

<http://hdl.handle.net/1765/114603>

European (Multi-level) Governance

2

European (Multi-level) Governance

2.1. INTRODUCTION

A lot of the literature focusing on the European Union mentions the term *governance*, implying that everyone seems to know and understand what that means. However, its definition is not straightforward, and neither are its implications. As Pierre and Peters (2000:7) have argued: “[t]he concept of governance is notoriously slippery; it is frequently used among both social scientists and practitioners without a definition all agree on”. Schmitter (2001:7) also argues that governance as a concept is fuzzy and vague, yet that there is consensus that it entails some sort of mechanism to resolve conflicts and solve problems. While the EU is often characterised as a multi-level polity, a concept such as multi-level governance remains elusive due to the focus on different elements pertaining to the multi-level and governance aspects of the concept (Eising, 2004:214). EU studies seem full of basic concepts that are vague and contestable, even though they share some basic views. Even so, a clarification of their use in this study is not impertinent. Using European governance literature as a starting point, the theoretical framework developed in this dissertation will take *governance* as a leading concept and attempt to define and apply it to the studied topic of EU climate and energy policies and their consequences for the Rotterdam port region. In doing so, this chapter will especially discuss the value of MLG as a theoretical framework, presenting its core premises and strengths, but also its critiques. I will argue that MLG can be seen as a theory by contrasting it with other — similar — approaches and their theses if strengthened by a workable conceptualisation of power and the addition of attention for issue framing. This chapter serves to provide a comprehensive overview of relevant developments in scholarly

debates surrounding EU governance from the 1990s onwards, in an effort to identify the most appropriate theoretical approach for the dissertation.

2.1.1. Chapter Outline

This chapter will present and discuss the theoretical framework adopted in this dissertation and will focus on the academic literature on European governance. Starting with different definitions of *governance*, the next section (§2.2) will show the multiplicity of governance conceptions present in the EU. This variety will be further explored in a discussion of the emergence of European governance in academic research (§2.3), which will function as a broad literature overview in this field. Several streams of research on European governance will be identified, with specific attention for the up- and downstream. For the remainder of the dissertation I will latch on to the ‘newer school’ combining both streams into a two-way stream of research on the EU. Specific attention will be paid to multi-level governance as the dominating view of how the European Union operates. This approach will be discussed at length (§2.4). A discussion comparing and contrasting multi-level governance and network governance will follow (§2.5), due to the fact that the approaches are at times used in concordance. This discussion will lead to the formulation of theoretical expectations that will guide empirical inquiry and structure the analysis (§2.6). The conclusions (§2.7) function as a bridge to the next chapter which focuses on the theoretical expectations of this dissertation and the chosen methodological approach and operationalisation.

2.2. THE MANY FACES OF GOVERNANCE

In very general terms, governance refers to “theories and issues of social coordination and the nature of all patterns of rule” (Bevir, 2011:1) and is distinctly different from *government* (Kohler-Koch & Rittberger, 2006:28). In the public administration field, an accepted use by many is to define governance as a new way of governing society (Rhodes, 2007:1246), though a less vague but still all-encompassing definition is “the process of bringing about binding agreements” (Kohler-Koch, 1998:1), or “the process by which we collectively solve our problems and meet our society’s need” (Osborne & Gaebler, 1993:24). According to Kohler-Koch, then, the essence of governing is about transforming “the plurality of individual preferences into collectively binding decisions” (Kohler-Koch, 1999:18). A bit more specific, governance can be defined as “the continuous political process of setting explicit goals for society and intervening in it in order to achieve these goals” (Jachtenfuchs & Kohler-Koch, 2004:99). Here it becomes apparent that a body is needed to set goals and to intervene in society, implicitly drawing attention to public goals. This implication is made more explicit

by Hooghe & Marks (2008:2) who define governance as “binding decision making in the public sphere”, thereby also reiterating Kohler-Koch’s notion of binding agreements. In all of the above discussed definitions of governance, binding decision-making for society is key. Schmitter (2001:8) lets go of the explicit society-orientedness of governance and offers another process definition by arguing that governance

“is a method/mechanism for dealing with a broad range of problems/conflicts in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating and deliberating with each other and cooperating in the implementation of these decisions”.

With the core of this definition essentially being about negotiations between many public and private actors (Prins, 2008:39), it comes very close to seeing governance as a network affair. Kooiman also stresses the importance of the network part of governance and states that

“[no] single actor, public or private, has all knowledge and information required to solve complex, dynamic and diversified problems; no actor has sufficient overview to make the application of particular instruments effective; no single actor has sufficient action potential to dominate unilaterally in a particular governing model” (Kooiman, 1993:4).

Consequently, governance encompasses more than just actions performed by the state (Jordan, 2001:199). In a co-edited book with Eising, Kohler-Koch (1999:20) offers a typology of modes of governance that deals with different characteristics of the polity and how political relations are organised. As such, this typology deals with the inclusion or exclusion of a specific focus on the public sphere when employing the governance concept.

Table 2.1. Typology of modes of governance

Constitutive logic of the polity	Organising principle of political relations		
	Common good	Majority rule	Consoiation
Individual interests	Statism	Corporatism	Network governance
	Pluralism		

Source: Kohler-Koch, 1999:20.

Statism refers to a focus on the common good and decision-making by majority rule, which essentially comprises basic decision-making procedures in national governments. Corporatism also has a common purpose but includes competing social interests that need to achieve some degree of consensus. The Netherlands is a country with a strong conso-ational tradition (cf. Lijphart, 1968) and is therefore illustrative for corporatism. Pluralism

is mostly focused on the pursuit of individual interests but with a majority rule. The last type, network governance, also pursues individual interests but by many different social actors and during negotiations. This typology helps understand definitions of governance focusing or abandoning a specific focus on societal problems as well as definitions that are mainly centred around networks and negotiations.

Bevir (2004:606) defines governance as “a politics that operates through disparate practices located partly within civil society, practices that often form loose networks based on dialogue and shared resources”. This definition is, although broad, very network-oriented and centres around relationships between actors, and less on the making of binding agreements. In a similar light, Rhodes (2000:346) specifies his description of governance as a new way of governing society by adding that it is about self-organising, interorganisational networks. He attributes four key characteristics to governance: the interdependence between organisations, continuing interactions, game-like interactions, and a significant degree of autonomy from the state. Rhodes’ interactions are rooted in trust and structured by rules. In his view, networks can — but do not necessarily — work where markets and bureaucracies fail (*ibid.*:360) and can as such act as a source of legitimacy (Schmitter, 2001:7). Risse, Green Cowles & Caporaso (2001:3) in their treatment of the Europeanisation concept indirectly define governance as political, legal, and social institutions associated with political problem solving that formalise interactions among the actors, and of policy networks specialising in the creation of rules. Here again the public and private participation in networks is underscored, and rules also come up as an important factor in governance.

Van Kersbergen & Van Waarden (2004:144-150) explore and define in their article nine approaches to governance as used by academia and in practice. The first, ‘good governance’ is a term that is used by, among others, the OECD and the EU, and refers to conscientious governing with an eye for legitimacy and the prevention of wasteful public spending. The second usage comes from international relations theory and refers to governance as governing without government. The third use refers to self-organisation “of societies and communities, beyond the market and short of the state” (*ibid.*:146). This approach is very bottom-up and reliant on informal factors such as trust and social control. In economic sciences, governance is usually understood as being broader than ‘government’ and encompassing the (market) institutions societies create to facilitate exchanges. The fifth usage is called corporate governance and refers to how corporations are directed and controlled. Taking corporate governance to the public sector results in methods of New Public Management (NPM) and is therefore seen as the sixth approach. Finally, the last three approaches are variations of network governance, but at different levels. One can theorise that, in general, public institutions form networks to govern their environments

by exchanging information and resources in negotiation processes. This public networks approach is most akin to the classic interpretation of government. One can also focus on the shift from hierarchy to smaller, cooperative networks of organisations. This shift mainly occurs in the private sector. The third form of network governance is multi-level governance. It defines 'governance' as the power relations that result from the rules of international regimes and as the substance of the policies that emerge. The term 'multi-level' shows that there are multiple governmental levels involved. Especially in the EU this is visible at the supranational level, the national level, the regional level and the local level. These different levels create policy networks across different policy areas. As becomes visible from Van Kersbergen and Van Waarden's nine approaches to governance, all of these approaches focus on some form of network¹⁶. They assume a plethora of actors, with or without government involvement, operating together and with some goal.

With all the different available conceptualisations of governance, the term remains vague and open to multiple variations of the general idea of Schmitter's mechanism to resolve conflicts and solve problems. Specified even further, governance appears to always be about either resolving problems and solving problems for (1) society, or (2) in networks and negotiations, or both. Table 2.2 shows the alignment of authors concerning their definition of governance.

Table 2.2. Definitions of governance: a matrix¹⁷

		Focus on societal problems	
		Yes	No
Focus on networks/ negotiations	Yes	Rhodes Eising & Kohler-Koch Risse, Green Cowles & Caporaso Scharpf Héritier	Schmitter Rosenau Kooiman Jordan Bevir
	No	Osborne & Gaebler Jachtenfuchs Hooghe & Marks	-

Source: author's own composition.

16 In this chapter I will argue that MLG is a loose-standing concept — encompassing networks — but that it is not the same as network governance.

17 Some authors featured in the table were not discussed in this chapter. For Fritz Scharpf, see his 1991 article 'Games real actors play'. For Adrienne Héritier, see her 1999 book 'Policy-making and diversity in Europe' (1999a in bibliography). For James Rosenau, see his contribution in the 2000 book 'Debating governance: authority, steering and democracy' by Pierre & Peters.

Acknowledging the variation in the definitions of governance, it is imperative to define its use in this thesis. Here, governance will be defined — following Börzel and Risse’s work¹⁸ — as “the various institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods” (Börzel & Risse, 2010:114). This definition allows for recognition of the often institutionalised, interactive, multi-actor nature of EU governance, while leaving room for a strong societal focus on cooperation across and between levels with the goal of producing binding decisions. The definition also helps identify governance as encompassing both structure and process. The structure of governance relates to its institutions and actors, whereas the process of governance refers to the modes of social coordination (*ibid.*:114). This distinction is helpful because it sheds light on who engages in governance, in which settings, and how. Governance in this dissertation consists of:

- institutionalised modes of coordination imply governance has a structural component and is not ad hoc;
- social coordination implies that more than one actor has a say in matters, hereby including societal actors;
- producing and implementing implies governance can take place in both policy-making and its implementation and is therefore a dynamic process;
- collectively binding rules imply a certain degree of codification, though not necessarily through laws;
- collective goods imply governance benefits ‘the greater good’, such as improving the climate and securing energy supply.

Both the network approach and problem solving for society find their way into the definition. The focus on institutionalisation also keeps the definition close to Eising and Kohler-Koch’s interpretation¹⁹ of governance as visible in the matrix (table 2.2). This definition of governance has as a consequence that this dissertation will *not* look for ad hoc networks, singular decision-making, informal rules of the game and private gain.

Another important feature of the governance concept is that it is dynamic. As such, shifts in governance may occur over time. While exploring the nine uses of governance, Van Kersbergen and Van Waarden (2004:152-155) identify five general shifts in governance that are present in how the concept is used. The first shift concerns an upwards move from the national to the supranational level, with the latter becoming more and more important for governance activities. However, there is also a downwards shift from the national

¹⁸ Who, in turn, draw upon the work of Renate Mayntz.

¹⁹ Even though the typology as presented in table 2.1. (page 3) is credited as Beate Kohler-Koch’s, it features in the 1999 book she co-edited with Rainer Eising: ‘The Transformation of Governance in the European Union’.

and international level to the local and regional level. Therefore, governance is stretched out over multiple levels. A third shift is a horizontal shift from governance by executive and legislative powers to the judiciary. The fourth shift encompasses another horizontal change, yet now from public to semi-public — and at times even private — organisations. The plethora of corporatisation and privatisations in the last two decades are examples of this shift. The fifth, and final, shift is a mixed one; it entails the creation of complicated networks with multiple levels and with the participation of both public and private actors. Such policy networks are common in the European Union. The five shifts in governance not only show the dynamics of the concept but also signify that governance has many aspects which can be examined. In her treatise on multi-level governance as a theory, Simona Piattoni (2010) has also given attention to similar shifts, which she calls ‘pressures’. These form the basic theoretical searchlights guiding empirical inquiry in this dissertation and will be discussed later in the chapter. First, it is useful to present how the study of governance in the EU has changed over the years, which is the main focus of the next section.

2.3. OLD SCHOOL AND NEW SCHOOL APPROACHES TO EUROPEAN GOVERNANCE

This section will briefly cover the ‘governance turn’²⁰ in EU studies and some of its critique. The focus on governance in European Union research is certainly not new, but has seen an explosion of articles following an increased focus on how EU policy-making works since the late 1980s (Kohler-Koch & Rittberger, 2006:27-32). Before that time, researchers were mainly interested in applying the grand theories of neofunctionalism (cf. Haas, 1964) and liberal intergovernmentalism (cf. Moravcsik, 1993) to the European polity (Jachtenfuchs, 2001:246; Piattoni, 2009:165). When liberal intergovernmentalism seemed to take the upper hand, research shifted to studying one policy or one policy field, the public opinion, or the politics of the EU. In essence, grand theory gave way to middle-range theories (Jordan, 2001:194). The onset of the single market caused researchers to question the sovereignty of the member states and led them to study the impact of the EU on domestic affairs. Instead of taking the European polity as the dependent variable, the governance turn in EU studies sees the European polity as a given and rather places the focus on the “impact of the Euro-polity on national and European policies and politics” (Jachtenfuchs, 2001:246-250).

European governance literature has bloomed over the past decades, and so have its definitions and underlying concepts. As the EU changed over time, so has the research around

²⁰ The ‘governance turn’ is a term first used by Kohler-Koch and Rittberger in their influential 2006 article “The ‘Governance Turn’ in EU Studies”.

it. The older school focuses on a clear distinction between upstream and downstream research, whereas more recent work considers both streams inseparable. While the general consensus is — not surprisingly — that the European Union is the subject of European governance literature, the exact content of what to study regarding the EU or even how to study it varies. Areas of interest might be EU integration, decision-making, politics, sectoral policies, voter behaviour, knowledge dissemination, and so on. In her seminal work on EU governance, Schmidt distinguishes between Europeanisation and European integration and presents figure 2.1 below.



Figure 2.1. Europeanisation versus European integration
Adapted from: Schmidt, 2002:896.

European integration is an upstream approach and is perceived as the process of EU construction, or the way in which member states influence the EU. Important questions in this approach center around explaining how institutions of the EU came to be and how and why competencies are transferred to the EU level. By contrast, Europeanisation goes the other way (downstream) and studies how the EU changes the national level. Transposition and implementation of EU regulation is an important area of focus in this approach (Schmidt, 2002:896). Olsen (2002:923-944) introduces a complementary view and identifies five uses of the concept of Europeanisation, one of which is akin to Schmidt's European integration, and a second which shows her version of Europeanisation. His five uses center around what changes and why. The first use studies changes in the external boundaries of the EU, specifically paying attention to the territorial reach of the Union. The second use involves the development of institutions at the European level, increasing the degree of coordination and coherence and awarding the EU with decision-making capacities and means of enforcing binding decisions. This use is similar to what Schmidt calls 'European integration'. The third use focuses on the central penetration of national systems of governance, looking at the division of power and responsibility on different levels and the way lower tiers adapt to the changing power balance brought upon them with European institution-building. This use is similar to Schmidt's Europeanisation, the most widespread in academic literature, and — along with European integration — will be discussed in more detail below. The

fourth use is external and aims at change beyond EU territory, or how the EU finds its place among global fora. The fifth and final use is the political unification project and studies in how far the EU is becoming more unified and stronger as a political entity. Olsen calls this use the most interesting, but at the same time most challenging for researchers. The fifth use encompasses the previous four, but is not necessarily positively correlated with them. Accounting for complexities becomes difficult when studying the “mutual adaptation of co-evolving institutions” (*ibid.*:942). The network mode of governance is a crucial factor in this use of the concept. While the second and third use are akin to Schmidt’s approaches, the other three are distinctly different. They seem to fall under a different aspect of political science, with the first and second being oriented toward external relations and the fifth having a clear normative aspect and mostly being about state-building. Labelling them under Europeanisation is thus not wrong but can be confusing. For this reason, Schmidt’s distinction between Europeanisation and European integration will be adhered to from now on.

2.3.1. European Integration, or EU Upstream

During the early years of the (pre-)European Union researchers were interested in how the member states shape the constitution of a united Europe. Such upstream research (termed ‘European integration’), or the way institutions are built at the supranational level (cf. Bulmer, 1983; Hooghe & Marks, 2001, 2008; Jeffery, 2000), has not been abandoned and continues to be a topic of interest to scholars. The EU is very much an ongoing project with dynamic institutions that are challenged each time a new member enters the Union. This analytical approach corresponds to Schmidt’s ‘European integration’ and to Olsen’s second use of the concept of Europeanisation. Hooghe and Marks explore in their 2008 article the extent to which national identity influences European integration. They find that where national identity contrasts the EU and when certain European issues become politicised, European integration may slow down or even invert. The referendums surrounding the Constitutional Treaty — particularly the French and Dutch ‘no’s — are an example of national influence on the European level (Hooghe & Marks, 2008:20). Yet bottom-up studies do not have to focus solely on the level of the nation state. With increased policy activism from subnational authorities, a more solid base for their involvement at the EU level has been created (Jeffery, 2000:8). Many scholars also focus on the influence of interest groups and how they upload their preferences to the EU level (cf. Coen, 1998; Barron, 2011; Beyers & Braun, 2014; Van Schendelen, 2017). This short overview of upstream research is non-exhaustive out of necessity, but the research on topics like these continues to grow (Coen, 2007:341-342).

2.3.2. Europeanisation, or EU Downstream

The introductory paragraph to this section has shown that Europeanisation can mean different things. This section will address Europeanisation as envisaged by Schmidt, and as described by Olsen as the third use of the concept of Europeanisation. However, even within this narrow perspective, the definition of Europeanisation is no straightforward issue. Graziano and Vink (2007:7) adopted the following definition of Europeanisation: “the domestic adaptation to European regional integration”. This definition is a very hierarchical approach to Europeanisation as it assumes that European regional integration precedes domestic adaptation. Any horizontal effects of European integration are seen as indirect effects (*ibid.*:8). Similar is the definition posed by Héritier *et al.* (2001:3): “the process of influence deriving from European decisions and impacting member states’ policies and political and administrative structures”. Buller and Gamble (2002:17) are a bit less specific and argue that Europeanisation is “a situation where distinct modes of European governance have transformed aspects of domestic politics”. Börzel’s definition, which identifies Europeanisation as “a process by which domestic areas become increasingly subject to European policy-making” (1999:574) is criticised by Radaelli (2000:3) for being too general when a scholar is interested in the impact of the logic of European political behaviour on domestic policies. Instead, Radaelli is charmed by Ladrech’s more process-oriented definition²¹ of Europeanisation, adapting it and ultimately suggesting that Europeanisation refers to:

“[p]rocesses of (a) construction (b) diffusion and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies”.

While this definition seems very broad as well, it has a very specific EU focus in its way of placing EU decisions as something that happens prior to domestic adaptation (Flockhart, 2010:789), which is similar to the mechanism posed by Graziano and Vink. Furthermore, the definition includes both tangible (f.e., formal rules) and intangible (f.e., shared beliefs) aspects. Yet another definition focuses the attention on the development of distinct structures of governance (Risse, Green Cowles & Caporaso, 2001:3), thereby drawing away the attention so far given to the domestic impact of Europe and rather focusing on the growing policy competences of the EU (Bache, 2005:3). This definition ventures more into the realm of European integration.

21 Ladrech’s definition of Europeanisation refers to the concept as an: “incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (1994:69).

But what can actually be Europeanised? The general consensus is that Europeanisation can affect policies, politics, and the polity of a member state (Börzel & Risse, 2003:61)²². Examples are instruments, policy narratives, processes of interest representation, judicial structures, public administration, collective identities, and so on. Europeanisation can thus have a fundamental effect on domestic structures through a process called *downloading*. Some scholars focus primarily on this top-down side of Europeanisation, looking at the influence of the EU on its member states and how European policies are translated and implemented in national systems (cf. Ladrech, 1994; Knill & Lehmkuhl, 1999, 2002; Radaelli, 2000; Schmidt, 2006). Knill & Lehmkuhl (1999:2, 2002:256) have studied Europeanisation of railway policies, environmental policy, and road haulage policies and identified in their article three mechanisms of Europeanisation: institutional compliance, changing domestic opportunity structures, and framing domestic beliefs and expectations. Institutional compliance hinges on the domestic adaptation to institutional requirements set by the EU. Such compliance is most often visible in areas such as environment policy or policies concerning health and safety at work and consumer protection (Knill & Lehmkuhl, 2002:258), which are the so-called ‘positive integration’ policies (Taylor, 1983). Domestic opportunity structures might change due to European legislation influencing the domestic rules of the game. Power may shift between actors, leading to a change in domestic (institutional) structures. This mechanism of Europeanisation is often visible in market-type policies. When European policies trigger a shift in the beliefs and expectations of domestic actors, the way they frame their preferences might change. This change can ultimately lead to institutional change. This mechanism is mostly visible in contentious issues and policies that are intended to bring about a change in European integration (Knill & Lehmkuhl, 2002:258-259). Adaptation of domestic structures can fuel policy entrepreneurship (Jeffery, 2000:14). The general idea behind this stream of Europeanisation research is clear: Europe affects its member states.

2.3.3. The ‘New School’: Two-Way Stream

But member states affect Europe as well. While Schmidt initially makes a divide between Europeanisation and European integration, a later article specifies that the divide is of an analytical nature, and that empirically the two streams are connected (Schmidt & Radaelli, 2004:185). Börzel (2002) advocates a refined downstream model and argues that Europeanisation in itself is a two-way process. Scholarly work should thus focus on both *downloading* (transposing and implementing EU regulation) and *uploading* (advocating a State’s own

²² Piattoni (2010) argues that multi-level governance affects the politics, policy and polity of not only the member states of the EU but also of the EU itself. Her argument will be discussed later in this chapter.

preferences at the EU level). These activities are not sequential but rather run parallel to each other. Considering both the downloading and the uploading dimensions helps conceive “of the European level as an opportunity structure that domestic actors may, depending on their interests and resources, be able to exploit to further their own interests and, in turn, shape EU-level and national governance arrangements” (Kohler-Koch & Rittberger, 2006:38). In other words, Europeanisation not only shapes the domestic level but also gets shaped by it in turn (Laffan & Stubb, 2003:70). When done successfully, domestic actors may impose a — for them — favourable regulatory style to the larger European level (cf. Héritier, 1996; Bomberg & Peterson, 2000), which goes beyond ‘mere’ institution building but also touches upon the consequences for the policy dimension. They have an incentive to do so in order to minimise the costs associated with the implementation of European policies at the domestic level. After all, the higher the initial fit, the smaller the required changes are, and thus the lower the costs to implement them (Börzel, 2002:194-196). Drawing on evidence gathered from studying EU environmental policy, Börzel identifies three strategies of member state response to Europeanisation: pace-setting, foot-dragging, and fence-sitting. Pace-setting is “the active shaping of European policies according to domestic preferences (*ibid.*:197). It can be difficult to achieve the goal of uploading domestic policies to the European level, especially considering that there are many other member states that can have vastly different preferences. Successful pace-setting is made easier when the national executive operates in the right networks. Germany has been the pace-setter in environmental policy in the 1980s (Liefferink & Andersen, 1998:71), and is still very influential today where sustainable energy policy is concerned. Foot-dragging is the opposite of pace-setting and involves national executives trying to block others from uploading their domestic policies to the EU level. As with pace-setting, this strategy is neither always successful, leading member states to often opt for side-payments or package deals. In general, member states employing the foot-dragging strategy show poor levels of compliance with Community law. Fence-sitting involves neither advocating nor blocking a policy at the EU level, but rather employing a neutral strategy. This strategy makes fence-sitters attractive for both pace-setters and foot-draggers to build a coalition with. Fence-sitting may be caused by a simple lack of the required resources to be a pace-setter, the anticipation of low implementation costs, support of the pace-setters but lack of domestic support (rendering open advocacy unpopular), or calculating that the costs of non-implementation are lower than those associated with foot-dragging (Börzel, 2002:203-208).

Other uploading studies focus, for example, on agenda-setting in the EU and the role of lower-tier governments in the decision-making process. Eising (2004:236) has sought to link the multi-level governance system of the EU to interest group activity, and looked at the presence of interest groups at different levels of government. He found that multi-level interest representation is not (yet) widespread, but that there is evidence of some corporate

actors targeting multiple levels. A possible constraint is the amount of governance capacity needed to operate at different levels of the European polity. Coen (1998:97) has looked at large firm lobbying in the EU and found that national lobbying has started to decrease. However, no statistically significant evidence was found to indicate that this decline is connected to the supranational nature of the EU. Moving away from corporate lobbying toward member state lobbying, Haverland and Liefferink (2012:193) have investigated member state influence in the European Commission. Their case study on the Dutch activity in the drafting phase of the REACH directive demonstrated that the availability of high-level expert knowledge can prove invaluable to the EC, which is in need of such information. A high level of expertise can, though, turn into inflexibility when trying to sell very complex policies in Brussels. In that case the member state may lose influence.

Reasoning from the supranational point of view of downloading, Kohler-Koch (1999:25-26) identifies three ways of transmitting a governance mode from the European to the national level, thereby not excluding two-way interaction. The first method is the imposition of governance mechanisms by the EU on member states. The second method is the involvement of the national level through interaction in networks and based on institutional learning processes. The third method is the attraction of member states to European values by establishing and transmitting best practices.

But what about non-governmental actors? What is their role in EU governance? The way EU governance operates is contingent upon the competences assigned to the supranational and domestic levels of government. Furthermore, in policy areas that rely heavily on information and support provided by non-governmental actors — such as expert information needed for electricity grids regulation — the employed governance method can vary (Borrás & Jacobsson, 2004). At the policy-initiation stage, interest groups, the Council, the EP and the European Council supplement the activities of the EC, showcasing the involvement of multiple actors in policy-making (Hooghe & Marks, 2001:14). In fact, the EU is a big stimulator of private sector involvement in EU governance, which has steadily been increasing over the past years (Schmitter, 2001:9). The Commission does really seem to operate in a “system of multi-level governance involving competition and interdependence among it and the European Council, Council of Ministers and European Parliament” (Hooghe & Marks, 2001:16).

2.4. MULTI-LEVEL GOVERNANCE

The views on the two-way mode of Europeanisation assume that the mechanism of EU governance is inherently dynamic. The multi-level governance (MLG) approach seems to

fit well in this two-way stream, as it is also based on mutual interaction between multiple levels of government. Crosscutting Europeanisation and European integration, multi-level governance as a conceptual framework has taken flight in the mid-90s. This section introduces MLG and its history, discusses its criticism and will conclude with a judgment of its value as a theoretical approach. Multi-level governance deserves to be given this special attention because of its importance to EU studies as a whole (Bache & Flinders, 2004) and to its persistence as an analytical approach; MLG has undergone several reconceptualisations since its introduction.

2.4.1. From Grand Theory to Multi-Level Governance

As discussed in the previous section, European literature started with neofunctionalist and liberal intergovernmentalist explanations of how the EU evolved. When researchers shifted their attention from seeing the European polity as the dependent variable to using it as an independent variable, middle-range theories regarding EU policy-making took root. Wessels (1997:273) has contrasted governance as a view of how the EU develops with neofunctionalism and realism. He claims that whereas neofunctionalism perceives the EU's development as linear growth and realism as decline, governance allows for a cyclical pattern of growth and decline. Wessels adds to these views a fourth: fusion. Fusion theory is a mixture of neofunctionalism and governance, perceiving EU development as structural growth in cycles. National governments are seen as actors capable of rational choice. Efficient and effective problem-solving in a system characterised by interdependency and joint problem-solving allow for growth, while sovereignty issues add the cyclical nature of EU development. Fusion is ultimately defined as

“a ‘merger’ of public resources located at several ‘state’-levels for which the ‘outside world’ [...] cannot trace the accountability, as responsibilities for specific policies are diffused” (Wessels, 1997:274),

allowing for the involvement of multiple levels of government. In essence, this fusion reflects multi-level governance. Moving past the classic focus on how the EU integrates, scholars thus began to describe the EU as a system of governance (Marks, 1993; Hix, 1998:39; Hooghe & Marks, 2001; Eberlein & Kerwer, 2004:121). Jachtenfuchs (1995:115) calls EU governance a system of governance ‘beyond the state’, though without claiming that the state itself has lost importance. If governance depends on negotiations, — as visible in some of its definitions — it is no longer “linked exclusively to the state” (*ibid.*:125). The need and ability to regulate the single market has been the main driving force behind the governance approach (Hix, 1998:40). As interest groups began to proliferate in the early 1990s, the

involvement of more than just state actors in policy-making became increasingly important. Furthermore, the emphasis placed on partnership and cooperation fostered linkages between and within levels and the importance attributed to the concept of subsidiarity at the time resulted in a wider inclusion of lower-tier governments (Stephenson, 2013:819). These developments have resulted in a system of European governance characterised by “a unique set of multi-level, non-hierarchical and regulatory institutions, and a hybrid mix of state and non-state actors” (Hix, 1998:39), which Hooghe and Marks have dubbed ‘multi-level governance’. Originally defined as

“a system of continuous negotiation among nested governments at several territorial tiers — supranational, national, regional, and local — as the result of a broad process of institutional creation and decisional reallocation” (Marks, 1993:392),

MLG seemed a very hierarchically oriented form of governance. Since then, Marks²³ has specified it further to include other types of actors as well. The original premise, however, still holds: (sub)national actors are incorporated into EU-level decision-making (Wessels, 1997:281).

Another strand of research centred around Majone and the typology of the EU as a ‘regulatory state’ (cf. Majone, 1996). The assumption in this strand of research is that the EU has reached a degree of maturity in which it can act like any other state by developing regulation to deal with societal issues. The regulation developed to create and sustain the internal market — a situation of far-reaching fusion — is an example often used to illustrate the EU’s regulatory activities (Jachtenfuchs, 2001:252; Kohler-Koch & Rittberger, 2006:35). However, the EU’s regulatory power is often also questioned. Scharpf (1988) mentioned the ‘joint-decision trap’ as being a feature present *in* the EU, — *not* a feature of the EU (Scharpf, 2006:847) — leading EU policy to present suboptimal outcomes because of the simultaneous presence of the representation of member states’ self-interests and the unanimity rule. These two features clash and can lead to suboptimal policy outcomes. Because of the EU’s obvious shortcomings as a regulatory state, I will only focus on the EU as a system of governance approach.

Hooghe & Marks (2001:2-3) assert that there are two ways to look at the EU. One approach is to assume that the EU works through state-centric governance, which effectively means that governments are in control and that EU policies thus show what the interests

23 After criticism by other authors such as Jordan and Rosenau. The inclusion of non-state actors would later prove to be very popular, but would also lead to the dismissal of the label ‘multi-level governance’ by Kohler-Koch in favour of ‘network governance’.

and power of national governments are. The state-centric governance model is an inter-governmental model. The second model they present is that of multi-level governance, which is a supranational model. Their central hypothesis is that, because of the different actors and levels of hierarchy involved in policy making, *national governments lose some of their autonomy*. This loss of autonomy has a few causes. The first cause is the increased power of the European Parliament (EP) in the legislative process of the EU. Over the years the competences of the EP have been broadened, making the EP a weighty player. The second cause is increased public scrutiny through, for example, electoral competition, public referenda and the involvement of domestic groups in European decision-making. The third and final cause is the limited control of national governments over supranational agents. This cause can also be termed a *principal-agent problem*. Because of the nature of European integration, there are multiple principals. In effect, each member state is a principal since no basic institutional change can be made without reaching unanimity on the subject. All these principals make it hard for national governments to rein in supranational institutions. Unanimity thus creates hurdles to change. Furthermore, a supranational institution such as the EC operates within a network of national governments, subnational governments and interest groups, which gives it a lead start on governments when it comes to information and knowledge. This information asymmetry ensures that the EC has wide influence on policy-making processes. European governance is also characterised by mutual distrust. To ensure adherence to the ambiguous treaties, member states have established a judicial system. However, they also allow the EC to create detailed regulations in order to be able to devise precise and binding policies. This competence, then, causes national governments to become less autonomous (*ibid.*:5-12). Following the logic of fusion theory, Wessels argues that it becomes increasingly difficult to reverse this process of continuing loss of autonomy as member states consciously choose further fusion. As the other two options, more intergovernmentalism or more federalism, are not preferable; intergovernmentalism erodes the effectiveness of common coordination whereas federalism threatens the constitutional setup of member states. More intensive participation at the EU level maintains a member state's own sovereignty by making the EU not only the cause of the decline of state power, but also the answer to it (Wessels, 1997:287). The result is a relatively stable system with supranational actors influencing the "rational pursuit of national interests" (*ibid.*:274).

To specify multi-level governance even further, Hooghe & Marks (2003:236-239, 2004, 2010:17-22) identify two types of jurisdictions within which multi-level governance in Europe can take place. They argue that dispersion of governance across multiple jurisdictions, instead of concentrating it within one large jurisdiction, increases its flexibility. Making this flexibility possible is an advantage of multi-level governance. The two types of multi-level governance that Hooghe & Marks propose are summarised in table 2.3.

Table 2.3. Multi-level Governance type I and II

Type I	Type II
General-purpose jurisdictions	Task-specific jurisdictions
Non-intersecting memberships	Intersecting memberships
Jurisdictions organised in a limited number of levels	No limit to the number of jurisdictional levels
System-wide architecture	Flexible design

Source: Hooghe & Marks, 2003:236.

Type I is founded in federalism, which focuses on a limited number of governments covering only a few levels. Power is shared throughout these levels, which do not intersect. An example is the relationship between a national government and a sub-national government. These type I jurisdictions mostly adhere to the *trias politicas* thought of organizing government through an elected legislature, an executive and a court system. This is more or less visible in the EU's ordinary legislative procedure. Type II is embedded in type I and widespread at the local level. It encompasses a vast amount of members that can intersect and operate at many different jurisdictional levels. An example is Switzerland, where there are as many as six (intersecting) jurisdictional levels that form an addition to local governments and sometimes compete with them (Hooghe & Marks, 2003:237). Needless to say, both types can be found in the EU. Type I could be the overarching type for the European Union as an entity, but within this entity there are examples of type II multi-level governance everywhere. However, inherent in multi-level governance are coordination problems. When the number of actors increases, it becomes harder to punish those who defect. What then emerges is a cult of free riding. To diminish the chances for free riding to occur, both types have different ways to cope with the coordination dilemma. Type I limits the number of autonomous actors by decreasing the number of jurisdictional levels. Free riding is then likely to occur less. Type II does not limit the amount of actors, but creates specialised jurisdictions to limit externalities across the jurisdictions. This strategy also limits free riding (*ibid.*:240). From the above follows that type I and type II governance complement each other, which is why they are both present in the EU (Piattoni, 2009:171).

2.4.2. Critique of (Multi-level) Governance and its Defence

Today, prominent features of the EU such as the community method, comitology, and its multi-level nature continue to fuel EU governance research even though the concept of governance still largely remains vague²⁴. As such, studying governance lends itself to the use of various theories and methods of inquiry (Kohler-Koch & Rittberger, 2006:34-

²⁴ See also Francis Fukuyama's 2013 article focusing on the measurement of 'governance'.

43). This assertion, however, also offers a basis for criticism of the governance turn. The problem-orientedness of governance has innovative potential, but does not offer a theory. The consequence is that “we observe several streams of discussion that are more or less autonomous” (Jachtenfuchs, 2001:259). While this is not a problem per se, the exercise of integrating the governance approach in existing theories is challenging. The aforementioned vagueness of the concept of governance can also be a source of criticism, although it is also one of the reasons governance debates dominate the research agenda in EU studies. Another criticism of the governance approach is that it generally ignores political power and rule. Its strong focus on problem solving, however helpful, largely fails to account for the influence of concepts such as political power (Jachtenfuchs, 2001:258). Where the governance turn in EU studies does adequately describe how policy is made in the EU, it should be noted that these relationships between different actors, sectors, governments, and even levels of government are not unique to the EU but rather a feature of modern states (Börzel, 2011:54). The result is that theory-building around the governance concept remains difficult, and, at times, even “maddening” (Piattoni, 2009:175).

More specifically geared toward criticising multi-level governance as theory, Jordan (2001:201) asserts that it is not a new concept — as its proponents stated in the early '90s — but rather a mixture of existing theoretical approaches such as neofunctionalism and neo-institutionalism²⁵. Furthermore, MLG is criticised for lacking an explanatory mechanism for integration. It is said to not have testable hypotheses. Looking at the content, MLG is criticised for overstating the autonomy of sub-national actors — and understating the role of the national state as a gatekeeper — and for having a too top-down view of sub-national authorities (Jeffery, 2000:8). Its lack of attention for other subnational actors such as pressure groups is also a source of criticism. On the other hand, Tortola (2017:241-242) argues that MLG would have to convincingly show that the connection between state and society is a natural one, and that what is going on is more multi-level involvement and actual multi-level governance. Adopting an even more extreme interpretation of MLG, Rosenau (2004) suggests that it is a purely governmental affair, therefore lacking other elements that arise in today's complex world where states have limited problem-solving capacity and interdependencies are abundant throughout societies. MLG is said to overstate the power of sub-national mobilisation, wrongly equating it with influence (Jeffery, 2000:8; Jordan, 2001:201), while at the same time ignoring the external (or international) level of the EU as well. Ultimately, Jordan (2001:202-204) criticises MLG for not being specific enough regarding the difference between multi-level governance and multi-level

²⁵ To be fair, Jordan only mentions historical institutionalism. But the question that then rises is how important the other institutionalisms are if they are not mentioned at all.

government. His opinion is that there is insufficient proof to adopt MLG as a general view of how the EU operates.

In response to Jordan's critique on MLG as a theory, George (2004) defended MLG and essentially claimed it — in fact — is a theory with testable hypotheses. The classic divide between liberal intergovernmentalism and neofunctionalism dwindled when even Ernst Haas had to admit that the idea of functional spillovers — the core of the theory — did not find evidence in practice (Jordan, 2001:197). The hypothesis of the interconnectedness of sectors, with integration in one sector leading to integration in other sectors, could not be maintained for the European polity as a whole. What could be maintained, however, was the notion of the importance of EU institutions. In essence, MLG revives the neofunctionalist idea of the European Commission forming coalitions with sub-national actors, leaving out the functional spillovers. Seen from this angle, Jordan's statement that MLG is a mixture of theories such as neofunctionalism and historical institutionalism can be criticised by posing MLG as neofunctionalism's replacement. The credibility of such a statement is strengthened when George points out that MLG does, in fact, have its own research questions and hypotheses. From the onset its main research question centred around explaining how national governments have let decision-making authority slip out of their hands. The theory offers three reasons, ranging from a conscious choice to do so to being powerless to stop it from happening. When national governments 'surrender' part of their decision-making authority, it becomes rational for sub-national actors (whether they be governments or not) to establish offices in Brussels and vie for direct links with the Commission. Effectively, such strategies result in a further withering away of the authority of the state. The intricate links between and across levels can serve to pool legitimacy and further strengthen participation of a multitude of actors at the EU level (Wessels, 1997:291).

This account is compelling, but does little to address a fundamental issue encountered by scholars actually adopting the MLG framework: applying Marks & Hooghe's type I and type II MLG governance to empirical case studies has been useful, but has also led to widespread criticism of the dichotomy. This issue and the resulting revision of MLG will be discussed in the next section.

2.4.3. Multi-Level Governance Revisited

MLG at its onset²⁶ was defined as “a system of continuous negotiation among nested governments at several territorial tiers — supranational, national, regional, and local” (Marks, 1993:392) but, following a more recent interpretation, can consist of more than just state actors (cf. the edited volume by Enderlein, Wälti & Zürn, 2010). It is, after all, multi-level *governance* and not *government*. A good way to put private actors into MLG without over stretching the concept is to require private actors to solve public problems, which may be done with private solutions (Zürn, Wälti & Enderlein, 2010:2). In line with the chosen definition of governance for this dissertation, the governance addition to the concept allows for the involvement of both the public and the private sector in European policy-making (Hooghe & Marks, 2001; Kohler-Koch & Rittberger, 2006:34). Keeping that in mind, Zürn, Wälti and Enderlein (2010:4) define multi-level governance as

“a set of general-purpose or functional jurisdictions that enjoy some degree of autonomy within a common governance arrangement and whose actors claim to engage in an enduring interaction in pursuit of a common good”.

This definition is heavily oriented towards giving recognition to Hooghe & Marks’ two contrasting types of governance, yet one of MLG’s most striking features is the integration of general-purpose jurisdictions with task-specific jurisdictions, thereby often relying on the creation of ad-hoc networks (Piattoni, 2009:164). These networks can become permanent.

MLG as a conceptual and theoretical framework has recently been reconsidered by Piattoni in a 2010 publication called ‘The Theory of Multi-level Governance’ and by Bache, Bartle, Flinders and Marsden in their 2015 book on the multi-level governance of climate change. Many empirical studies have attempted to apply the type I/type II dichotomy — often called

26 MLG quickly became the accepted dominant view of how the EU works. As a concept it has been used both analytically and normatively, “to capture the nature of decision-making and to advocate particular arrangements” (Bache, 2005:5). A term such as ‘good governance’ has also been adopted by the EU as a normative concept, exemplified by the Commission’s *White Paper on European Governance*, which identifies five principles (openness, participation, accountability, effectiveness, and coherence) of good governance (European Commission, 2001b:5). Together with subsidiarity and proportionality they constitute the foundation of values advocated by the EU. The principles advocate a more transparent and inclusive policy style with responsibilities being taken and shared by both the supranational and the domestic levels. Policies should be clear, effective, and coherent (European Commission, 2001b:10). It is not surprising that these principles are Europe’s answer to the widespread critique of its ‘democratic deficit’ and aim to enhance the Union’s democracy and legitimacy. Furthermore, the multi-level nature of the EU — as introduced by Gary Marks — is even celebrated by the Committee of the Regions (CoR), which organises yearly ateliers bringing together academics and practitioners (Stephenson, 2013:822-826). Given the fact that the CoR consists of lower-tier governments that try to influence the EU, it is not illogical for them to celebrate MLG.

the 'binary divide' — to case studies and despite obvious successes (cf. Betshill & Bulkeley, 2006; Bulkeley & Betshill, 2005; Milewa & Barry, 2005; Smith, 2007), other authors have found that some organisations cannot be placed in either category or that the relationship between both types requires clarification (cf. Gustavsson, Elander & Lundmark, 2009; Marsden & Rye, 2010; Skelcher, 2005; Smith, 2007). Smith (2007:6275) even concludes that hierarchy persists and that type II (often called 'network governance') needs type I. Conversely, Hooghe and Marks (2004) have presented their type I and type II MLG as contrasting visions. Moving beyond this narrow binary divide, Piattoni has let go of both types and has made a very comprehensive and compelling contribution to MLG theory. Because both MLG and neofunctionalism stress mobilisation of societal groups and the entrepreneurial capacity of supranational actors, MLG is often seen as a restatement of neofunctionalism (cf. George, also earlier in this chapter). However, Piattoni argues that the neofunctionalist belief that the state is not a unitary actor but rather composed of functional ministries contesting one another is not comparable to MLG's sub-national authorities, because that would presume a "local articulation of one and the same national society and polity, with no political or cultural differences from the whole" (Piattoni, 2010:86). Territorial distinctiveness is actually an inherent feature of MLG, which is an essential difference with neofunctionalism. In her book, she reconceptualises multi-level governance as a theory and argues that MLG encompasses phenomena at the analytical levels of politics, policy and polity. The three levels are interconnected, which implies that changes in one level may lead to changes in the other two levels. MLG offers tools to look at these changes across the levels through a three-dimensional conceptualisation based on three pressures: (1) the domestic - international pressure, (2) the centre - periphery pressure, and (3) the state - society pressure. Alternatively the pressures can be identified as stemming from above, below, and within the nation state²⁷.

Table 2.4. How the nation state is pressured from above, below and within

Pressure	Direction	Elaboration
Domestic - international	From above the nation state	EU integration spurred by states working together following interdependencies created by non-(national)state actor involvement at EU level
Centre - periphery	From below the nation state	Administrative, economic, and social efficiency lead to the existence of sub-national authorities
State - society	From within the nation state	Blurring of boundaries between state and society to enable effective governance

Adapted from: Piattoni, 2010:9-80.

²⁷ Piattoni adheres to a different order in her book: centre - periphery comes first, then domestic - international, and lastly state - society. She places centre - periphery first and argues it illustrates type I MLG, which probably is her reasoning for mentioning the pressure from below the nation state first. However, there does not seem to be an objection against placing the pressures in a different order, as I have done in this dissertation. The empirical chapters will follow the order suggested in table 2.4, which appeared to be the most logical order for these cases to be discussed in.

These three pressures inform the theoretical expectations of this dissertation, which are fleshed out in section §2.6. The pressure from above — domestic - international — leads to a transformation of the nation state by international organisations and transnational groups. Sub-national authorities across different states work together and are being pulled in by the European Commission in order to further its own integrative mission in exchange for financial support and acknowledgement. Expert groups provide evidence for this pressure. Furthermore, interdependencies created by business and civil society operating across national boundaries further leads to nation states having to coordinate their actions on a higher level. Supranational developments cannot be ignored by nation states and so, through their very existence, spur further EU integration. The reversed centre - periphery pressure lends an answer to the question why sub-national authorities exist. Administrative and economic efficiency allowed for better control and usage of locally based economic factors in the past. Furthermore, the ability to better invoke social values on the local — rather than the national — level allowed for greater social efficiency of sub-national authorities. These three efficiencies have led to a pressure on the nation state stemming from below. Regional actors may become important policy actors simply because they can organise themselves more efficiently than the national level. Finally, the state - society pressure is one from within the nation state and stems from the realisation that the national level cannot govern society without participation of society, thereby blurring the boundaries between the state and society. Private interests thus sometimes act in the general interest, whereas states can sometimes act in the interests of the few. The

“boundaries between state and society at the European level have been torn down and [...] governmental institutions increasingly use some of the same advocacy mechanisms that have been traditionally associated with the activities of interest groups, NGOs, and CSOs” (Piattoni, 2010:71-72).

Private interests thus gain importance, which was often overlooked in the previous conceptualisation of MLG. These cross-linkages, along with the other two pressures, give saliency to the agency of actors. Actors in MLG arrangements pursue their own positions and goals, which redefines and activates new jurisdictions and constituencies on an appropriate level. Even though these networked arrangements defy hierarchies, they do not completely hollow out the importance of territorial government, which remains necessary for policy decisions. This expectation is especially true for policy domains closely tied to territory; factors such as the environment and infrastructure are not easily relocated (*ibid.*:250).

It is precisely the assumed interconnectedness of the three dimensions of pressure (see figure 2.2) that gives MLG its theoretical uniqueness as it captures movements on all three axes (*ibid.*:252). Ultimately, through these dimensions MLG is able to capture three important

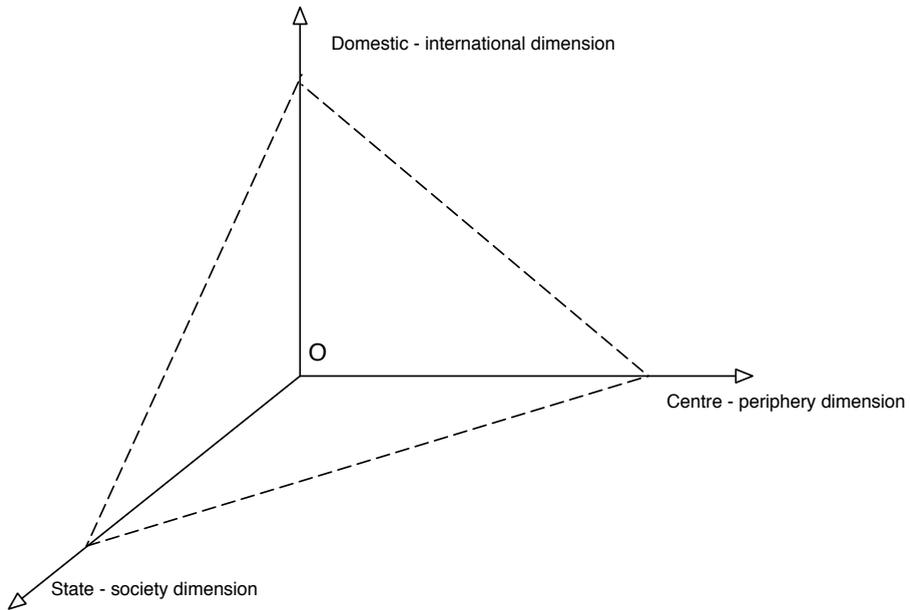


Figure 2.2. MLG's analytical space
Adapted from: Piattoni, 2010:27.

developments in EU governance, covering politics, policy and polity: (1) political mobilisation within and across national boundaries and through conventional and non-conventional means, (2) policy-making now encompasses all actors in all types of roles, and, (3) polity structures leading to policy decisions no longer operate just at nation state level but also at the supranational level of the EU. The implication is that an empirical case can thus be judged as a case of MLG if it meets the following three criteria:

1. different levels of government are simultaneously involved in policy-making;
2. non-governmental actors are involved at different governmental levels, and;
3. interrelationships that are created defy hierarchies and take on the form of non-hierarchical networks (*ibid.*:83).

The crucial difference between MLG and neo-institutionalism is that MLG assumes that actors and their strategies are determinants of both policy-making and polity-restructuring, whereas neo-institutionalists would only support the claim relating to policy-making and refute the one regarding polity-restructuring (*ibid.*:249-253). Piattoni also contrasts MLG and Europeanisation, arguing that Europeanisation can come to encompass political change as a whole — not even just limited to the EU — which makes its realm of application difficult to determine, while MLG does not reach that far (*ibid.*:100-101). Yet it can also be argued that MLG fits in Börzel's two-way stream within Europeanisation. Changes in both the EU

and domestic political systems are assumed by Börzel as well as by Piattoni, which leads to co-evolving political systems, or *downloading* and *uploading*.

EU institutions and procedures thus are created and developed without substituting national actors, who are often involved in all phases of the EU's policy cycle. National civil servants are increasingly sent to Brussels to participate in the policy process. National actors are, as such, incorporated in the European procedures (Wessels, 1997:279-280). Aside from growing participation of national actors on the European level, non-national actors such as interest groups, media and the private sector are increasingly present in Brussels. These intermediary groups are often found in informal, non-hierarchical networks vying for access to the Commission (Héritier, 1999b). The EC itself welcomes these actors in its pursuit of influence. Semi-public actors are represented in Brussels as well and maintain offices there (Wessels, 1997:282). Networks and governance in networks are persistent terms in EU studies. The question, then, is whether it would be better to focus on network governance instead?

2.5. MULTI-LEVEL OR NETWORK GOVERNANCE?

Network governance was mentioned in a previous section as being part of Kohler-Koch's typology of governance modes. It is also an often cited feature of governance as a concept. How does network governance link back to MLG? This section will address this question by comparing and contrasting MLG and network governance.

2.5.1. Policy Networks in the European Union

Héritier (1999b:273-274) focuses on the elements of democratic control present at the EU level and the efforts to create citizen support for European policies. Her findings are that a lot of European policy-making occurs in so-called supportive networks consisting of public and private (mostly corporate) actors stemming from multiple levels and across national boundaries. These supportive networks are mostly active in the policy formulation phase, where they advise the Commission and provide a counterbalance to national preferences and the dominance thereof. Many European policies are drafted in supportive networks, which can also be called *policy networks*. Even though policy networks are widespread and active in the policy formulation phase, the actual decision-making on EU legislation is still very much a hierarchical affair (Kohler-Koch & Rittberger, 2006:36). This observation has led to Börzel (quoted in Kohler-Koch & Rittberger, 2006:36) distinguishing between governing *in* networks and governance *with* networks. The former is a rarity in the EU while the latter refers to the policy networks active in the formulation and implementation of EU policy.

Governance networks are networks of public and private actors that devise and implement policy (Rethemeyer & Hatmaker, 2007:619) and can thus also be called policy networks (Börzel, 1998:255; Rhodes, 2007; Klijn, 2008:122). Within these networks, relationships among the various actors are crisscutting and interwoven. This crisscrossing produces a complex system of interactions between interdependent actors employing various strategies (Koppenjan & Klijn, 2004). The core assumption of network governance is that interests evolve and get redefined as negotiations between actors continue (Eising & Kohler-Koch, 1999:5). These negotiations take place in arenas in which governments and various public and private actors participate, blurring the boundaries between public and private and thereby creating overlapping negotiating arenas. Interactions in the network are structured by rules of behaviour. The role of the state is largely that of an activator (Kohler-Koch, 1999:23-24). The fact that actors in a network are interdependent because of their mutual dependency on each other's resources leads to the need to coordinate their activities, i.e., align their preferences and strategies, in order to realise objectives that they share (Börzel, 1998:259; Koppenjan, 2007:133; Sørensen & Torfing, 2007).

The EU seems very much aware of the necessity of an "inclusive policy style [...] aimed at acceptance of business actors and ordinary citizens" (Lenschow, 1999:39). The network elements of EU governance can have transformational effects on national modes of governance (Eising & Kohler-Koch, 1999:267). One of the consequences of this mode of governance is a re-articulation of political space beyond the state. The 'traditional' supranational versus state debate gives way to a different one, because the EU

"is transforming politics and government at the European and national levels into a system of multi-level, non-hierarchical, deliberative and apolitical governance, via a complex web of public/private network and quasi-autonomous agencies, which is primarily concerned with the re-regulation and de-regulation of the market" (Hix, 1998:54).

This shift leads to complex relationships characterised by mutual interdependency among regions, organised interests, member states, and the EU itself (Hueglin, 1999:249). Another consequence of EU governance is a new constitutionalism which redefines the rules by which governments and societies should operate. Furthermore, a new governmentality provides a new ideological frame for collective action. The resulting functionally differentiated policy communities in which territorial and societal actors at all levels are engaged in professionalised processes of lobbying, policy formulation, and regulation have a disaggregating effect on politics (*ibid.*:249-251).

2.5.2. The Persistence of Hierarchy

Following Van Kersbergen & Van Waarden (2004:148-151, also see earlier in this chapter), three types of network governance can be identified in the literature on EU governance. These are summarised in table 2.5.

Table 2.5. Three types of network governance

Type of network governance	Elaboration
Public networks	Networks formed by public institutions to govern their environments by exchanging information and resources in negotiation processes
Private networks	Inter-firm cooperation of smaller firms in networks, governed by decision rights and a certain claim to profit
Multi-level governance	Policy networks formed by multiple levels of government and the private sector engaging in policy-making or public-private partnerships

Adapted from: Van Kersbergen & Van Waarden, 2004:148-151.

While public and private networks are forms of network governance on a very specific level, interpreting MLG as network governance cuts across levels and domains, thereby establishing policy networks. According to Eising & Kohler-Koch (1999:5), the different policy networks that emerge, and at times even surpass the national level by organising European-local networks, should be better termed network governance than multi-level governance because of their horizontal — rather than hierarchical — approach to coordination within the network. The authors' idea of network governance is that

“political actors consider problem-solving the essence of politics and that the setting of policy-making is defined by the existence of highly organised social sub-systems. [...] Thus, in these patterns of interaction, state actors and a multitude of interest organisations are involved in multilateral negotiations about the allocation of functionally specific ‘values’ (Eising & Kohler-Koch, 1999:5).

Both the academic literature on MLG and network governance mention the blurring of the boundaries between state and society (cf. Piattoni, 2009; Hooghe & Marks, 2001 for MLG and Börzel, 2011 for network governance). They also share other features such as an emphasis on interdependencies, multiple actors, horizontal relationships, and the exchange of resources. Network governance, just as MLG, sees shortcomings in the ability of the national state to govern effectively (Piattoni, 2010:87). Changing relationships in (international) society offer new ways for non-state actors to participate in the policy-making process, especially at the European level. The national governments have lost their monopoly on

the representation of their business and citizenry (Kohler-Koch, 1999:19). Especially in the EU, network governance is seen as an appropriate method because it is “able to bridge the heterogeneity of the EC’s [European Community’s] members and compensate for the lack of democratic accountability by introducing elements of functional representation” (Eising & Kohler-Koch, 1999:274). Yet whereas network governance then often proceeds to look at coordinated efforts to reach a common policy goal, MLG stresses the contested nature of power and responsibility, even though it still does not adequately offer a conceptualisation of power. Both approaches differ in the degree to which they consider the formality and fluidity of networks and on the focus on consensus within networks. Network governance is mostly concerned with informal and highly fluid networks focusing on reaching consensus²⁸. By contrast, MLG focuses on more formal and stable networks although it does not discount ad-hoc constructions (cf. Zürn, Wälti & Enderlein, 2010:4; Piattoni, 2010).

It is not strange that networks as an image keep popping up in EU studies. MLG does encourage flexible and negotiated solutions to coordination, which leads to the conclusion that type II MLG is often more useful in describing the challenges of EU policy-making than type I MLG (cf. Bache, 2008; Conzelmann, 2008). Furthermore, the introduction of the network governance approach in EU studies was a criticism of the classic ‘90s interpretation of MLG for being too ‘level-oriented’ (Börzel, 2011:53) and is said to solve the joint-decision trap because negotiators often have more flexible instead of fixed mandates (Jachtenfuchs, 2001:254). The more recent reinterpretation of MLG seems to address at least the first caveat by explicitly including non-state actors in analyses of EU policy-making. Another critique of MLG is that it is outdated since the “increasing issue and institutional complexity of EU policy-making activity can no longer be captured through an isolated, three-layered conceptualization” (Stephenson, 2013:833). Instead, Stephenson argues that the MLG approach should be complemented by studies of institutional or actor complexity. Smith has encountered this issue in his research on renewable energy policy in the UK. He states that power relations form the basis for negotiations due to often asymmetrical resource interdependencies, leading to the conclusion that “the need to enrol key interests and material priorities will structure renewable energy governance” (Smith, 2007:6269). A study of MLG can therefore benefit from specific attention for power relations, which will be confirmed in the empirical part of this book.

The case that was chosen for this dissertation includes a variety of non-state (private sector) actors, which lends validity to the addition of a non-hierarchical viewpoint to contrast the traditional level-oriented governance approach to EU studies. In fact, it is difficult to move

28 Though one could argue that the policy networks dichotomy of issue networks and policy communities leaves room for both sides of the formal/informal and fluid/stable spectra.

completely away from hierarchy as state actors remain dominant in EU policy-making and the EC seems to show no interest in involving private actors beyond formal and informal consultations (Börzel, 2011:53-54). Even when governance takes place in type II arrangements, multiple empirical studies asserted that the formal authority of type I is still necessary for effective governance. MLG offers insights to study both the network aspect of EU governance and the hierarchical tendencies that remain. The above leads to MLG providing a loose-standing analytical framework in its own right. Its strengths are that it shows which role governments and social actors play at different territorial levels, it highlights the levels lower than the national one, it does not assume that the national state can just ‘step in’ if MLG arrangements fail, and it reminds us that existing institutions cannot be ignored. It therefore connects the three dimensions of politics, policy and polity and “*fully* acknowledges this triple dynamic and the interrelations that it implies” (Piattoni, 2010:89-90, emphasis in original). Even so, MLG does have its limits. It is probably best applicable in policy domains where territory plays a major role, mostly due to the fact that much depends on territorial distinctiveness. Even with the newer research conducted using MLG theory, it also still lacks a proper incorporation of the importance of power in EU governance, which remains especially important in a highly politicised area such as energy policy. Furthermore, even though Marks and Hooghe’s distinction between type I and type II MLG is often criticised, type II MLG comes rather close in describing governance networks, thereby offering similarities between both approaches. However, MLG does help remind us that in the end some territorial authority must ‘bind policy knots together’. Territorial constituencies are therefore still at the heart of policy-making (Piattoni, 2010:257). This observation is especially true for the studied case of the Energy Port, as the region in which it is located has its own actors, with their own resources, preferences, and possibilities. Negotiations thus take place within the regional context (Smith, 2007:6269) even though — paradoxically — issues of climate change transcend administrative boundaries, making them obvious candidates to analyse from the perspective of multi-level governance (Marsden & Rye, 2010:670).

While recognising Eising & Kohler-Koch’s premise and stressing that studying the EU’s democratic deficit or legitimacy is not the purpose of this study, from this point onwards a distinction will be made between network governance and multi-level governance. The academic debates surrounding both approaches have their similarities, but should not be confused. I will apply the more recent interpretation of MLG, which allows continued use of how governance as a concept was defined in this chapter; leaving room for public *and* private actors. Piattoni’s conceptualisation is especially attractive because the three pressures she describes lend themselves well to empirical investigation. Chapters 5 and 6 will show the tensions and connections between these pressures and how they can be used to really *show* what happens in multi-level governance processes. Network governance can also shed light on such processes, but the added value of MLG is the reminder that hierarchy

persists, and analytical tools to investigate this assumption. For the development of MLG, the addition of private sector actors is “conceptually and empirically interesting” (Zürn, Wälti & Enderlein, 2010:3), which adds to the relevance of such an exercise.

2.6. THEORETICAL EXPECTATIONS

Two a-priori assumptions of MLG are *trust in the importance of supranational institutions* and the *belief that the agency of actors has influence on the politics, policy and even polity* of the European Union. The first assumption needs elaboration. The incorporation of sub-national and private actors into European policy-making at all levels of government and often in non-hierarchical networks has led to a reconfiguration of the supranational level as a fundamental level of government (Piattoni, 2010:250). The European level thus becomes one of the fundamental levels, which does not mean it supersedes all other levels. Therefore, the interpretation of that statement in this thesis is that the supranational level *should not be discounted*, but that other governmental authorities remain important as well. Both parts of this statement — the presumably important role of supranational and lower levels of government — are already interesting to study in and of themselves. The second assumption, specifically applied to the case at hand, means that Rotterdam Energy Port actors defend their own positions and pursue goals (that they find legitimate). The rationalist underpinnings of MLG theory suggest that actors are aware of and can act on their own behalf, which suggests it may be beneficial for them to keep systemic changes open for the time being in order to retain a measure of flexibility (Piattoni, 2010:250). In essence, the polity-forming aspect of MLG encompasses both *downloading* and *uploading* and accepts that governance in the EU has a cyclical nature. This dissertation will focus mostly on the consequences of *downloading*, but will draw conclusions for *uploading* activities which, according to MLG, can lead to structural changes.

Taking the two assumptions outlined above as testing ground, I now turn to the theoretical expectations²⁹ of this thesis. They will be structured along the three pressures as identified by Piattoni (2010) — discussed earlier in this chapter — and will therefore provide the three expectations of this dissertation. First, the *domestic - international pressure* addresses one of Jordan’s (2001:201-202) criticisms of MLG about its lack of attention to external developments for European policy-making. This pressure is one from above the nation state and assumes that policy coordination at a higher level than the national one is necessary

29 The term ‘theoretical expectation’, or ‘proposition’, was chosen instead of ‘hypothesis’ since the expectations will not be tested quantitatively but rather used as a guiding tool for qualitative analysis. An explicit formulation of the limitations of using hypotheses in qualitative research would also have been possible, but what then remains are theoretical expectations, which is why the choice was made to call them what they are from the start.

due to increased policy activism at the supranational level by actors other than national governments. Actors stemming from business, civil society (including European associations and transnational groups) and sub-national governments are pulled into the European sphere by the European Commission. They create interdependencies on an international level which national governments cannot ignore. It becomes only rational for them to coordinate at the supranational level as well, thereby spurring further EU integration (Wessels, 1997:274). The European Commission also uses agreements made internationally as a way to legitimise its own activism towards national governments (Piattoni, 2010:58-62, 148). The result is that the domestic - international distinction is overcome. The first expectation I therefore have is: *actors create interdependencies between business, civil society, and government on an international level, which necessitates policy coordination at not only the national level but also the supranational level.* Applying the proposition to the studied case would involve Energy Port actors participating in transnational and cross-border settings and policy-making at the European level. Zooming in even further, the expectation is that *the PoR is one of many actors active at international level because the policy solutions the PoR needs cannot be provided at national level alone.* The assumption of importance of supranational institutions would hereby seem correct.

Second, the *centre - periphery pressure* describes a pressure from below the national governments and effectively deals with the question why sub-national authorities exist. Since sub-national authorities are often territorially distinctive from their central government — that is, they embody (slightly) different culture, values, politics, and so on — it stands to logic that for certain issues it may be easier to arrange coordination at the local or regional level than at the national level. Important for multi-level governance theory is the fact that the status and competences of sub-national authorities vary throughout the EU; some have a larger role than others. At the same time, the consequence of more efficient coordination at a lower level of governance creates opportunities for actors at that level to make more use of their power than originally intended by the national government (Piattoni, 2010:46-50). This mechanism is especially true in matters relating to territorial policies, such as land use planning, infrastructure, regional cohesion, and so on. A caveat of the new conceptualisation of MLG is that it does not specify how sub-national actors increase their power vis-à-vis the central government. It was chosen to call those actors ‘policy actors’ in this thesis and to indicate a strengthening of their relative position in the network as a way to conceptualise the centre - periphery shift. The second expectation of this thesis is therefore: *regional coordination in territorial matters is more efficient than national coordination, which leads to the strengthening of local policy actors.* In this case I especially expect the *Port of Rotterdam Authority to be empowered due to being able to employ its resources effectively when stimulating activities in Rotterdam.*

Finally, the *state - society pressure* puts pressure on national governments from within. This pressure is brought about by increasing cross-linkages between public and private actors based on the knowledge that the state and society need each other to ensure effective governance. Examples of movements in the state - society dimension are European NGOs, neo-corporatist arrangements, local mobilisation of civil society, and transnational advocacy coalitions. Governmental institutions at times use advocacy mechanisms traditionally associated with those of interest groups. What results from this blurring of boundaries between state and society is that private actors often assume public responsibilities³⁰ while public parties start to act like private groups (*ibid.*:67-72). It is important to note that Piattoni's view of the state - society pressure entails a more far-reaching blurring of state and society than often referred to by scholars of European and network governance. It is not just about public and private actors cooperating together in non-hierarchical networks. The fundamental factor here is the far-reaching *blending* of public and private advocacy and responsibilities. The third theoretical expectation thus posed in this thesis is as follows: *cross-linkages between private and public actors lead to private parties assuming public responsibilities and public parties acting like private groups*. In this specific situation it is expected that an analysis of Energy Port governance will reveal instances of cooperation between public and private actors, in which private actors have taken up tasks that are traditionally associated with the public sphere while public actors form coalitions with them against other governmental authorities. An example of the latter would be if the Dutch government would enlist the support of the private sector to advocate a certain energy target at the European level. Likewise, it is not unthinkable that a governmental authority could also 'lobby' a private actor. The challenge is to show if this far-reaching blurring of state and society is really happening, questioning what is considered 'traditional tasks' and what is not. Specifically applied to the Port of Rotterdam Authority, I expect the *PoR to develop economic activity in cooperation with the private sector and to advocate its interests at EU level alongside Dutch governmental actors to obtain favourable policy conditions*.

The three expectations formulated above (summarised in table 2.6) essentially cover mechanisms that were described previously: a blurring of state and society that trespasses the traditional boundaries of governmental competence and an apparent hollowing out of the nation state from two opposite directions. Turning back to the assumption of the importance of agency, the three shifts in governance help us understand how agency can manifest itself in multi-level governance. Agency guides the first three theoretical expectations, implying ongoing interaction between actors. According to Piattoni (2010:250), the interaction between actors results in shifts in multi-level governance arrangements and a redefinition and simultaneous activation of new jurisdictions and constituencies. It can

³⁰ One could, for example, imagine a company such as Shell offering policy advice to governments.

thus be claimed that the three pressures lead to more and newer forms of interaction in mixed (public and private) systems. Examples of such arrangements are shadow lists for EC monitoring of legislative implementation of EU regulations in member states supplied by civil society, citizen monitoring³¹ and the formation of platforms spanning multiple territorial jurisdictions. However, one of the drawbacks of this conceptualisation of agency and interaction is that it misses the concept of power (cf. Smith, 2007; and to some extent Jachtenfuchs, 2001). In the case at hand, interaction takes place in the Energy Port network. Interactions in networks have the form of negotiations, which are based on power. The actors entering into negotiations do not necessarily have an equal distribution of resources or resource interdependencies. In fact, more often than not are negotiations based on an unequal distribution of power (Rhodes, 2007:1245; Smith, 2007:6269).

Table 2.6. Theoretical expectations of multi-level governance

Pressure	Theoretical expectation
Domestic - international	Actors create interdependencies between business, civil society, and government on an international level, which necessitates policy coordination at not only the national level but also the supranational level -> <i>The PoR is one of many actors active at international level because the policy solutions the PoR needs cannot be provided at national level alone</i>
Centre - periphery	Regional coordination in territorial matters is more efficient than national coordination, which leads to the strengthening of local policy actors -> <i>PoR is empowered due to being able to employ its resources effectively when stimulating activities in Rotterdam</i>
State - society	Cross-linkages between private and public actors lead to private parties assuming public responsibilities and public parties acting like private groups -> <i>PoR develops economic activity in cooperation with the private sector and advocates its interests at EU level alongside Dutch governmental actors to obtain favourable policy conditions</i>

Source: author's own composition based on Piattoni (2010).

Previous studies (cf. Marsden & Rye, 2010; Skelcher, 2005; Smith, 2007) that have attempted to apply Marks and Hooghe's (2003, 2004, 2010) type I and type II multi-level governance have uncovered that, not only do some governance arrangements refuse easy placement in this dichotomy, in the end an actor with type I decision-making authority (i.e., *power*) is almost always present or necessary to make policy decisions. The value of MLG is that it stresses territorial distinctiveness. It is thus not so much interested in the incorporation of national actors into EU policy-making as in how national actors give meaning to their role on their 'own turf'. Furthermore, even though the inclusion of business, civil society and

31 In the field of environmental policy an example of citizen monitoring is the use of eco-labels (Lenschow, 2005:321), which enables citizens to not only make a conscious environmental choice when buying household appliances but it also enables them to punish businesses based on their level of environmental friendliness.

sub-national governments in often non-hierarchical networks at the European level defies traditional hierarchy, the fact that some form of territorial government is necessary for policy decisions still holds. The newly created jurisdictions and constituencies may span multiple territories or form a sub-territory within a larger one, but the 'original' territories retain their importance because certain resources such as people, infrastructure and knowledge, and other factors such as the environment cannot easily be relocated (Piattoni, 2010:250). In other words, MLG does not expect governance to take place without a State. Phenomena such as self-governance by citizens or private governance by companies can thus never be part of multi-level governance.

It is important to note that, even though the theoretical expectations suggest a measure of sequentiality, in reality they probably interact, forming a mechanism. The exact way the various concepts depend on one another and interact will be analysed in the empirical part of this dissertation. The theoretical expectations thus act in concordance and are therefore not mutually exclusive.

2.7. CONCLUSIONS

Much like the European Union, governance is an ongoing project attracting the attention of many a scholar. It is expected that many studies covering governance issues will continue to be published in the near future. This flow of attention and the characteristics of governance make the study of it a dynamic and interesting exercise. This chapter has attempted to give a broad introduction into EU governance in research and practice, while taking into account that it cannot — and does not attempt to — cover all that has been written on this subject. The starting point was the concept of governance, which was taken as leading throughout the rest of this chapter. Attention was paid to its 'fuzziness' and many different definitions. In this study, governance will be understood as "the various institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods" (Börzel & Risse, 2010:114). The adopted definitions of governance of authors such as Kohler-Koch, Eising, Börzel and Risse were consulted as sources of inspiration for the definition used in this study. The variety of approaches to governance was shown in bird's view, ranging from Rhodes' distinction of governance as possibly effective where markets and bureaucracies fail, to Van Kersbergen and Van Waarden's nine approaches to governance which they distilled both from academia and from practice. These nine approaches are a mixture of analytical and normative approaches to governance.

This chapter discussed the twin concepts of *Europeanisation* and *European integration* as introduced by Schmidt, which are understood as the influence of the supranational

level on the domestic levels (Europeanisation) or the process of building institutions at the supranational level (European integration). These upstream and downstream approaches were classified as belonging to the older school of research, since, as Börzel has argued, European governance is a two-way interaction in which member states download EU policy but also upload their own preferences and policy styles to the supranational level. Downstream and upstream activities therefore take place in a parallel (or even circular, as suggested by Van Schendelen) fashion. The domestic level shapes what is happening at the EU level as well, and both approaches influence one another. An intricate pattern of dynamic interactions between the supranational and the domestic then lends itself to academic research, which has very often focused on the 'democratic deficit' of the EU, its legitimacy, accountability, and efficiency. An important concept in EU research is thus its multi-level aspect. Introduced by Marks and subsequently taken up by the EU, the multi-level and multi-actor nature of European governance is widely accepted but also criticised for not providing a coherent theory. It is furthermore criticised for being too level-oriented and lacking an adequate conceptualisation of power. Even so, the EU's multi-level nature is celebrated by EU bodies such as the Committee of the Regions and many scholars take MLG into account when studying the EU. Its celebrated strengths are the recognition of there being more than just EU institutions and national governments in EU policy-making. MLG effectively brought sub-national actors into debates about the EU. The application of Marks & Hooghe's contrasting type I and type II governance visions and criticism of multi-level governance as a theoretical approach led to a renewed wave of research into MLG in the EU. In a comprehensive addition to scholarly literature in this domain, Piattoni identified three pressures (from above, below and within the nation state) that have consequences for national governments and subsequently for MLG arrangements in the domains of policy, politics and polity. The increased participation of sub-national authorities and private actors in policy-making leads to private actors assuming public responsibilities while public actors at times defend private interests. The European Commission actively supports the multi-actor system in its quest for legitimacy and power. In exchange, it provides financial support and access to the European policy-making process. As a result, national governments cannot ignore the supranational level, which necessitates coordination at that level. Further EU integration is spurred by this development, thereby reconfiguring the supranational level as a fundamental level of government. The governance mechanics that arise, in essence, are of a hybrid nature; horizontal governance is strengthened, but so are its vertical elements. MLG thus reconfigures the relationships between actors in a far-reaching manner as compared to the classic view of government-steering from above.

As the boundaries between state and society have started to blur and lower-tier governments and interest groups have increasingly sought the European arena in an effort to exert influence, authors such as Kohler-Koch and Eising have drawn attention to the EU's

network nature and claimed that multi-level governance would better be termed 'network governance'. I have argued that it is better to separate both terms so that the academic debates surrounding both approaches are not confused. Furthermore, Piattoni's recent reconceptualisation of MLG offers interesting theoretical insights. This dissertation explores the degree in which these insights can be applied to empirical cases by applying the three pressures she identified to two nested cases. MLG will therefore be used as an analytical framework; data collection and analysis will be guided by the three theoretical expectations formulated in the previous section. The next chapter will discuss why a case study design was chosen to approach the empirical aspect of this thesis, present its methodology, and operationalise the theoretical expectations.