, aims to respond to a variety of uses in transportation, industrial processes, heating, lighting, etc. Different types of energy – well beyond the opposition currently emphasised between nuclear and renewable energies – can vary in meeting these needs. Let us recall that in 1973, electricity represented just nine per cent of total consumption in France and 10.9 per cent in Germany, and in 2010 respectively reached just 25 per cent and 22 per cent.[1]

This chapter proposes observing the evolution of energy systems through all the energies of which they consist, in addition to major usage categories and the evolution of consumption. This approach reveals a certain number of economic and technical components, along with those relating to the form of institutional organisation, which formed so many structural constraints that largely determined the evolution of energy systems, and ultimately cast doubt on the degree of latitude available in energy policy. More specifically, this approach identifies the growing role of environmental protection as a structural constraint on the Community and even international level, and subsequently characterises it as a factor of convergence for the energy systems of both countries.

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1   International Energy Agency, Energy policies of IEA countries, 2009 review (OECD, 2010); International Energy Agency, Energy policies and programmes of IEA countries, 1988 review (OECD, 1989).

Here the focus will be on the period between 1973 and the 2000s, in other words the period including the two oil crises, during which new energy policies were implemented in an effort to abandon the 'all petroleum' model, followed by a period of low oil prices lasting from the oil counter-shock to the rising prices of the 2000s. The first period was marked by the development of the French and German nuclear programmes, implementation of the first energy-saving measures, and the gradual emergence of environmental protection within energy policy. The second period was marked by the affirmation of environmental protection, and the end of major infrastructure programmes in favour of rationalisation of the energy systems of both countries, within the context of German reunification and the broader liberal resurgence.

This analysis is based on different types of documentary sources. We firstly relied on the reports of major international organisations such as the International Energy Agency (IEA) and the Organisation for Economic Co-operation and Development (OECD). The productions of the French and German Parliaments also provided important material, whether in the form of legislative texts, information reports or parliamentary debates, such as those appearing in the Journal Officiel. The documents of the European Commission were also used, such as general reports and bulletins. This approach was finally supported by articles from the specialised and general press on energy subjects, in addition to analysis by historians, political scientists and economists specialising in energy matters.

1973–1981: The start of a French-German convergence as a result of oil crises and the emergence of the protection of nature

Two differing situations with regard to energy dependence, but measures that were on the whole similar and favourable to the environment

During the *trente glorieuses*, economic growth in France and Germany was initially fuelled by the exploitation of coal resources, and then largely by oil imports. In 1973, oil represented 56.2 per cent of energy supplies in Germany, and 66.5 per cent in France.[2] There was therefore a difference with regard to dependence between France and Germany, one that can largely be

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2 International Energy Agency, *Energy Policies and Programmes of IEA countries*, 1988 review (OECD, 1989); International Energy Agency, *Energy policies of IEA countries*, 2007 review (OECD, 2008).

Environmental Protection

explained by the availability of coal in Germany, which represented nearly 31.6 per cent of supplies, as opposed to just 16.2 per cent in France, and to a lesser degree by natural gas supplies, which represented 9.8 per cent in Germany and 7.5 per cent in France.

It was in this context that the first oil crisis surprised all industrialised states. No slowdown was anticipated in GDP growth, and energy consumption was thought to be linked to economic expansion. Leading to a twofold increase in the price of a barrel, the first oil crisis had a greater impact in France than Germany. France's small coal resources, which moreover were non-competitive, represented a first and essential structural constraint at the time of the oil crisis. This was all the more true given that French dependence went hand in hand with France running behind Germany in terms of electrical equipment for households and industry. Per capita electricity consumption in Germany was almost thirty per cent greater than in France (3,270 kWh per capita compared to 2,400 kWh).[3] In addition, the structure of the German economy, along with its considerable export capacities, allowed it to better absorb the effect of the oil crisis, with Germany maintaining a positive current account (+ 6 Md\$), unlike France (- 6,25 Md\$).

The response of industrialised countries to the oil crisis was to diversify their energy sources, develop national energies and engage in the first efforts toward energy saving. In this perspective, France did not possess competitive national resources in comparison to Germany, and its range for energy saving was much more restrained. Reports of a 'situation of energy penury'[4] were broadly shared during debates in the Assemblée nationale, at a time when the country was seeking to catch up economically with Germany.

Yet affirmation of the scarcity of energy and the need to save it was in keeping with the theories of environmentalists, especially as they were developed in the Meadows report. Similarly, the desire to develop national energies implicitly led to favouring of energy sources that offered environmental advantages. The oil crisis and the measures taken to contend with it were similar on both sides of the Rhine, and laid the groundwork for a French-German convergence regarding the beginnings of environmental protection.

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3   Y. Coudé du Foresto et al., *Rapport d'information (n°8) sur l'ensemble des questions nucléaires* (Sénat, 13 Oct. 1970).

4   J.-F. Pintat, *Rapport d'information (n° 96) à la suite de la mission effectuée à Détroit du 20 septembre au 1ᵉʳ octobre 1974, pour la Xᵉᵐᵉ conférence mondiale de l'*énergie (Sénat, 19 Nov. 1974), p. 19.

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From recognition of the protection of nature to its affirmation as a structural constraint

According to Daniel Boullet, environmental protection progressed continually from the 1970s to the 1990s, with two moments of acceleration – 1970 to 1976, and 1983/1984 to 1990 – with the years between them marked by a decrease in this trend due to the crisis. This gradual approach was similar in Germany:

> everything suggests that mobilisation to defend the environment was initiated fairly slowly, albeit surely! People in France were struck by the emergence in Germany of a shift in opinion as clear as the one in the United States, even though German society was of course no stranger to the currents of thought crossing through Europe at the time.[5]

The environmental concerns affecting energy were structured around five key themes: water pollution, air pollution, energy management, the nuclear risk and the development of renewable energies.

Water pollution was an important topic in environmental protection during the 1970s, especially the pollution caused by hydrocarbons following the shipwreck of oil tankers. A number of international agreements were signed after the one in Bonn in 1969, as different maritime catastrophes received a certain amount of media attention (*Torrey Canyon* in 1967, *Olympic Bravery* in 1976, *Boehlen* also in 1976, etc.). This series of conventions and laws enforced in France and Germany led to an inherent increase in the cost of imported oil. What's more, these measures came at a time, before the arrival of the second oil crisis, when the cost of oil was tending to slightly decrease. While states initially baulked at implementing measures to combat black tides, it later became clear that this prevention was not so harmful to imports, and that it even helped maintain a marginal price for oil high enough to ensure the profitability of energy diversification programmes.

With regard to the environmental damage caused by energy use, air pollution most certainly garnered the most attention in studies during the 1970s, with a special focus on sulphur oxide and nitrogen oxide from the burning of coal. The focus was more on understanding the phenomenon (measuring emissions, in addition to health and environmental consequences). The regulatory aspect was not put aside, but remained highly disparate among European states, all while giving rise to growing restrictions that were nev-

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5   D. Boullet, *Entreprise et environnement en France de 1960 à 1990 – les chemins d'une prise de conscience* (Geneva: Librairie DROZ, 2006).

ertheless limited to the period. The fight against air pollutants involved a *de facto* marginal increase in the price of fossil energies, both through R&D efforts on the topic and the implementation of technologies and techniques seeking to lower emissions. The initiation of this regulation, which was developed on the Community level, tended to introduce a convergence in terms of constraints.

Energy management inherently contributed to decreased pollution, which is proportional to volume of energy consumed. Yet this environmental role of energy management was not initially assumed in a context of debates surrounding topics of 'degrowth'. This did not, for all that, prevent a certain number of measures from being implemented in 1974 in both France and Germany, notably with regard to the thermal insulation of residences, transportation and industry. The Commission level subsequently took over, with a transition from a 'fight against waste' to a genuine policy of 'energy management'.

The treatment of the three aspects of water pollution, air pollution and energy management was also inscribed, albeit haltingly, within an increasingly multilateral framework beginning in the 1970s, leading to a mechanism of convergence in energy systems impacted by their regulation.

Two initially identical nuclear programmes with two different results

The 1970s are nonetheless frequently presented as the period when the divergence between France and Germany on the nuclear question began. This divergence is often seen as being closely linked to a distinct relation to the environment, which calls for nuancing.

Despite their different energy contexts, in 1973 France and Germany each engaged in nuclear programmes of equivalent scope, of the order of 50 GW by 1985.[6] The scope of these programmes reveals the essential role of price as a factor, which acted as a fundamental structural constraint. Parliamentary reports from the period and the publications of international agencies show a consistency in the economic comparison of different sources of energy. A logic of merit order prevailed in public policy decisions between energies. At the time of the oil crisis, nuclear power affirmed itself as the solution by distinguishing itself in matters of economic competitiveness for the installation of new capacities, as compared to fuel oil and coal.

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6   Hearing of M. D'Ornano at the Assemblée nationale, 1976; International Energy Agency, *Energy policies and programmes of IEA countries*, 1977 review (OECD, 1978).

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The environmental dimension was nonetheless clearly present, with both the detractors and promoters of this energy, and in a manner that was equally pronounced and varied in both France and Germany. In fact, opposition to nuclear programmes was already diverse by nature, and included scientific, unionist and local criticism, in addition to that of environmental activists. Major protests took place in both countries. Conversely, the environmental advantages of nuclear power – its lack of polluting emissions and the small footprint of power plants in relation to energy produced – were highlighted on both sides of the Rhine. However, decision-makers were suspicious of the association between anti-nuclear arguments and the theories of degrowth referred to by many environmental activists. The divergence of French and German nuclear programmes therefore does not appear, within an initial approach, to reside in each country's different relation to the environment, but rather in the difference of their initial structural constraints.

Beyond the response to the oil crisis, these programmes were more broadly inscribed in scenarios of evolving electricity consumption based on the growth of the *trente glorieuses*. In France, forecasts projected an increase in energy consumption of the order of fifty per cent between 1973 and 1985, and of 200 per cent by 2000. In Germany, capacity needs were evaluated at 160 GW by 1990, compared to 76 GW in 1976.

The role of these scenarios was particularly central to the orientation of energy policies, although the projections notably proved to be overestimated, with GDP growth rates two to three times less than those forecast. As a result, in 1990 Germany finished with 96.5 GW of installed capacities instead of 160 GW; in France, a fifty per cent increase in energy consumption did not occur in 1985, but fifteen years later, in 2000.[7]

In this context, French centralised organisation played an essential role in the implementation of the country's nuclear programme. Conversely, Germany's federal organisation offered numerous communication and legal channels for local opposition, thereby slowing the construction of reactors in Germany. These delays in Germany subsequently helped reveal the overestimation of consumption projections, and the need to revise the nuclear programme downwards in a country already very well equipped with regard to electricity.

On the contrary, in France, many elements structurally promoted the implementation of the nuclear programme. First, voluntarist projections were abandoned quite late, in the mid-1980s. Second, France highlighted

7   International Energy Agency, *Energy policies of IEA countries*, 2008 review (OECD, 2009).

its gap in electricity consumption in comparison to Germany, which was reduced only during the 1990s. Finally, the French programme was based as much on coal, especially imported coal, as it was on nuclear energy, with the latter eventually representing just fifty per cent of electricity production.[8] It was therefore the thermal programme based on coal that served as a genuine downward adjustment.

The essential role of the price factor in reaching environmental objectives

The second oil crisis confirmed the essential role of the price of energy as a key deciding factor in the evolution of the energy system. In fact, it was during the period of the two oil crises that the most important transformation of the energy system took place, both with regard to the evolution of consumption and the reorganisation of production apparatus.

Progress was made toward the objectives identified in the aftermath of the first oil crisis: decreased dependence on oil, increased diversification, a greater share of 'national' resources and relative containment of energy consumption. In other words, there was an improvement in energy efficiency, which was identified as a central pillar of environmental protection, in addition to a reduction in air pollution through decreased use of oil and a shift to less polluting sources (electricity and natural gas). Detailed analysis reveals that these achievements were more the consequence of the price of oil than of the policies put in place, with an essential role played by the second oil crisis in particular.

The evolution of consumption reveals the very high responsiveness of energy consumption and energy intensity to rising prices. These two indicators decreased during the two oil crises, but began to rise at the smallest drop in price during the second half of the 1970s and from 1983 onward, and even more significantly with the oil counter-shock of 1986. The impact of oil crises and the development of national energies nevertheless led to a structural decrease in oil consumption in both countries.

The second crisis also led to a revival of the German and French nuclear programmes. However, the installed nuclear capacity of Germany only served to complement pre-existing coal-based thermal capacities. Finally, natural gas developed in continual and relatively similar fashion in both countries, doubling in volume.

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8   Coudé du Foresto et al., *Rapport d'information (n°8).*

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In the end, the period extending from 1973 to 1990 revealed highly similar environmental dynamics when observing an energy system as a whole, namely:

–   A decrease in air pollution following the decrease in oil and coal consumption, and a shift in uses toward electricity and natural gas, whose consumption increased;

–   An improvement in energy efficiency and energy savings following the rise in the price of oil;

–   Greater investment in research and development on energies emitting fewer pollutants, notably renewable energies.

It was structural evolution of the energy sector that helped achieve environmental objectives, with the latter in turn justifying the sector's growth.

More generally, it becomes clear that, in 1973, France was running behind Germany with regard both to diversifying its supply and the evolution of its energy consumption. Despite the size of the French nuclear programme in 1990, overall electricity consumption in France remained twenty per cent less than in Germany. Until the 1990s, France pursued a logic of catching up to Germany in the field of energy. It was only in 1989 that the energy independence rate in both countries converged around 45 per cent, while in 1973 it was eighteen per cent in France and forty per cent in Germany.

These gaps in consumption were also present in the transportation sector (49 Mtoe compared to 38.5),[9] industry (46 Mtoe compared to 72) as well as other sectors (58.8 Mtoe compared to 77.7).[10] The evolution followed identical trends for each of these sectors: reduction of consumption by industry in both countries (-11.5 Mtoe in France compared to -12 in Germany), increase in transportation (+15 Mtoe compared to +15.5), and relative stability in other sectors (+2.5 Mtoe compared to – 0.8).[11]

Aside from different starting points in the two countries, all the evolutions reveal numerous parallels on both sides of the Rhine, especially structural constraints that largely surpassed the framework of energy policy. The reduction in energy consumption by industry reflects energy savings resulting entirely from price elasticity and the structural decrease of industry in Europe. Consumption in the transportation sector followed a dynamic

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9   Million-ton Equivalent to Petroleum.

10   Residential, service industry, public buildings.

11   International Energy Agency, *Energy Policies and Programmes of IEA Countries*, 1988 review (OECD, 1989); International Energy Agency, *Energy Policies of IEA Countries*, 2007 review (OECD, 2008).

of households equipping themselves with automobiles and the price of oil. Residential consumption responded to the introduction of new uses.

Environmental protection considerations increasingly resonated with these general evolutions, with a subsequent convergence between energy and environmental considerations, until the latter came to represent a powerful lever in the evolution of energy systems.

From 1986 to 2000, the continuation of convergence despite the drop in oil prices

A reworked framework for developing energy policy

While the period from 1973 to 1981 demonstrated the decisive role of the two oil crises in the evolution of French and German energy systems, the ensuing period was marked by very low oil prices following the oil counter-shock of 1986. The context in which the energy policy of the two countries was evaluated was in keeping with a counterincentive framework. Moreover, reunification completely restructured the German energy landscape. Despite these fundamental changes, the dynamics of convergence of large aggregates continued during the period.

Environmental protection was considerably strengthened during the period, thanks to increasing awareness on the part of actors and enhanced understanding of the issues. Environmental measures started to fully become a structural constraint in the determination of energy systems, taking the reins from lower prices. The issue of global warming in particular, which France and Germany quickly came to grips with, emerged during the 1990s as a new framework for coherence for environmental considerations relating to energy. However, this did not prevent the divergences relating to nuclear power from continuing, especially following the Chernobyl disaster, albeit always on the basis of the initial structural differences previously mentioned. Finally, the 1980s and 1990s were characterised by the two new dynamics of liberalisation and decentralisation, which initiated an updated energy framework with the environment as an integral part.

The period between the first and second oil crises revealed the decisive nature of oil prices in the evolution of energy systems, which directly impacted the environmental component of these systems. The situation was inverted with the lasting drop in oil prices following the oil counter-shock, as the price in current dollars remained slightly higher than during the preceding decade, but lower in constant dollars. Furthermore, in correlating price levels

to the evolution of purchasing power, the decrease in the cost of oil proved even more pronounced, reaching levels similar to those preceding the first oil crisis.[12] This toppling of the price factor exerted crucial influence on both the evolution of energy systems, and how environmental considerations relating to energy were understood and resolved. In other words, this period confirms, by way of an inverse trend to that of the 1970s, the central nature of energy prices as determinants of energy policy.

Strengthened environmental protection and the crystallising role of the fight against global warming

Environmental protection advanced considerably during this period, albeit in non-linear fashion, and with contrasting approaches depending on the subject. In France and Germany, there was an overall movement of rationalisation and systematisation of environmental policy, which could rely on the improved knowledge of the issue that grew out of research conducted during the 1970s. The measures concerning the primary topics from the preceding decade (air pollution, hydrocarbon pollution, alternative energies) reinforced one another in a highly significant way. Still, efforts to save energy suffered from low prices, with no policy succeeding in taking over in this area.

Despite the reorganisation of the energy mix prompted by the oil counter-shock, low prices of the 1990s, and reunification, the environmental considerations emphasised during the 1970s continued to be handled through a strengthening of measures. While this context yielded contrasting results depending on the subject, there was nevertheless an increasingly integrated and crosscutting approach that promoted a rationalisation of previously sketched-out processes, and increasing awareness among political and private actors as well as the public.

These trends unfolded in similar fashion in France and Germany, reinforcing the previously identified dynamic of convergence, especially with an increased role for European governing bodies. The fight against air pollution contributed to a drop in the share of coal, promotion of nuclear power and expansion of natural gas in both countries. The fight against black tides and water pollution continued, endeavouring to limit the expansion of oil through energy saving measures. However, the two countries struggled to change habits and

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12   J.-M. Jancovici, *Comment a évolué le prix du pétrole depuis 1860?*, https://jancovici.com/transition-energetique/petrole/comment-a-evolue-le-prix-du-petrole-depuis-1860/ (accessed 16 May 2020).

reorganise the transportation of merchandise, without succeeding in genuinely reducing consumption, including in the residential and service sectors. Both countries pushed the development of renewable energies, although there were different initial choices of industries, which were largely due to the share of coal in their respective energy mixes. France seems to have put itself in an inferior or following role regarding industrial issues relating to environmental protection, as well as in the development of norms.

Finally, the years that followed the second oil crisis saw the affirmation of global warming, which henceforth tended not to supplant preceding considerations, but to encompass them within a concept offering an overall framework for coherence. Global warming led to a transposition of the various measures already put in place since the first oil crisis to meet objectives in supply security, reducing the energy bill and environmental protection. The fight against climate change distinguished itself as a supplemental stage, a new framework for coherence in the dynamic of convergence between the French and German energy systems. It also consecrated the encompassing and transnational nature of environmental protection, which was established more than ever as a constraint imposed on all, as noted by M. Barnier: 'protecting the environment will never be effective if it is limited to a strictly national framework. Responsibility for the atmosphere or the ocean does not fall to any particular state, but to all of them.'[13] The European Commission nevertheless treated the two topics of energy market reform and environmental protection separately, essentially due to the refusal of states to implement taxation of greenhouse gas emissions (carbon tax). While the measure faltered, notably because of the need to deploy an international framework, it nevertheless emerged that France and Germany agreed on the principle. In fact, the carbon tax amounted, without it being fully expressed at the time, to rationalising the inclusion of the environmental costs of producing goods within the price of these very goods (or internalisation of environmental externalities), which had been done continuously but diffusely since the 1970s.

Germany's engagement in the fight against global warming was deemed 'paradoxical' from the beginning, but could be explained by two primary reasons: 'first, environmentalists wield great electoral weight. Also, the greenhouse effect could make it a little easier to accept the reduction in

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13   M. Barnier, *Rapport d'information sur la politique de l'environnement*, no. 1227 (Assemblée nationale, 11 Apr. 1990).

coal production desired by leaders, but extremely painful on the social level'.[14] The rise to power of the SPD-Grünen coalition came shortly after signing of the Kyoto Protocol, in which Germany committed to reducing its CO_2 emissions by eight per cent between 1990 and 2010. Chancellor Schröder initially considered CO_2 emissions and the desire to preserve jobs in the nuclear industry when rejecting calls by the Greens to begin phasing out nuclear power. However, the alternatives of natural gas as a means of transition, and renewables as a long-term solution, were put forward with increasing force in the public debate.[15] The Chernobyl disaster fifteen years earlier had left a lasting impression on German public opinion with regard to nuclear power.

Chernobyl and nuclear differentiation between France and Germany

The Chernobyl disaster occurred at a time when the most recent production plants, whose construction had been decided on during the second oil crisis, came into service and resulted in overcapacity. In other words, the Chernobyl disaster, and the challenges to nuclear power that it sparked, coincided with the realisation that growth in electricity consumption was much lower than estimated. This was a significant change, as the preceding years were largely characterised by the fear of not possessing enough capacity to meet demand. The fact that there was now excess supply reshuffled the deck and promoted challenges to nuclear power.

   In both France and Germany, this posed a profound challenge to the industry across fairly similar elements: decrease in R&D budgets and renewed focus on issues of security, strengthened norms, abandonment of breeder reactors, issues connected to long-term storage, etc. However, the disengagement was more pronounced in Germany than in France. Industrial actors acted very early on, as there was no possibility to construct new reactors in the country. It is once again clear that it was the sense of possessing a degree of latitude with national resources, thanks to coal, that made possible the agreement of 14 June 2000 to disengage from nuclear power.[16]

14   B. Derosier, *Rapport d'information sur la politique communautaire en matière d'*énergie, no. 2119 (Assemblée nationale, 13 June 1991).

15   'L'Allemagne ne sait comment réduire sa consommation', *Le Monde*, 21 Jan. 1999.

16   *Energie: la sortie du nucléaire entraîne maints réaménagements,* Allemagne Infos (Centre d'information de l'ambassade d'Allemagne, July 2000).

On the contrary, in France, decision-makers and public opinion did not sense the possibility of nuclear disengagement due to the country's high dependence on this energy, which was itself the result of a lack of available national resources. The perception of nuclear power was nevertheless clearly affected, but this was expressed through a growing desire to stop constructing new nuclear power plants, the reinforcement of security norms, abandonment of breeder reactors and postponing issues relating to storage.

It was hence temporalities in particular that differed between the two countries, on the basis of the previous inertia of the two energy systems. The historically more advanced development of the latter in Germany, by the order of a decade – for instance with regard to the rise in consumption or diversification of the energy mix – is confirmed through the time gap between the two countries' decisions to abandon breeder reactors, and then stabilise the share of nuclear energy.

Liberalisation and decentralisation

While environmental topics were indeed significantly developed on the European scale, the European Commission studied the various issues in isolation from one another. While certain elements of energy policy were implemented on the Community level, they essentially consisted of very general and limited objectives. In fact, the possibility of a more integrated approach was relegated to a later period, for the Commission believed that the alignment of regulatory frameworks through liberalisation and the bringing together of environmental norms were both prerequisites. The European reforms of the energy market implemented in the late 1990s were thus an additional stage in the convergence of French and German energy models, but more as a new and common framework imposed on both countries rather than integrated policy objectives and measures. However, as was the case with the preceding changes to energy systems, Germany was once again a step ahead by very quickly coming to grips with the new rules of the liberalised energy market.[17]

The dynamic of decentralisation, particularly in France, was the final element that promoted convergence of the energy models of the two countries. It was often associated with the development of renewable energies, in addition to a greater awareness of environmental considerations. Decentralised organisation was already a clearly constituent part of German

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17   'Deutschland drückt aufs Tempo', *Frankfurter Allgemeine Zeitung*, 14 Mar. 2001.

energy policy,[18] as the federal government had to cooperate with the Länder in order to coordinate it. Energy programmes were largely co-financed by the federal state and the Länder, for instance the programme relating to the thermal efficiency of buildings and urban heating, which received equal funding from both. The trend over the period was the reinforcement of this decentralised aspect of the FRG: the third revision of the German energy programme in 1981, for instance, prompted the federal government to ask local authorities to develop concepts for local energy supplies.[19]

The temptation to develop more decentralised energy systems was not a connection, in that they challenged certain historic monopolies with the liberalisation of markets and the introduction of heightened competition. It was noted during the 1990s that there

> is currently a return to the early decades of electricity use, with decentralised production, and greater interconnection of municipal services such as electricity, gas, and water; in the long-term, 'energy service' rather than 'energy distribution' were the keywords from the viewpoint of fundamental change. These were the results of pressure applied by the European Commission for the opening of markets and competition. A major public debate began, which had to inevitably lead to adjustments and a new conception of energy in harmony with various social and economic needs.[20]

Starting in the 1990s, the Commission implemented energy programmes through the procedures for calls for proposals at the regional level.[21]

In France, the Deferre laws that were passed beginning in 1982 organised an initial decentralisation of French administration, also known as Act I of decentralisation. Decentralisation was fully linked to the rise of environmental topics, as noted by Brice Lalonde in 1990: 'decentralisation, which is sometimes presented as an alternative to the unsuitability of the state, is a method that has already been tested in the field of the environment'.

In 1991 the state implemented regional supervisory bodies for the environment that brought together regional services for water management. At the same time, the government brought together the departmental management authorities for infrastructure and agriculture to develop a single technical department for 'environmental protection'. As a result, the dynamic of decentralisation initiated in France tended, all things considered, to draw its

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18   Art. 28 of the Basic Law; 1935 law on energy.

19   International Energy Agency, *Energy Policies and Programmes of IEA Countries*, 1981 review (OECD, 1982).

20   *Bulletin d'histoire de l'*électricité **22** (1993).

21   Commission européenne, *Rapport général sur l'activité des communautés – 1990* **24** (1991).

Jacobin model nearer to that of federal Germany. While Germany did not escape the decentralising trend, it was much smaller in scope than in France due to their distinct initial situations in the matter.

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The oil counter-shock of 1986 and low oil prices confirmed, this time in the opposite direction from in the preceding period, the decisive influence of price on the composition of the energy mix. With regard to environmental protection, this period of low prices was characterised by contradictory effects. There was a concurrent falling off of energy saving and an increase in oil consumption, along with a decrease in budgets earmarked for the environment and renewables in the late 1980s, before a subsequent rise. Despite this delay following the oil counter-shock, environmental protection was increasingly seen as being essential, and new significant measures were taken, without their effects being visible due to the declining price of fuel. Environmental protection nevertheless became a key marker of French and German energy policy, and not just a relatively ancillary element. It tended to be affirmed as a fully-fledged element of constraint, and was imposed on both sides of the Rhine on similar terms. In this context of low prices, it especially led to a limitation of – rather than a decrease in – the rise in consumption or the emission of pollutants.

At the end of the process, the share of consumption of different sectors (industry, transportation, residential and commercial) had converged between France and Germany, due in equal parts to reunification and fundamental shifts common to the two countries in the evolution of uses and technological innovation. In like manner, per capita levels of consumption became similar at the time.

In this context, environmental protection was central to regulating the evolution of a system, and less so price constraints as in the preceding period. The environmental approach became rationalised and systematised; the environment was no longer seen as being antagonistic to economic growth, and became even more rooted in mentalities. Efforts from preceding decades to understand pollution bore fruit, allowing for an acceleration and adjustment of measures. And it was broadly within the European framework, particularly following the Single European Act, that these measures were developed, notably through increasingly robust normalisation and regulation.

In the end, the differences between France and Germany stemmed from a

historic inertia that resulted especially from the availability of coal resources. European construction, the integration of markets and the development of common norms nevertheless led to the creation of determinants that were less national and more European and global, with environmental considerations henceforth chief among them. This emerging common framework led to a gradual convergence of the French and German energy systems from 1973 to the present.

This dynamic has continued to the present, and was embodied during the 2000s by the development of the first energy-climate package establishing European objectives for 2020 in the reduction of greenhouse gases, increasing share of renewable energies, improvements in energy efficiency and implementation of an emissions allowance trading system. The Clean Energy Package presented in late 2016 by the European Commission was yet another step in this growing integration of environmental and energy considerations on the European level, contributing to the convergence of European, and therefore French and German, energy systems.

CHAPTER 17.

TRAJECTORIES OF EUROPEAN ENVIRONMENTAL GOVERNANCE SINCE THE 1970s

Anthony R. Zito

This chapter studies the trajectory of the state, particularly how states seek to govern within the public sphere. A prevailing proposition in public policy and public administration literature is that the traditional mechanisms used by states to steer society towards particular policy goals have altered, with authority diffusing upwards towards international institutions and networks of global players, downwards to subnational (regional, local, municipal) communities and actors, and horizontally to a wide range of different stakeholders operating at the national level.[1] This chapter offers both macro analysis, focusing on the role of constitutions and political institutions, and micro policy analysis of the tools that carry out state objectives.[2]

I assess the evolution of governance arrangements, in the form of policy instruments, for environmental policy in Germany (one large, federal European Union (EU) Member State) and the Netherlands (one smaller, unitary Member State) from 1970–2017. This comparative analysis over time seeks to explain the dimensions by which governance changes have occurred and why these changes have happened. In asking these questions, I analyse the difference that EU process and outputs have made for EU Member States. The chapter focuses on what changes occur in the types of policy instruments (the tools used to steer public aims) adopted.

The core analytical explanation follows sociological institutionalism, especially the dynamic of process sequencing.[3] It looks to highly critical events where policy actors face recurring choices and have scope to choose substantially differing mechanisms for governing. The framework concen-

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1   See, for example, J. Pierre and B.G. Peters, *Governance, Politics and the State* (Basingstoke: Macmillan, 2000).

2   O. Treib, H. Bähr and G. Falkner, 'Modes of governance: Towards a conceptual clarification', *Journal of European Public Policy* **14** (1) (2007): 1–20.

3   J. Haydu, 'Making use of the past: Time periods as cases to compare and as sequences of problem solving', *American Journal of Sociology* **104** (2) (1998): 339–71.

trates its causal analysis on institutional dynamics, the political context and dynamics, ideas and frames for making governing and policy choices. I use a mixture of interviews with members of policy elites including national and subnational civil servants, civil society actors and academic experts (35 interviews and six questionnaire responses for the Netherlands and Germany in 1992, 2000–2003 and 2012) in the case countries, and sixteen interviews with Commission officials in 1992 and 2016–2018. Primary documentation and secondary sources are also utilised to highlight the nature of environmental policymaking across multiple levels of analysis.

I organise the chapter along an approximate chronological order to compare key sequential moments across the countries. The chapter starts the two cases in 1969; this year permits observation of environmental policy at the moment that social movements and decision-makers visualised environmental issues as a distinct policy problem and developed institutional solutions and policy instruments. Critical events are isolated for each environmental policy sector, followed by an assessment of the state of governance arrangements at each interval. Given the huge scope of the environmental sector, particular attention is paid to the subfields of water quality, waste policy and climate change.

The chapter detects three significant shifts and distinct sequences of governance that operate roughly in parallel across the case countries: enshrining of the environmental policy problem in the governance system in the 1970s; incorporation of notions of sustainability and market principles into government priorities and environmental governance; and retrenchment of economic concerns and competitiveness issues in the governance approaches.

Theoretical framework

Dependent variable

As noted above, the assessment of governance involves examining macro arrangements and micro policy instruments. Students of governance tend to isolate particular governance types, specifically hierarchical (associated with government), market and networks.[4] While this typology works as an ideal type, the reality of governance research suggests policy sectors have elements

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4   J. Frances et al., 'Introduction', in G. Thompson et al. (eds), *Markets, Hierarchies & Networks: The Coordination of Social Life* (London: Sage Publications, 1991), pp. 1–19.

of all these governance approaches.[5] More differentiation can be found in the study of the actual policy instruments that deliver the policy aims.

Policy instruments are the tools by which governments implement their governance strategies; they are the actual means for governance modes to impact on policymaking.[6] However, we cannot view policy sectors as arenas for single instruments, but rather acknowledge the likely importance of instrument groups and mixes. This paper uses a modified version of Hood's 1983 typology to assess governing resources: information, rules/authority, finance and a residual category.[7] Information focuses on actors collecting data and using communication to steer actors. Rules/authority denotes the legal power and capacity to regulate. Finance encompasses fiscal instruments and other forms of government assets or fungible resources to steer policy actors. The residual category allows for instruments that do not fall neatly in the other categories.

Independent variables and analytical approach

For the independent variables, this chapter offers three dimensions: institutions, politics and ideas. The institutional dimension includes the institutional rules set out in national constitutions and EU Treaties, and the processes and norms of policymaking institutions. The second dimension focuses on politics, examining the role of elections, changes of government, and notable political actors. The third highlights the role of ideas and paradigms.[8] This encapsulates specific policy ideas and ways of framing policy problems, and takes in broader questions of ideologies and societal values that shape political choice and therefore governing choice.

To understand how these dimensions shape governance, I utilise institutionalist theory and sequencing. Institutionalist theory highlights the importance of sequencing, where particular events that occur at the start of a policy trajectory matter more because they help define the likely range of choices and events that will follow over time.[9]

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5   See, for example, G. Capano, J. Rayner and A.R. Zito, 'Governance from the bottom up: Complexity and divergence in comparative perspective', *Public Administration* **90** (1) (2012): 56–73.

6   C. Hood, *The Tools of Government* (London: Macmillan, 1983).

7   Ibid.

8   See P. Hall, 'Policy paradigms, social learning and the state', *Comparative Politics* **25** (3) (1993): 275–96.

9   P. Pierson, 'Increasing returns, path dependence, and the study of politics', *American Political Science Review* **94** (2) (2000): 251–67; J. Mahoney, 'Path dependence in historical sociology', *Theory and Society* **29** (4) (2000): 507–48; M. Howlett and J. Rayner, 'Understanding the historical turn in

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Process sequencing

Haydu popularised a sequential approach to explaining key causal patterns behind the changes within institutions; Howlett and Rayner term this approach 'process sequencing'.[10] Haydu suggests that one can gain a greater sense of causal connections over time and between events by 'organising events into sequences of problem solving that span different periods'.[11] Haydu argues for the importance of tracking reiterated problem solving, linking facts from different time periods to build 'narratives of historical switch points that are followed by a more or less durable social regime'.[12] Although a solution contained in a given event will set a new historical direction and limit future choices, the process sequencing account differs from path dependent approaches in viewing outcomes at a given switch point as products of the past rather than 'historical accidents'.[13] Solutions at event A may enshrine problems as well as tools and understandings that actors must confront further down the sequence at event C or D. Thus negative/positive feedback about a taken decision will inform the policy debate in a manner that may come to a crisis at the critical juncture. The event itself may occur over a day or much longer if it involves a sustained process over time.

This approach has the advantage of placing actors and agency at the centre of both the explanation and the method since it requires an understanding of an actor's perspective: how 'they define problems, devise solutions and take action'.[14] It becomes important to observe how different actors perceive recurring problems, realising there may be significant clashes in the definition of the problem and the proposed solution(s); with the outcome potentially defining the historical switch point. At these critical junctures, actors may be able to reverse earlier decisions and strike out in an array of potential directions.[15] Each sequence event involves a range of constraints and opportunities which actors can seize upon to block or promote policy change. Daugbjerg contends that reflective policy makers will use feedback

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the policy sciences: A critique of stochastic, narrative, path dependency and process-sequencing models of policy-making over time', *Policy Sciences* **39** (1) (2006): 1–18, here 8.

10   Haydu, 'Making use of the past'; Howlett and Rayner, 'Understanding the historical turn'.

11   Haydu, 'Making use of the past', 341.

12   Ibid., 349.

13   Ibid., 354.

14   Ibid., 355.

15   C. Daugbjerg, 'Process sequencing', in E. Araral et al. (eds), *Routledge Handbook of Public Policy* (London: Routledge, 2012), pp. 473–83.

to learn.[16] In most cases actors choose those precedents and steps that are a logical progression as shaped by the previous event in the policy sequence. Actors tend towards a gradual approach even when there is a significant gap between the current design of policy and the perceived ambition. However, if the context and perceptions of disjuncture lead to a policy crisis, this may generate a more radical and abrupt policy change.

With this approach, the chapter makes a qualitative assessment as to whether the three dimensions reflect a substantive and substantial change in comparison to the previous point in time. I examine the degree of turnover in the actors wielding governing power, the relationships between actors, and paradigm shifts in values and ideologies.

Framing the problem: 1969–1972

A combination of critical pollution events and a growing environmental movement in Organisation for Economic Co-operation and Development (OECD) states triggered the creation, in the 1970s, of environmental institutions and public policy across Northern European countries and the European Communities (EC).[17] Seizing on growing political awareness, national governments in Germany and the Netherlands put forth environmental platforms to distinguish themselves from their domestic political opponents.

The EU level

In the early 1970s, the EC was responding to the pressure of environmental movements in member countries such as the Netherlands and Germany. The Commission harnessed this concern in a 1971 memorandum about this agenda, proposing both a strategy and legislation.[18] In 1972, the original six Member States and three prospective enlargement members started to create national environmental policies in the aftermath of the Stockholm Conference.[19] In the face of environmental concerns and views that unilateral

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16   Ibid.

17   The name of the EU before the Maastricht Treaty came into effect in 1993.

18   J. McCormick, *Environmental Policy in the European Union* (Basingstoke: Palgrave, 2001); E. Rehbinder and R. Stewart, *Environmental Protection Policy,* Vol. 2 *Integration through Law: Europe and the American Federal Experience* (Berlin: De Gruyter, 1985).

19   M.S. Andersen and D. Liefferink, 'Introduction: the impact of the pioneers on EU environmental policy', in M. Andersen and D. Liefferink (eds), *European Environmental Policy: the Pioneers* (Manchester: Manchester University Press, 1997), pp. 1–39.

environmental protection at member state level could act as trade barriers, the EC process ratified various measures. The increasing activity of the most energetic European states helped create a self-reinforcing logic, ratcheting up levels of environmental protection. As public and political concern grew, the institutional dynamics of the EC process shaped the policy outcome creating a strategy and regulations to harmonise member state efforts and protect the common market.

The European Court of Justice upheld the validity of these measures as being an implied power (and later an essential objective).[20] This constitutional evolution led environmental policy to fall within the Common Market's scope, and therefore the EC supranational institutions, with states retaining control of implementation.

Germany

The 1969 election of a new German federal government, formed by a coalition of the Social Democratic Party (SPD) and the Free Democratic Party (FDP), triggered the move towards a federal environmental policy. An important distinction, compared to other OECD states such as the United States, is that this political movement happened without a particularly strong recognition by the German population of the environment as a political problem.[21] The coalition won the national elections on the basis of a reform agenda. The FDP leadership, including the FDP Minister of Interior Genscher, saw an opportunity of carving out its own broader reform agenda and change legacy, matching the SPD and Chancellor Brandt's Ostpolitik.[22] Policy activities in the United States and United Nations also had a stimulating role in pushing German federal government action.[23]

The SPD-FDP coalition installed a number of institutional and policy changes through 1969–1974. Most importantly, in 1972 it amended the Basic Law, the German Federal Republic (BRD) constitution, to include

20   I. Koppen, 'The role of the European Court of Justice', in D. Liefferink, P. Lowe and A. Mol (eds), *European Integration and Environmental Policy* (London: Belhaven Press, 1993), pp. 126–49, here p. 133.

21   H. Pehle, 'Germany: Domestic obstacles to an international forerunner', in Andersen and Liefferink (eds), *European Environmental Policy*, pp. 161–209.

22   H. Weidner, '25 years of modern environmental policy in Germany. Treading a well-worn path to the top of the international field', *WZB Discussion Paper* FS II 95–301 (1995).

23   H. Pehle and A. Jansen, 'Germany: The engine in European environmental policy?', in K. Hanf and A. Jansen (eds), *Governance and Environment in Western Europe: Politics, Policy and Administration* (Harrow: Longman, 1998), pp. 82–109.

waste and air pollution. In terms of policy output, 1970 saw the government create its first action programme, followed up by the first comprehensive federal programme in 1971. The Federal government produced two key pieces of legislation: the Waste Disposal Act 1972 and the Federal Emission Control Act 1974. Importantly, these laws focused on guiding industry in accordance to previous industrial regulations, rather than promoting particularly ambitious norms.[24] Thus, political factors predominated in the push to frame an environmental policy, but the BRD's institutional legacy structured the nature of how it was framed.

The Netherlands

During the period 1968–1972, a number of environmental incidents occurred, generating strong environmental interest by the Dutch public and leading to the creation of critical environmental movement bodies, such as Stichting Natuur en Milieu (1972). A shift in this period occurs from perceiving many of the same issues as public health and energy policies to conceptualising a distinctive policy sector with a separate political agenda. In this same period, the Christian Democratic (CDA) Party built a more progressive alliance with some of the smaller parties, such as Democrats '66.[25] The government's general policy attitude retained an emphasis on building consensus with a variety of actors, through consultation and cooperation, including extensive consultation with civil society groups about environmental legislation.[26] Public opinion and external events combined with an evolution in the political dynamics, encouraging the Dutch political class to focus upon this new policy area. The formal and informal structures of how the Dutch created political and policy consensus constrained the nature of how this was done.

The Dutch selection of policy instruments reflected concerns about the implications of certain environmental problems: there was a focus on targeting specific polluter activities in particular societal sectors and environment media with an idea of prohibiting specific pollution and taking remedial steps. Given that Dutch and European environmental policy was

24   J. Hucke, 'Environmental policy: The development of a new policy area', in K. von Beyme and M. Schmidt (eds), *Policy and Politics in the Federal Republic of Germany* (New York: St. Martin's Press, 1985), pp. 156–75.

25   K. Gladdish, *Governing from the Center: Politics and Policy-making in the Netherlands* (Dekalb: Northern Illinois University Press, 1991), pp. 59–61.

26   C. Middendorp, *Ideology in Dutch Politics: The Democratic System Reconsidered, 1970–1985* (Assen/Maastricht: Van Gorcum, 1991).

often located in a public health setting, much of the initial environmental approach reflected the notion of physical regulation of individual sectors. This led to a 'first generation' of policy instruments focused on regulation.[27]

Critical junctures: 1972–2017

Having laid out the starting point for environmental policy, I now highlight the subsequent core critical junctures. Two strong discursive notes were struck across the two political systems. In the 1972–2017 period, there is a governance focus on competitiveness and market solutions and a growing concern about conditionality: i.e. the institution of environmental protection had to be linked to other countries (whether at a regional or global level or both), establishing sufficient levels of protection to balance economic costs and environmental responsibilities.

The EU

Throughout the 1970s–1990s, the EU arena was an important source for environmental governance and instruments for EU Member States. The nature and ambition of this governance push changed in the 1990s, culminating in 1999 with a critical juncture. Although the creation of the Euro had been planned long before, it was only with the currency's 1991 adoption that the political and administrative requirements of this new project became clearer. Although EU environmental goals continued to be touted loudly and sometimes very prominently in such negotiations as Kyoto, after 1999, the priority of safeguarding national economies and their competitiveness started displacing the environment lower down the political and policy agenda of the EU and its Member States. The Lisbon Process enshrined sustainability in its goals in 2000, but it is noteworthy how Lisbon's evolution and ten years of development led to an increasing focus on certain economic achievements, with the environment gradually featuring less prominently.[28] 1999 also was the year that the EU Commission President Santer and his fellow Commissioners resigned. These resignations did not directly reflect upon EU environmental policy, but did dent the body's prestige and created a leadership vacuum for moving policy forward.[29]

27 J. van Tatenhove, *Beleidsvoeringsprocessen in het Nederlandse Milieubeleid in de Periode 1970–1990* (Wageningen: Agricultural University, 1993), p. 118.

28 Interview, Commission official, 10 Jan. 2017.

29 M. Cini, 'Political leadership in the European Commission: The Santer and Prodi Commissions, 1995–2005', in J. Hayward (ed.), *Leaderless Europe* (Oxford: Oxford University Press, 2008), pp. 113–30.

More importantly, the resignation was a culmination of questioning about EU integration ambitions by Member State governments and national populations that has subsequently reshaped EU environmental governance and broader EU integration. The EU had significantly expanded environmental policy in the 1970s–1980s, but in doing so raised issues of the effectiveness of Member State and EU environmental policy implementation.[30]

This question of effectiveness and merit was compounded by questions about the legitimacy of European integration and at what level the power to govern should appropriately lie (the *subsidiarity* debate). A very public signal of this was the 1992 Danish referendum result concerning the Maastricht Treaty, forcing the Treaty's revision. The 1990s also witnessed the British and French attempt to repatriate certain EU legislation back to Member States. Of the 24 EU legislative items on this regulatory target list, seven were environmental measures.[31] Eventually, the EU kept all this legislation but the repatriation bid contributed to an attitude change towards environmental integration, emphasising consolidating public policy rather than an expansion or roll back.[32] The EU Commission had a strong inducement to propose less intrusive legislation such as framework directives, giving greater scope for Member State implementation and non-legislative instruments based on the principle of shared responsibility.[33]

Germany

Germany operated through the 1980s as frontrunner in pushing environmental policy forward. The 1990 German Re-unification changed this outlook. Unification challenges were swiftly followed by the most serious post-war German economic downturn. The level of environmental degradation in the former German Democratic Republic was combined with a difficult economic situation, particularly in the Eastern *Länder*. These realities reshaped German ambition about how to fund and support its governance of the unified territories

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30 A. Jordan, 'The implementation of EU environmental policy: A policy problem without a political solution?', *Environment and Planning C: Government and Policy* **17** (1) (1999): 69–90.

31 R. Wurzel, *Environmental Policy-making in Britain, Germany and the European Union* (Manchester: Manchester University Press, 2002).

32 L. Krämer, 'Recent developments in EC environmental law', in J. Holder (ed.), *The Impact of EC Environmental Law in the UK* (Chichester: John Wiley & Sons, 1997), pp. 9–26.

33 A. Jordan, 'Editorial introduction: The construction of a multilevel environmental governance system', *Environment and Planning C: Government and Policy* **17** (1) (1999): 1–17.

and build expertise.[34] The solution to this enormous challenge was to keep the BRD administrative and legal structures while amending regulation to speed the process and restrict debate.[35] Lees also notes reunification's longer term political impact of increasing the number of *Länder* concerned about their economic wellbeing and making the *Länder* governments less inclined towards progressive environmental solutions that they feared they could not meet.[36]

In this context, the German government's environmental policy focus evolved, giving higher priority to concerns about how environmental regulations would create costs affecting the German economy's economic competitiveness. This pushed back against the 1980s ideological argument that enhanced environmental protection was compatible with growth.[37] The Christian Democratic Union/Christian Social Union (CDU/CSU)-FDP coalition government of 1982–98 adopted a 1991 coalition agreement, formally giving preference to voluntary agreements (VAs) over environmental regulations.[38] It is also notable that less than half of this coalition agreement's environmental measures were implemented.[39] Reunification changed the way that Germany was governed as a whole, reflecting new economic and political realities.

Nevertheless, the nature of this direction for German environmental policy was later defined by the second critical juncture: the SPD-Green/Alliance 90 coalition election in 1998. The new coalition agreement involved both more ambitious environmental policy targeting and experimentation with different policy instruments. It explicitly laid out an ecological modernisation objective (i.e. that an ecological standards focus can promote economic growth and productivity, and environmental protection).[40] This idea was

34   D. Graham, 'Study shows high cost of German reunification: report', *Reuters* 7 Nov. 2009, http://www.reuters.com/article/us-germany-wall-idUSTRE5A613B20091107 (accessed 7 Mar. 2016).

35   Weidner, '25 years of modern environmental policy in Germany'.

36   C. Lees, 'Environmental policy: The law of diminishing returns?', in S. Green and W. Patterson (eds), *Governance in Contemporary Germany: The Semisovereign State Revisited* (Cambridge: Cambridge University Press, 2005), pp. 212–39.

37   A. Weale et al., *Environmental Governance in Europe* (Oxford: Oxford University Press, 2000).

38   R. Wurzel et al., 'From high regulatory state to social and ecological market economy? "New" environmental policy instruments in Germany', *Environmental Politics* **12** (1) (2003): 115–136.

39   Pehle, 'Germany'.

40   SPD (Sozialdemokratische Partei Deutschlands) et al., *Aufbruch und Erneuerung – Deutschlands Weg ins 21. Jahrhundert. Koalitionsvereinbarung zwischen der Sozialdemokratischen Partei Deutschlands und BÜNDNIS 90/DIE GRÜNEN*, https://www.gruene.de/fileadmin/user_upload/Bilder/Redaktion/30_Jahre_-_Serie/Teil_21_Joschka_Fischer/Rot-Gruener_Koalitionsvertrag1998.pdf (accessed 12 Mar. 2016).

not new; a (CDU) environment minister in the previous coalition, Klaus Töpfer, had publicly backed the idea.[41]

The change was not an ideological shift as much as a determination of a heavily Green Party infused government to promote substantial changes in environmental practices. Due to space constraints I do not cover perhaps this government's most significant act: the move away from nuclear power. More significant for this chapter are its environmental initiatives. Ecological tax reforms were fully embraced: the idea that ecological taxation and incentives could be used to generate revenue to help the economic sector with welfare and other costs.[42] There were also initiatives to protect natural sites and efforts to improve environmental standards in the production process in a way that also reduced waste.

The Netherlands

The two critical junctures identified in the Dutch case focus on changes of government and the ideological consequences to environmental policy. The Dutch political right has had a decisive shaping role.

The first juncture occurred in 1982 with the assumption of power of the Christian Democratic Appeal Party-Liberal (VVD) coalition. This Lubbers government coalition made fundamental governance changes to the environmental policy sector between 1982–1986, in the context of reassessing the fundamental role of government.[43] This political dynamic found fertile ground in the growing political dissatisfaction with, and increased ecological understanding of, many aspects of Dutch environmental policy and other direct consequences of the 1970s environmental decisions and governance.[44] The government platform included the ideational aim of reducing the scope of government responsibility and regulation while increasing societal/economic actors' responsibility. Simplifying or reducing regulations in all areas would reduce an overloaded government's burden and increase efficiency.

41   K. Töpfer, 'Ecological modernisation of the industrialised state: A federal perspective', in T. Ellwein et al. (eds), *Yearbook on Government and Public Administration* (Baden-Baden: Nomos, 1989), pp. 89–520.

42   SPD, *Aufbruch und Erneuerung*.

43   V. Lauber, 'The political and institutional setting', in A. Mol, V. Lauber and D. Liefferink (eds), *The Voluntary Approach to Environmental Policy* (Oxford: Oxford University Press, 2000), pp. 32–61.

44   H. Bressers, 'Environmental policy instruments in Dutch practice', in European Parliament DG for Research (ed.), *Economic and Fiscal Incentives as a Means of Achieving Environmental Policy Objectives* **16** (1990): 79–96.

This was a core VVD tenet, in keeping with the Reagan/Thatcher period of rightist, neo-liberal governments seeking to redefine the state/society relational boundaries.[45]

VVD politician Pieter Winsemius became environment minister in 1982, bringing entrepreneurial energy and the ability to articulate a coherent ideational vision incorporating VVD concerns and the need for environmental protection. VVD and the business sector believed that contemporary environmental regulations could burden industry, so the government created an interministerial working group to propose regulatory streamlining.[46] Winsemius and the government shifted civil society's role to more closely follow the philosophy of self-responsibility.[47]

By 1986 this had been articulated into two core approaches operating under the rubric of a socialisation strategy: *internalisation* and *target group strategy*. Internalisation expressed the importance of closing the gap between government and societal actors by getting groups to accept their social responsibility while acknowledging that the government had to pay attention to the concerns of the regulated.[48] Target group policy emphasised designing a policy focusing on a relatively homogenous group of actors engaged in activities affecting the environment and modifying this group's behaviour.[49] In line with the government's self-responsibility approach, these target groups acted as joint partners (with government) shaping policy design and implementation. The sustainable development focus in the target group policy suggested a more fundamental effort to deal with problems at the source of production. Taking a preventative, source-orientated strategy gave strong impetus to securing the active involvement and commitment of target groups. Internalisation involved creating environmental policy instruments that would induce societal actors to take responsibility and internalise government policy objectives into the groups' value systems and economic processes. While the focus of the govern-

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45 M. van Vliet, 'Environmental regulation of business: Options and constraints for communicative governance', in J. Kooiman (ed.), *Modern Governance* (London: Sage, 1993), pp. 105–18.

46 K. Hanf, 'Deregulation as regulatory reform: The case of environmental policy in the Netherlands', *European Journal of Political Research* **17** (2) (1989): 193–207.

47 K. Hanf and E. van de Gronden, 'The Netherlands: Joint regulation and sustainable development', in K. Hanf and A. Jansen (eds), *Governance and Environment in Western Europe: Politics, Policy and Administration* (Harlow: Longman, 1998), pp. 152–80, here p. 165.

48 D. Liefferink, 'The Netherlands: A net exporter of environmental policy concepts', in Andersen and Liefferink (eds), *European Environmental Policy*, pp. 210–50.

49 K. Hanf and I. Koppen, *Alternative Decision-making Techniques for Conflict Resolution: Environmental Mediation in The Netherlands* (Berlin: WZB, 1994), p. 10.

ance approach changed, these approaches remained in line with Dutch policy practices of the 1970s and before, in terms of neo-corporatism and the close relationship between the state and core societal groups.[50]

October 2010 saw the second critical juncture, when VVD and CDA formed a short-lived minority government, supported by the anti-immigrant Freedom Party. Before unravelling in April 2012, this government shifted away from highlighting environmental and policy issues and focused instead on reducing budgets and boosting growth. This approach was not new: the Balkenende centre-right government in 2002 proposed a budget which substantially shifted away from environmental priorities, cutting a range of environmental taxations and subsidies (but from which the successor Christian Democratic/Social Democratic coalition, 2007–2010, later rowed back).[51]

Although the 2010 coalition found it politically difficult to produce decisive changes in direction, the environment's lower priority was decisive in itself for the Netherlands' current environmental governance positioning.[52] The coalition agreement offered repeated references to a 'level playing field in Europe' on the subject of pollution emissions.[53] This political orientation has shaped the Dutch governments' approach to policy innovation and ambition, linking the possibility of additional domestic environmental targets to other countries' targets. This framing of environmental questions did not include new ideas. Rather, its focus was reducing regulatory burdens and emphasising conditionality of Dutch efforts, with greater responsibility placed on international and EU arenas to take initiatives making significant reductions. The 2018 Climate Change Agreement reflects this focus on international co-operation while also pursuing various agreements with core Dutch sectors

50   D. Liefferink and M. Wiering, 'The Netherlands: An integrated participatory approach to environmental policymaking', in A. Breton et al., *Environmental Governance and Decentralisation* (Cambridge: Cambridge University Press, 2007), pp. 558–83.

51   ENDS Europe, *Dutch 2003 Budget Shifts Focus from Environment*, 18 Sept. 2002, www.endseurope.com/article/7249/dutch-2003-budget-shifts-focus-from-environment (accessed 7 Mar. 2016); D. Liefferink and K. Birkel, 'The Netherlands: A case of "cost-free leadership"', in R.K.W. Wurzel and J. Connelly (eds), *The European Union as a Leader in International Climate Change Politics* (London: Routledge, 2010), pp. 147–62.

52   D. Liefferink and M. Wiering, 'Environmental pioneers in retreat? The cases of the Netherlands and Denmark', paper presented at the 6th ECPR General Conference, University of Iceland, Reykjavik, 25–27 Aug. 2011.

53   Government of the Netherlands, *Freedom and Responsibility: Coalition Agreement*, VVD-CDA, 30 Sept. 2010, article 7, http://mae.ro/sites/default/files/file/2013/pdf/coalition-agreement_olanda_2010.pdf (accessed 7 Mar. 2016).

to voluntarily agree emissions targets and achievement strategies.[54]

Evolution of the governance approaches

Having outlined the critical junctures that shaped environmental govern-
ance in the case countries, I now evaluate how environmental governance
modes changed over time. We see a governance approach and specific sets
of instruments that have been rendered more complex but not overturned
in the case countries.

EU Policy developments

Throughout the 1970s, the EC's process created a number of directives (in
areas such as waste and water). These gave Member States some scope to
tailor how they achieved the Directive objectives to their specific domestic
legal and policy circumstances. As with Member States, the EC had a similar
focus on specific media regulations, as seen in waste policy; here the rise in
waste policies in Germany and elsewhere led the Commission and Member
States to agree on the need for a common response, and forced states such
as the Netherlands to implement the directives.[55]

From its initial starting point, the EU continued to adopt environmental
legislation at a gradually increasing rate towards 1991. It suffered a drop,
before rising significantly, then starting a long decrease in 2002.[56] From
1972–2002, the dominant instruments of EU governing continued to be
various forms of regulation and hierarchical governance. In the 1970s–1980s,
this focused on producing standards to limit emissions. From the late 1980s
procedural laws (such as the Directive on Environmental Impact Assessment
(85/337)) supplemented the environmental standards stipulated in earlier
EU legislation.[57] The limited EU repertoire at this time was notable. Infor-
mation campaigns were negligible, with rare exceptions such as the ecolabel
Blue Flag. In terms of funding dedicated to protecting the environment, EU

54   Government of the Netherlands, *Climate Agreement*, 2019: https://www.government.nl/ministries/
      ministry-of-economic-affairs-and-climate-policy/documents/reports/2019/06/28/climate-
      agreement (accessed 19 Jan. 2020).

55   A. Zito, *Creating Environmental Policy in the European Union* (Basingstoke: Palgrave, 2000).

56   N. Haigh (ed.), *Manual of Environmental Policy: The EC and Britain* (Harlow: Cartermill Publi-
      shing, 2011).

57   R. Wurzel, A. Zito and A. Jordan, *Environmental Governance in Europe: A Comparative Analysis
      of the Use of New European Environmental Policy Instruments* (Cheltenham: Edward Elgar, 2013).

funding efforts (e.g. the LIFE programme) have been microscopic compared to the rest of the EU budget.[58]

Although the EU has continued to generate considerable legislative output, greater emphasis has been put on more flexible tools in the environmental arena since 2000. Broad framework laws are more typical: specifying only the most crucial environmental objectives, such as the EU Water Framework Directive (2000/60). Since the mid-1990s, all Commission environmental proposals must incorporate a cost-effectiveness statement.[59] The 2002 Commission Communication renewed the Commission approach to 'avoid making its legislative proposals unwieldy, in accordance with the Protocol on the application of the principles of subsidiarity and proportionality'.[60] The Commission created large consultation meetings involving numerous stakeholders; it also published Green and/or White Papers before proposing legislation, including the Emissions Trading Scheme (ETS Directive). The ETS is the central plank of the EU approach to climate change and involved a major instrumental addition within the administrative context of both Germany and the Netherlands.[61] Some Member States, such as Germany which preferred detailed environmental laws using the best available technology principle for domestic environmental policy, experienced considerable adaptation pressures.[62] Nevertheless, for the Commission and the EU a great deal of consideration has been given to the question of cost-effectiveness and transparency considerations, and the Juncker Commission strongly reflected a more limited approach.[63]

Policy developments in Germany

After the initial establishment of the environmental sector, the 1970s witnessed an extension of the regulatory portfolio (e.g. amending the Federal

58   McCormick, *Environmental Policy*.

59   Wurzel et al., *Environmental Governance in Europe*.

60   CEC, *Communication from the Commission. Action Plan 'Simplifying and Improving the Regulatory Environment*, COM(2002)278 final of 05.06.2002 (Brussels: Commission of the European Communities, 2002), p. 12.

61   Wurzel et al., *Environmental Governance in Europe*.

62   R. Wurzel, 'Germany: from environmental leadership to partial mismatch', in A. Jordan and D. Liefferink (eds), *Environmental Policy in Europe. The Europeanization of National Environmental Policy* (London: Routledge, 2004), pp. 99–117.

63   A. Bürgin, 'The impact of Juncker's reorganization of the European Commission on the internal policy-making process: Evidence from the Energy Union project', *Public Administration* (2018), https://doi.org/10.1111/padm.12388 (accessed 19 Jan. 2020).

Water Act and creating the Federal Nature Conservation Act and Washing Agents Act), but with a lessened intensity.[64] The Waste Water Charges Act was also passed, creating a financial tool.[65] The rest of the decade was spent in an environmental policy rear-guard action against the political pressures, but this action was ultimately successful. The slowdown did not reverse the environmental policy trajectory; it added some vital dimensions to the German approach for the future. The 1974 Emissions Control Act articulates a key German policy idea, the principle of precaution (*Vorsorgeprinzip*: the idea of preventing pollution from occurring, necessitating an active state role) as the basis for a robust environmental policy.[66]

The 1970s–1980s governance mode was hierarchical, with legislation creating general goals and principles; these statutes were implemented through highly detailed regulations and administrative directives (including technical guidelines) that were binding on the state (*Länder*) authorities to implement.[67] These hierarchical tools do not focus on procedural issues but on specifying technical standards and legislative substance. The focus was on enhancing administrative control and using the precautionary principle to pursue more stringent standards than would otherwise be necessary.[68]

The Federal Republic gradually started an increase in new environmental regulations by the 1980s. The quintessential regulation in this era was the 1983 Large Combustion Plant Ordinance, a regulation coming out of the 1974 Emissions statute.[69] At the heart of this increase was the rise of the Green environmental movement and the Green Party, and their electoral threat to traditional German mainstream parties; the 1986 Chernobyl disaster emphasised this move. However, such regulations as the 1983 Ordinance triggered opposition from German industry and its representatives. In particular, these actors argued that German environmental policies and

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64   H. Weidner, 'Reagieren statt Agieren: Entwicklungslinien staatlicher Umweltpolitik in der Bundesrepublik Deutschland', *Politische Ökologie* **9** (23) (1991): 14–22.

65   BRD, *Gesetz über Abgaben für das Einleiten von Abwasser in Gewässer (Abwasserabgabengesetz –AbwAG)* (1976), http://www.ecolex.org/ecolex/ledge/view/RecordDetails;DIDPFDSIjsessionid=36 85FBC99527096C834331778AE5FD21?id=LEX-FAOC035872&index=documents (accessed 7 Mar. 2016).

66   Weale et al., *Environmental Governance in Europe.*

67   D. Kelemen, *The Rules of Federalism: Institutions and Regulatory Politics in the EU and Beyond* (Cambridge, Mass.: Harvard University Press, 2004)

68   Weale et al., *Environmental Governance in Europe.*

69   J. Newig, 'Symbolic environmental legislation and societal self-deception', *Environmental Politics* **16** (2) (2007): 276–96.

regulatory stringency, compared to those in other countries, damaged economic competitiveness.[70]

The post-reunification Kohl government grappled with the consequences of reunification and economic recession. The reconstruction of the East German *Länder* led the federal level governance focus to favour standard economic growth policies and various planning/infrastructure policies such as road building.[71] In the wake of reunification and by 1993, industrialists argued that environmental and other German regulations were stifling competitiveness. Although German environmental policymakers refuted this stance and the ecological argument remained (as did the production of high-end ecological goods), a number of measures were scrapped.[72]

Despite these concerns, regulations have remained the key governance instrument, reinforced by EU legislative requirements. One significant instrument development was the increase in voluntary agreements in the early 1990s. The Kohl government implemented a coalition agreement giving preference to VAs over traditional regulation;[73] this federal move also reflected the substantial use of VAs by the SPD-Green coalitions in various *Land* governments of the 1980s and 1990s.[74] German VAs are not legally binding, unlike the Dutch covenants, but many of them were adopted under the 'shadow of the law', i.e. recognition that regulation could be the next alternative step.[75] When the Green Party came to power in the 1998 elections, one of the critical coalition demands was for ecological tax reform (i.e. the shift of the national taxation burden towards incentivising better environmental performances). Successor governments have continued this agenda, with substantial budgetary adjustment to cut environmentally damaging subsidies and enhance extant eco-taxes.[76] Thus hierarchical governance remains, but with greater emphasis towards information and market-based incentives in support.

70   Weale et al., *Environmental Governance in Europe.*

71   J. Anderson, *German Unification and the Union of Europe: The Domestic Politics of Integration Policy* (Cambridge: Cambridge University Press, 1999).

72   Pehle, 'Germany'.

73   J. Knebel, L. Wicke and G. Michael (eds), *Selbstverpflichtungen und normersetzende Umweltverträge als Instrumente des Umweltschutzes, Berichte des Umweltbundesamtes* 5 (Berlin: Umweltbundesamt, 1999), p. 30.

74   Lees, 'Environmental policy'.

75   Wurzel et al., *Environmental Governance in Europe.*

76   Umweltbundesamt (ed.), *Quantifizierung der Effekte der Ökologischen Steuerreform auf Umwelt, Beschäftigung und Innovation*, Hintergrundpapier (Berlin: Umweltbundesamt, 2004).

Policy developments in the Netherlands

The 1970s Dutch governance strategy was to use framework legislation to define the broad lines of responsibility in both the policy response and the range of potential instruments.[77] Specific regulations were issued via executive decrees with powers delegated to various government authorities. This was command-and-control legislation (e.g. the Chemical Wastes Act 1976 and the Noise Abatement Act 1979) focused on prohibiting activities threatening the environment. The 1970s legislation gave provinces significant licensing powers, targeting those environmental cases involving technically complex pollution processes.[78] Given the technical demands required in implementation, the Dutch policy operated a consensus-orientated system where multiple levels and groupings of public/private actors are the norm.

In light of the various criticisms raised about the Dutch regulatory approach and its implementation and coordination problems,[79] Dutch policy actors began to articulate a new approach in the 1970s.[80] This learning about environmental governance moved the Dutch thinking towards integrating environmental responses across sectors. Another strand of learning occurred with respect to increasing the role for other policy instruments. The Dutch had considerable tax instrument experience, notably the levy contained in the 1969 Surface Water Pollution Act.[81]

With the critical juncture in 1982, the Dutch government implemented several long-term governance changes, on integrated thematic approaches and integrated multi-year strategic plans.[82] The policies focused on specific pollution sources and on societal actor groups (including consumers, industry, farmers), to target particular policy packages. As regards instruments, the Dutch government's strategy shifted to streamlining regulation and rethinking the nature of policy instruments while increasing business and industry's responsibility in a self-governing process.[83] The governance tool

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77   Hanf et al., 'The Netherlands'.

78   Ibid.; Liefferink, 'The Netherlands', pp. 219–20.

79   Bressers, 'Environmental policy instruments in Dutch practice'; Liefferink, 'The Netherlands'; M.S. Andersen, *Governance by Green Taxes: Making Pollution Prevention Pay* (Manchester: Manchester University Press, 1994).

80   G. Bennett, 'Policy planning in the Netherlands', in N. Haigh and F. Irwin (eds), *Integrated Pollution Control in Europe and North America* (London: Conservation Foundation, 1990), pp. 209–39.

81   Andersen, *Governance by Green Taxes*, pp. 148–49.

82   Hanf et al., 'The Netherlands'.

83   van Tatenhove, *Beleidsvoeringsprocessen*.

box was extended to information, education and *covenants* as well as eco-taxation, in order to promote the concepts of shared and self-responsibility on the part of target groups and consumers.[84]

Covenants are a notable Dutch governance innovation; they are negotiated agreements where the parties set environmental targets in writing.[85] Agreements normally include the government (but not always the national government) and industrial groups and organisations but also potentially other actors, such as provincial governments.[86] Both officials and the targeted groups recognise that negotiated settlements are an attractive alternative to ensure higher environmental standards than stricter command-and-control regulation.[87] Covenants remain linked to and are effectuated by the licensing system; covenants serve as guidance for licensing if the groups do not achieve their goals.[88]

At the point of the 2010 critical juncture, the Netherlands was ranked relatively high in certain categories, e.g. fourth in terms of transportation taxes and second in pollution/resource taxes.[89] The Netherlands also had one of the highest proportions of revenue derived from eco-taxes. These realities led the Secretary of State to argue that further Dutch eco-tax efforts must be made dependent on other European countries increasing their environmental tax efforts and revenue.[90] The 2010–2012 rightist coalition went further, actively dismantling part of the environmental taxation structure, such as the waste, groundwater and packaging taxes; aiming instead for 'solid and simple taxes'.[91] The move towards less ambitious

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84 H. Bressers and T. De Bruijn, 'Environmental Voluntary Agreements in the Dutch context', in E. Croci (ed.), *The Handbook of Environmental Voluntary Agreements: Design, Implementation and Evaluation Issues* (Dordrecht: Springer, 2005), pp. 261–81; van Tatenhove, *Beleidsvoeringsprocessen.*

85 H. Bressers et al., 'Negotiation-based policy instruments and performance: Dutch covenants and environmental policy outcomes', *Journal of Public Policy* **31** (2**)** (2011): 187–208, here 189.

86 P. Glasbergen, 'Partnership as a learning process. Environmental covenants in the Netherlands', in P. Glasbergen (ed.), *Co-operative Environmental Governance* (Dordrecht: Kluwer Academic, 1998), pp. 133–56, here p. 133.

87 Bressers et al., 'Negotiation-based policy instruments and performance'.

88 P. Börkey and F. Lévèque, *Voluntary Approaches for Environmental Protection in the EU*, ENV/EPOC/GEEI (98) 29/final (Paris: OECD, 1998): p. 13; Bressers et al., 'Negotiation-based policy instruments', p. 190.

89 CEU, *Taxation Trends in the European Union: Data for the EU Member States, Iceland and Norway* (Luxembourg: Commission of the European Union, Office of Official Publications, 2010), pp. 232–24.

90 Interview, Ministry of Finance official, 2011.

91 Ibid.

environmental governance is made manifest in the design and calibration of the policy instruments.

Current environmental governance approaches

Table 1 summarises the governance approaches in the case countries and the EU. What stands out clearly is the dominance of the hierarchical mode in the environmental policy sector. The 1970s starting point was a focus on hierarchical governance that remains the legacy today. There are important nuances, however. The focus on building a consensual relationship with business is more suggestive of a network mode with a relatively exclusive set of players involved in delivering the policies.

From an early point in the history of environmental governance, the EU operated surprisingly detailed and systematic hierarchical legislation that was agreed and implemented by Member States. Although experimentation has happened with the market mode, essentially the EU has operated its governance as a regulatory state.[92] This has reinforced the hierarchical approach in our two EU Member State cases. The rules of the Single Market place restrictions on certain subsidies and other instruments that Member States can utilise. Nevertheless, the EU's lower ambition in the environmental arena is the main change, with a greater focus on better, more efficient implementation of current legislation.[93] The Dutch and German central governments have had greater scope to create environmental legislation and various forms of instruments, and have arguably done so on a more systematic basis. Nevertheless, both states have sought to experiment with their governance, and both have an underlying principle of building consensus with lower levels of government (where the implementation occurs) and the different core representations of civil society.

The two case countries and the EU have seen some experimentation but, bar the Dutch negotiated agreements and taxation, and German eco-labelling, this has tended to take a secondary role focused within particular sectors (see Table 2). In terms of efforts to change the nature of the governance mode, the EU has facilitated very limited experimentation despite the huge size and diversity of its membership. If one excludes the emissions trading system, the degree of EU instrumental innovation is relatively small: a limited

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92   G. Majone, 'The Rise of the Regulatory State', *West European Politics* **17** (3) (1994): 77–101.

93   C. Burns, P. Eckersley and P. Tobin, 'EU Environmental policy in times of crisis', *Journal of European Public Policy* **27** (1) (2010): 1–19.

number of VAs with mixed success, a relatively low-profile eco-label and so forth. The German success with its eco-label and negotiated agreements and the Dutch experimentation with taxation and covenants reflect internal dynamics rather than EU ones.

Table 1.
Governance trajectories for the case countries and the EU.

Country/System	Governance approach before critical junctures	Governance shift after critical junctures
EU	Hierarchical with Member States implementing	Hierarchical but has become more flexible about regulation and attempted to use market and informational instruments
Germany	Hierarchical and more specified but operating on a consensual basis	Remains hierarchical and consensual but with elements of the other modes added
The Netherlands	Hierarchical and more specified but operating on a consensual basis	Remains hierarchical and consensual but with other governance elements added

Table 2 demonstrates the reality that diverse policy instruments are available. The basket of instruments and the available tools has increased over time for each of the case countries and the EU. The EU and Member States have adopted certain instruments belonging to the three analytical types examined here (regulatory, economic and information), but the reality is that regulation remains the main instrument choice.

Anthony Zito

Table 2.
The policy tools.

Country/System	Environmental Instrument
EU	1. Regulations over a diverse range of emissions and for environmental protection 2. Emissions Trading Scheme 3. Certain VAs with particular industries 4. Informational instruments including an eco-label and an environmental management scheme 5. Limited environmental-focused funding
Germany	1. Regulations over a diverse range of emissions and for environmental protections 2. Eco-taxes and charges 3. EU Emission Trading Scheme 4. Energy subsidies 5. Negotiated agreements under the shadow of the law 6. Eco-labelling 7. EU environmental management system (EMAS) plus other forms of information provision and reporting 8. Research funding
The Netherlands	1. Regulations over a diverse range of emissions and for environmental protections 2. Covenants 3. Energy and environmental taxation and charges 4. Emissions trading schemes (Dutch scheme for nitrous oxygen, EU scheme for climate change emissions) 5. Grants and subsidies for energy saving, soft loans 6. Use of international environmental management systems (EMAS/ISO) 7. Eco-labelling and other forms of information provision

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Reliance on regulation, limited experimentation with new instruments and framing of environmental policy in the context of conditionality all hint at similar trajectories. A finer grained analysis however suggests some important nuances.

The EU, with its extremely limited budget and its protection of the single market, has focused on being a regulatory state.[94] This focus, along with the monitoring of state aid and other aspects of competition law in the EU context, has given a strong regulatory content to the EU law that Germany and the Netherlands implement. Dutch and German institutional norms of collaboration and consensus building across the vertical levels of government, as well as horizontally between the state and society, also remain strong determinants of environmental policy without the intervention of the EU process.

Moving away from institutional to ideational analysis, we see that various versions of the neo-liberal approach to governance and the move away from a hierarchical state governance focus have occurred in the three political systems, although it is critical to emphasise in all cases that regulation, albeit calibrated in different ways, remains the predominant governance tool. Although certain critics would depict the EU as an ongoing neo-liberal project, the reality is that the EU's focus on environmental protection and regulation maintained momentum until essentially after 2000. Conditionality dynamics also occurred in the EU context, with Germany, the Netherlands and others interested in their fellow Member States taking equal environmental burdens.

Turning more explicitly to the dependent variable, I have already noted that hierarchy and regulation remain the prominent approaches for environmental governance. The consensus-orientated politics of Germany and the Netherlands, and the presence of EU legislation, have led to environmental protection that is more specific in detailing key targets and means of implementation. One of the remarkable episodes of EU integration was the detailed and prescriptive regulation in the areas of air, water, waste and wildlife in the 1970s–1980s (without, for most of the period, an explicit treaty mention of the environment). This shows considerable entrepreneurship not easily

94   Majone, 'The rise of the regulatory State'.

explained by focusing on single market dynamics.[95] However, the nature of EU regulation has notably changed to give more flexibility in the means.

Equally, as more intractable problems such as climate change come onto the scene with diffuse sources of pollution, the EU and its Member States have all resorted to more governance innovation, in the form of financial/ market instruments and more instrument mix. Nevertheless, EU governance, barring climate change, has essentially used regulatory sticks as the key instrument. This is less the case with Germany and the Netherlands with their negotiated instruments, eco-labels and taxation instruments, but their overriding steering mix is backed by regulation and hierarchy.

Noteworthy also is the critical role of the election of new governments with particular ideological and ideational views towards governance and the role of the state in environmental politics. Ideational change and external events have played a substantial role in shaping environmental governance in the case countries, but the election of new governments often provides the dominant switch point. For both critical junctures in the Netherlands, a shift in the politics of government made the critical difference. The 1982 and 2010 coalition governments pointed Dutch environmental protection down particular paths. Recent Dutch governments have generally moved away from ambition in environmental governance, citing issues of competitiveness and the global economic situation, but the way these linkages have been framed reflects the outlooks of those who have gained power. In Germany the 1969 and 2008 coalition governments gave particular impetus to environmental protection although there is no escaping the impact German Reunification had on environmental governance. The two case countries reinforce the importance of understanding the electoral connection and regime change in bringing changes in ideological perspective and perception. The EU has built on and reinforced the tendency towards a regulatory approach, but equally the influence of neo-liberal thinking and approaches, and the prioritisation of economic and competitiveness values, have crucially shifted the EU role.

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95   A. Weale, 'European environmental policy by stealth: The dysfunctionality of functionalism?', *Environment and Planning C: Government and Policy* **17** (1) (1999): 37–51.

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Since the 1970s, environmental issues have become a major concern for European citizens and thus for European politicians. In the same time frame the political sphere in Europe, and in particular within the European Union, has also been undergoing major transformations. Dealing with environmental issues over more than fifty years in a historical perspective enables us to gain a better understanding of these transformations, notably the emergence of a European public sphere and how this is changing decision-making processes. Drawing on recent research results from various disciplines, including history, sociology, law and political sciences, this volume addresses the methodological challenge of a European perspective on a transnational subject – one that is commonly distorted by a national prism. It shows how perceptions of the environment are increasingly converging and how these convergences of views across political or linguistic borders in the long run exert an undeniable influence not only on political debates but also on political decisions across Europe.

Revealing European characteristics of perceptions, debates and policies, this volume contributes to a history of Europeanisation beyond the usual political turning points and limits.