Process Tracing: Testing Multiple Hypotheses with a Small Number of Cases

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Introduction

The transposition and implementation of EU directives and regulations by EU member states is one pathway of Europeanization (Chapter 1 in this volume). Member states, in which a mismatch between EU law and domestic law occurs, need to adjust their legal acts within the transposition deadline. Instances of failed Europeanization, in which domestic legal rules and practices are not in line with EU law even after the transposition deadline expired, constitute non-compliance cases. Instances of non-compliance impair the power of EU law. Hence, in order to remedy problems associated with delayed Europeanization, the EU established an infringement system which encompasses a variety of different compliance instruments (bilateral negotiations, Court judgments, sanction threats or financial penalties). Yet, we observe that there is variation in the reaction to these instruments, which differs even on a case-by-case basis. Against this background, this chapter analyses the following research question: How and under which conditions do states that initially violated EU law catch up with Europeanization?

This chapter develops competing hypotheses to explain processes of how and under which conditions states catch up with Europeanization. This leads to a common difficulty with case-study designs: the need to test multiple hypotheses with a small number of empirical cases (Bryman, 2008). King et al. tell us that a research design is overdetermined (or indeterminate) if there are fewer cases than explanatory variables to be tested, so that we cannot gain insights relating to which of the hypotheses can indeed explain an outcome (King et al., 1994). Yet,
their teachings on qualitative research designs are informed by quantitative research and they overlook that in-case variation of independent as well as dependent variables is a common feature of a case study, which in effect increases the number of observations. In addition (and even more important for this chapter), process tracing allows for definition of fine-grained observable implications of causal processes as well as outcomes, which enables qualitative researchers to test multiple hypotheses even in small-\( n \) settings and establish causality.\(^1\) This chapter applies process-tracing methodology and illustrates how a single case study can be utilized to test multiple hypotheses. It concludes by discussing the added value of process-tracing methods in testing hypotheses in small-\( n \) settings, as well as the difficulties and downsides.

**The puzzle and hypotheses**

European directives are a means of Europeanization. They formulate demands for domestic changes and pose a legal obligation on states to punctually and correctly transpose and implement them. If the European Commission suspects a state of violating EU law, it initiates an infringement proceeding. In a first step, the Commission sends a reasoned opinion to the state (Art. 226 ECT). This triggers bilateral negotiations. If the case cannot be settled at this stage with non-compliance prevailing, the Commission refers the case to the European Court of Justice (ECJ). This triggers judicial discourses between state and European advocates, at the end of which the ECJ issues binding rulings. Should a state still resist catching up with Europeanization and abstaining from domestic legal change after the Court judgment, the Commission sends a second reasoned opinion (Art. 228 ECT) and threatens the state with the possibility of a second Court judgment, in which monetary sanctions can be imposed.

The vast majority of cases are settled in the early stages of the infringement proceeding, in which the state and the Commission negotiate on a bilateral basis (Mendrinou, 1996; Tallberg, 1999). Yet, all EU member states also drag cases on to the ECJ (Börzel et al., 2009). Here we observe considerable within-country variation in the reaction to the EU’s compliance instruments: while a state might end non-compliance after the judicial discourse or respond to an ECJ judgment in catching up with Europeanization, the same state may need to be threatened with sanctions in a different case (Panke, 2010a). This is puzzling in so far as the EU infringement procedure and its accompanying compliance instruments (e.g., judicial discourses, judgments, sanction threats,