Contents

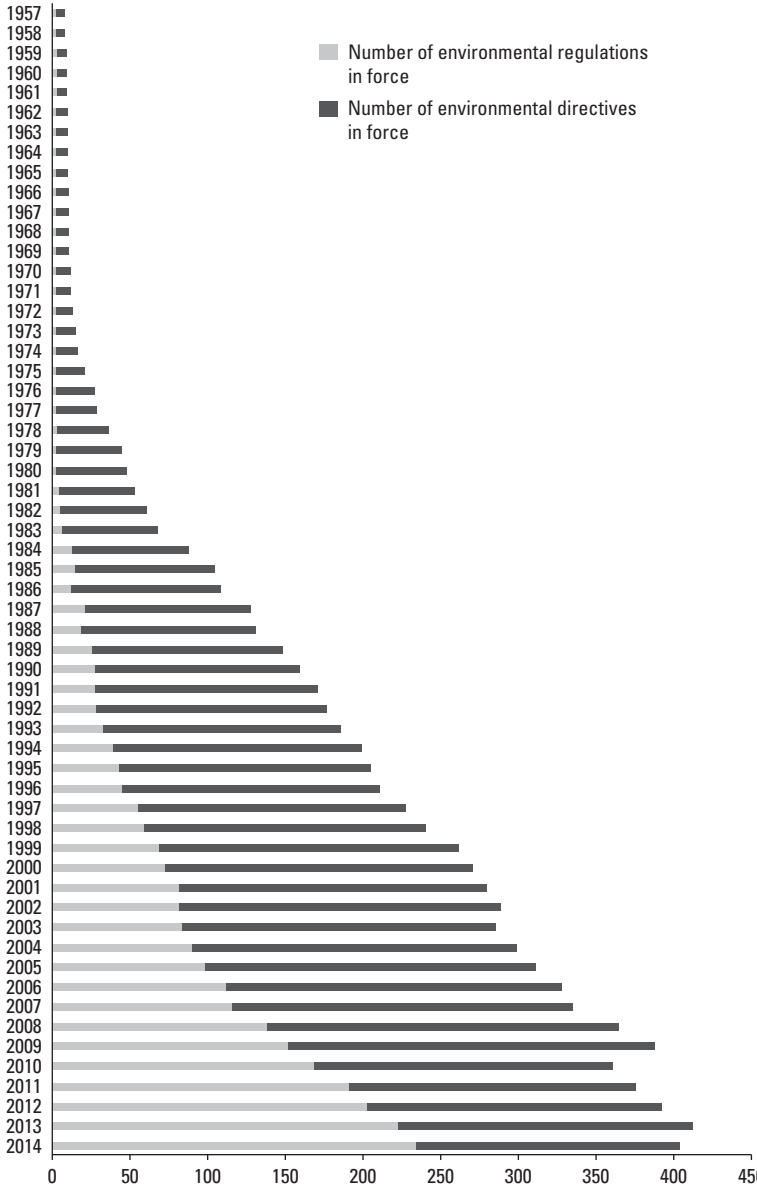
Chapter 1

The Evolution of EU Environmental Policy

The environmental policy of the European Union has undergone remarkable development. The founding fathers of the European integration project did not mention environmental policy in the first European treaties, as a result of which the legal basis for environmental protection was extremely limited. Nowadays, however, environmental policy is one of the largest and most important policy domains of the EU. Moreover, whereas the first steps of the development of EU environmental policy were a side effect of economic integration, it has evolved into a fully-fledged policy domain. The EU today has 'the most comprehensive regional environmental protection regime in the world' (Axelrod et al. 2011: 224).

This evolution in the growth of EU environmental policy can be illustrated by examining the number of pieces of environmental legislation that were in force each year from 1957 onwards. By presenting the evolution in the number of pieces of environmental legislation that are applicable across the entire EU (i.e. regulations and directives, see Box 6.1), Figure 1.1 shows the increase in EU environmental policies since 1957. Not only has the quantity of environmental legislation increased considerably, also 'an enormous growth in the scope and ambitiousness of the environmental *acquis*' has taken place (Jordan et al. 1999: 376). European environmental policy has had a considerable impact on various policies at the level of the member states and the policy autonomy of national policy-makers in the environmental field has been increasingly limited by the growing regulatory framework at the EU level. Furthermore, environmental considerations need to be taken into account by other policy domains. All these elements result in environmental policy currently occupying a central place in the EU's sphere of action.

FIGURE 1.1 *The evolution of the number of pieces of European environmental legislation (regulations and directives) in force*



Source: based on Eurlex data

Analysing the history and evolution of European environmental policy, this chapter analytically distinguishes five phases, which are respectively characterized by (1) environment-related measures serving common market purposes (1957–1972); (2) an expansion of environmental legislation notwithstanding the remaining lack of legal basis (1972–1987); (3) the establishment of a legal basis, the strengthening of supranational decision-making and the 1992 impetus (1987–1992); (4) legal, institutional and legislative consolidation (1992–2009); and (5) an emphasis on 'green growth' and the importance of implementation (2009–now). To delimit the first four phases, we use the same milestones identified in existing overviews of the history of European environmental policy (Hildebrand 1993; Knill and Liefferink 2007; McCormick 2001; Zito 1999): the combination of the rise of societal and political environmental groups, the UN Stockholm Conference and the first Environmental Action Programme (EAP) (the beginning of the 1970s), the entry into force of the Single European Act (SEA) (1987), and the Maastricht Treaty (1992). Expanding on the existing historical overviews, we distinguish a fifth stage of EU environmental politics. This stage starts in 2009 with the entry into force of the Lisbon Treaty, the outbreak of the financial–economic crisis and the EU's decreasing international weight on environmental politics. Besides delineating the basic characteristics of the five phases and discussing the evolution of European environmental policy, this chapter also discusses its principles and legal bases (see respectively Boxes 1.1 and 1.2).

Environment-related measures serving the common market (1957–1972)

At the beginning of the European integration project the member states did not transfer any environmental competence to the European level. Consequently, an explicit legal basis for European action in the field of the environment was lacking in the Treaties. However, this first phase was not characterized by a complete absence of measures relating to the protection of the environment. A limited set of environmental measures was adopted, albeit without a clear environmental objective, but rather serving the main aim of the initial years of European integration: the establishment of the common market.

In 1957, the Treaty of Rome – formally the 'Treaty establishing the European Economic Community' (TEEC) – constituted the definite starting point for the European integration process, which

was already initiated by the European Coal and Steel Community in 1952. The basic rationale behind the start of the European integration process was that economic cooperation between European countries would result in such a high degree of interdependence that a new war between European nations would become extremely unlikely. Hence, the main focus of the European Economic Community (EEC) in its first years was economic integration in the form of the common market.

The early environmental policies of the first stage served economic purposes, especially the creation of the common market. The objective was not protecting the environment or fighting against environmental pollution as such, but diminishing trade impediments among the EEC member states in the newly created common market. If member states had continued to adopt their own (environmental) product norms, the free nature of the trade and the essence of the common market would have been undermined. Indeed, the first steps in the development of a European environmental policy concerned the harmonization of product standards, such as limitations on the lead content of petrol, at the European level in order to provide free market competition (Knill and Liefferink 2012; Weale et al. 2000). This is why the first environmental measures in the EEC are known as 'by-products of economic integration' or 'flanking policies of the common market' (Knill and Liefferink 2007: 2 and 4). Moreover, the member states at their domestic level hardly had a coherent environmental policy framework. As a consequence, there was very little need to harmonize existing national environmental policies or to undo their inconsistencies with the common market objectives.

As mentioned, the Treaty of Rome lacked any reference to the environment. In the first days of European integration, the member states did not attribute specific environmental competences to the EEC as they did, in contrast, for agriculture, transport or trade policy. However, the Treaty of Rome included three provisions that could be interpreted as a legitimization for adopting legislative measures to protect the environment. The first steps in the development of a European environmental policy were thus made possible as a result of a 'generous' – or even creative or environmentalist – reading of three provisions in the Treaty implicitly referring to environmental protection (Hildebrand 1993: 19; Weale et al. 2000: 40).

A first provision was the preamble of the Treaty of Rome, which included a reference to 'the essential purpose of constantly improving the living and working conditions of [the] peoples'.

Here, the improvement of the living and working conditions of Europeans was understood as a justification for taking measures that were intended to fight the pollution of the environment (Rehbinder and Steward 1985). Second, Article 2 TEEC, which set out the objectives of the EEC, stated that the EEC aimed to achieve 'an accelerated raising of the standard of living'. In both the preamble and Article 2 TEEC, the founding member states thus stated their objective to improve the circumstances of living in the EEC. The European institutions understood these provisions broadly, encompassing environmental objectives. Third, Article 36 TEEC allowed for exceptions to the general abolition of intra-European trade restrictions, which is the cornerstone of the common market. Such exceptions were possible if they were based on concerns about, among other matters, 'the protection of human or animal life or health [and] the preservation of plant life'. Hence, the Treaty of Rome authorized European measures that allowed for trade impediments if they contributed to the protection of health and life of humans, animals and plants (Knill and Liefferink 2007).

Notwithstanding the absence of formal legal competences, at the end of the 1960s and the beginning of the 1970s a couple of pieces of environmental legislation were adopted, mainly dealing with the limitation of vehicle emissions, permissible sound levels and exhaust systems of motor vehicles, or the classification, packaging and labelling of hazardous chemical substances. The fact that the first pieces of environmental legislation in the EEC were adopted as a contribution to the development of the common market objective is also illustrated by their legal basis. In the absence of an environmental legal basis, these first environmental measures were based upon Article 100 TEEC (Zito 1999), which authorizes the Council, on the basis of a proposal by the Commission, to unanimously 'issue directives for the approximation of such legislative and administrative provisions of the Member States as have a direct incidence on the establishment or functioning of the Common Market'. In other words, the first environmental legislation was legally based on the EEC's common market competences, but due to the broad interpretation of the TEEC's preamble, Articles 2 and 36 TEEC (see above), this common market Article 100 TEEC could also be used to adopt legislation intended to harmonize product-related environmental regulations (Knill and Liefferink 2007).

Expansion of environmental legislation (1972–1987)

The second phase of the development of European environmental policy was characterized, on the one hand, by the continuing lack of an explicit legal basis of environmental protection action at the European level, but, on the other hand, also by a considerable growth in the number of pieces of European environmental legislation and an expansion of the scope of environmental measures. The first component, namely the continuing lack of a legal basis, was basically due to the fact that policy-making in the EU was *de iure* still governed under the rules of the Treaty of Rome and no significant Treaty changes had taken place during this phase.

The second component of this period, namely the *de facto* expansion of environmental policies (see Figure 1.1), can be explained by four driving forces and dynamics. First, during the 1970s, civil society began to get organized on environmental issues. The consequence of this phenomenon, which started in the United States and then also occurred in Europe, was that environmental issues increasingly became societally debated and that this debate became progressively organized and institutionalized. The establishment and rapid growth of environmental NGOs is the most obvious illustration of this dynamic. This rising environmental awareness in society spilled over to the political sphere, where environmental concerns became more and more important. The establishment of the first green parties and the emerging environmental awareness among politicians led to an increased attention to environmental concerns in the political sphere. Second, developments at the international level, such as the UN Conference on the Human Environment (UNCHE, or the 'Stockholm Conference') of 1972 and the resulting Stockholm Declaration, reinforced the place of environmental concerns on the political agenda, not only globally but also in Europe (see Chapter 2). Third, several environmental catastrophes in Europe and beyond, such as the accident at the chemical plant in Seveso or with the oil tanker Amoco Cadiz, triggered policy initiatives to prevent recurrences of such accidents. Fourth, the inherent transnational character of environmental issues prompted the insight that solutions had to be found at the supranational level (see Introduction). Indeed, many environmental problems are more effectively handled at a higher level of authority than in single countries separately. The analysis of various driving

forces and dynamics behind the development of European environmental policy will be further developed in Chapter 2, where the societal and political dynamics at the global level will also be taken into account.

The expansion of European environmental policy from 1972 onwards took place in the context of the launch of the first Environmental Action Programme (EAP). EAPs outline the priority goals for environmental action in the EU and give direction to the work of the European institutions that actually produce environmental policies (see Chapter 6). The first EAP originated in the Paris Summit of October 1972, which was a kind of European Council *avant la lettre* (see Chapter 3). It gathered together the heads of state and government of the six EEC member states of that time and those of the three countries that would join the EEC in the following years (UK, Ireland and Denmark). While the main aim of the meeting was to discuss further political cooperation, it also constituted a milestone in the history of European environmental policy. In Article 8 of the 'Statement from the Paris Summit', the heads of state and government 'emphasized the importance of a Community environmental policy' and they 'invited the Community Institutions to establish, before 31 July 1973, a programme of action accompanied by a precise timetable' (European Communities 1972). In the absence of formal Treaty provisions on the environment, this Statement can thus be considered as the first authorization by the member states to the European institutions to undertake more comprehensive policy action in the field of the environment, without it necessarily being linked to the realization of the common market. This is why the Paris Summit is often considered the starting point of a new phase in the evolution of the European environmental policy. The approach that characterized the first stage, resulting in a set of incoherent measures on environmental protection serving the common market, *de facto* shifted to an approach that made a more comprehensive environmental policy possible.

To carry out the assignment of the heads of state and government, a task force – the 'Environment and Consumer Protection Service' – was established within the Directorate-General (DG) Industry of the European Commission. This small unit was initially seen as being composed of 'green fundamentalists' (Schön-Quinlivan 2012: 104) where British officials occupied most of

the key positions (Van de Velde 2014). It would later function as the core from which, in 1981, the Directorate General for the Environment (then DG XI, currently DG Environment) would originate (see Chapter 3) (Zito 1999). In April 1973, the Commission issued its proposal for a first 'Programme of Environmental Action of the European Communities', which was then adopted by the Council in October. This first EAP included an overview of proposed actions and projects to reduce pollution and nuisances, to improve the environment and to streamline the action of the member states in international organizations. Throughout the 126-page document, a number of environmental principles were introduced for the first time, such as the preventive action and the polluter pays principles. This unstructured list of principles can be considered as the foundation on which the current set of principles of EU environmental policy is based (see Box 1.1). The second and third EAPs, dating respectively from 1977 and 1983, followed the approaches outlined in the first EAP, while at the same time gradually expanding the scope of the principles, objectives and areas for prioritized action. For instance, the third EAP introduced the environmental integration principle (see Chapter 6). It is important to note that the EAPs cannot be thought of as – and were not meant to be – all-encompassing policy frameworks. Neither do they provide the legally binding basis for environmental policies. They should rather be seen as a first political step towards a common European environmental policy (McCormick 2001).

Following the Paris Summit of 1972, in the 1980s two other gatherings of the heads of state and government of the member states – which had by then assumed the format of a European Council meeting – gave additional impetus to the development of European environmental policy-making. These stimuli were given at the level of the highest political authority (see Chapter 3). The European Council of Stuttgart (June 1983) called for the acceleration and reinforcement of 'action at the national, Community and international level, aimed at combatting the pollution of the environment'. Less than two years later, the European Council of Brussels (March 1985) upgraded European environmental policy, insisting it should be treated as an essential element of the European economic, industrial, agricultural and social policies.

Box 1.1 Principles of European environmental policy

The European environmental policy is nowadays based on a number of principles. Six of them are in the current Treaty, the Treaty of Lisbon.

1. Precaution (Art. 191§2 TFEU)
The precautionary principle allows for taking measures that protect the environment and/or the health of humans, animals or plants in a situation of scientific uncertainty. The introduction of precaution was one of the innovations of the Maastricht Treaty as far as environmental policy is concerned (Wilkinson 1992). Since this principle is not clearly defined in the Treaty, the Court of Justice of the EU has developed 'complex and often subtle' case law on the precautionary principle (Lee 2014: 11). In this case law, the Court has also developed its own definition, which is now considered the genuine interpretation in the EU (de Sadeleer 2009): 'where there is uncertainty as to the existence or extent of risks to human health, protective measures may be taken without having to wait until the reality and seriousness of those risks become fully apparent'. The EU thus opts for an environmental policy regime that is much more cautious and restrained than most of its international economic competitors, notably the United States (see Chapter 8 on the case of genetically modified organisms).

2. Preventive action (Art. 191§2 TFEU)
The principle of preventive action implies that EU environmental policy should be more focused on preventing environmental damage than on restoring it. The rationale behind this principle is that preventive action is often both environmentally and economically less costly. Consequently, following this principle, European environmental policy should be proactive rather than reactive in nature.

3. Rectification at the source (Art. 191§2 TFEU)
Closely related to the preventive action principle and a part of the Treaty framework since the Single European Act (SEA), the

rectification at the source principle stipulates that preference should be given to tackling environmental damage where and when it originates (i.e. at the source) rather than to taking measures combating the consequences of that damage elsewhere.

4. Polluter pays (Art. 191§2 TFEU)
Finding its origins in the first Environmental Action Programme (EAP) and included in the Treaties as early as the SEA, the polluter pays principle implies that the cost of possible pollution or compensation measures should be borne in the first place by the actor or organization that has directly or indirectly caused the environmental damage. The underlying rationale of this principle is that imposing the costs of preventing, eliminating or compensating environmental damage onto those who cause it creates incentives for environmentally friendly behaviour (Knill and Liefferink 2007).

5. Environmental integration (Art. 11 TFEU)
Mentioned under the environment title of the Treaties since the SEA but significantly broadened in scope only by the Amsterdam Treaty (Jordan 1998), the environmental integration principle has now taken an important place in European environmental policy. Nowadays, this principle is no longer part of the environment title of the Treaty, but is a part of the overall objectives of the EU. Although disagreement on a clear definition of this principle is lacking (for a discussion, see Jordan and Lenschow 2010), it starts from the observations that environmental policy *sensu stricto* is not sufficient to achieve environmental objectives and that decisions in other policy domains (such as transport, agriculture, industry or energy policy) often have important consequences for the environment. Therefore, environmental considerations need to be taken into account in other areas of public policy as well. The Treaty of Lisbon even introduced a particular integration principle for animal welfare (Art. 13 TFEU) (Vedder 2010). Although a number of initiatives have been taken to implement the environmental integration principle, it remains difficult to overcome fundamental conflicts between environmental objectives and other interests in society (see Chapter 7).

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6. Sustainable development (Arts. 3 TEU and 11 TFEU)
Interwoven with the integration principle, the sustainable development principle was introduced into European primary law by the Treaty of Amsterdam. Although there are many definitions of this concept, the most widely accepted is the one formulated by the World Commission on Environment and Development in 1987 in the so-called Brundtland Report: 'Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (World Commission on Environment and Development 1987: 43) (see Chapter 2). In 2001, the Gothenburg European Council adopted the EU Sustainable Development Strategy, which was renewed in 2006 (see Chapter 7). It is important to note here that sustainable development is not only a principle of internal European policy, but that the Treaty also mentions it as one of the objectives of the external action of the EU (Arts. 3§5 and 21§2 TEU).

The developments outlined above made it possible for the 1972–1987 stage to be characterized by a remarkable expansion of environmental legislation during which more than 100 legislative pieces on the environment were adopted. This increase was remarkable for two reasons. A first reason is that environmental policy-making in the EU still occurred without an explicit legal basis in the Treaty. The interpretation of the existing Treaty provisions – mainly the common market Article 100 TEEC in combination with the articles outlying the EEC's objectives – allowed legislative action on the environment to be taken at the European level, although they did not explicitly refer to environmental protection. In the 1970s and 1980s, a second TEEC article was used as the legal basis for environmental measures: Article 235 TEEC, which authorized the EEC to take legislative action 'if any action by the Community appears necessary to achieve, in the functioning of the Common Market, one of the aims of the Community in cases where this Treaty has not provided for the requisite powers of action'. In other words, this article allowed legislation to be adopted in a field that is necessary for realizing the common

market objectives of the EEC, even in the absence of a concrete legal basis. For this reason, although it is limited to the common market objectives, this article is often called the 'catch-all' provision (Hartley 1998; Weale et al. 2000).

In this period, the Court of Justice played an important role in further legitimizing the development of European environmental policy (see Chapter 3). The Court has regularly supported the development of environmental policies at the European level and with it a broad interpretation of the scope of the legislative competence, although this was not foreseen in the Treaty of Rome. Since it has legitimized environmental legislative measures at the EU level, the Court can be considered as a driving force behind more European integration in the environmental domain. Two sets of Court cases during the 1972–1987 stage particularly fulfilled that driving force function because they legitimized the use of Articles 100 and 235 TEEC, respectively, as the appropriate legal basis on which to take environmental measures (Koppen 1993). First, in cases 91/79 and 92/79, the Court stated that the common market Article 100 TEEC could be used as a basis for environmental legislation, but only to the extent that the harmonization of environmental measures at the European level was necessary to eliminate intra-EU trade barriers and thus to realize the common market. Second, in cases 68/81 to 73/81, it also legitimized the use of the catch-all Article 235 TEEC, which means that environmental policy can be seen as a so-called 'implied power' of the EEC, which was not foreseen in the Treaties but has nevertheless been established by the Court (Koppen 1993).

A second reason why the increase in the number of pieces of environmental legislation was remarkable is that the legal bases that could be used – the common market Article 100 TEEC and the catch-all Article 235 TEEC – contained two constraints on the conduct of environmental policy. Both articles stipulated that legislation had to be adopted unanimously in the Council, making lowest common denominator outcomes more likely than strong environmentally friendly ones (see Chapter 3). Moreover, both articles limited the scope of the environmental action they could underpin: Article 100 TEEC could only be used to take measures related to the common market, and the use of Article 235 TEEC was limited to measures that had primarily economic objectives (Knill and Liefferink 2007).

Notwithstanding these constraints, European environmental policy developed quite substantively in this phase with legislation principally focusing on water, air, noise, waste and nature protection measures (see Chapter 7) (Hildebrand 1993). This was mainly driven by member states that already had a considerable level of environmental legislation (the Netherlands and Germany are obvious examples). These existing national policies were essentially harmonized at the European level. The legislation adopted at the European level thus often took the form of a compromise between the various existing legal provisions of the member states (Zito 1999). Moreover, these environmental measures were spread to those member states that did not yet possess such legislation, particularly the southern member states, Greece, Spain and Portugal, that joined the EEC in the 1980s.

Because the areas covered by European environmental legislation had increased significantly by the mid-1980s, a more comprehensive approach began to characterize the environmental action of the EEC (McCormick 2001). However, these environmental policies were still conceived as responses to social, political and economic events and developments, making the environmental measures adopted in this period 'responsive' (Hildebrand 1993: 20). The shift from a reactive towards a proactive environmental policy at the European level became possible in the second half of the 1980s, when for the first time environmental competences were explicitly attributed to the European level in the SEA. This is where the third phase in the evolution of European environmental policy starts.

Legal basis, supranational decision-making and the '1992' impetus (1987–1992)

The SEA was the first substantial Treaty change since the Treaty of Rome. Having entered into force in 1987, the SEA did not only codify a number of existing practices in European decision-making, it principally set the objective of establishing a single market by the end of 1992, comprising the four essential freedoms: free movement of goods, services, persons and capital. This objective was not only embodied in the Treaty, but it was also driven by the determination of the European Commission led by Jacques Delors, which had come into office in January 1985. Only six months after its entry into office, the Delors Commission issued a white paper on the

completion of the internal market, which proposed the abolition of all kinds of internal barriers. In order to realize the '1992' objective, new basic rules – and thus a Treaty revision – were needed: the SEA.

The SEA provisions had a twofold relevance for European environmental policy and policy-making. First, the SEA attributed new competences to the EEC, including environmental competences. It created an explicit legal basis for European environmental policy by adding a 'Title VII - Environment' to the SEA. The separate environment title in the SEA also made it possible to adopt environmental measures at the European level that are not primarily instrumental for the realization of the common market. The EEC could now also adopt environmental policies from merely an environmental protection logic. As a consequence, the SEA allowed for the transformation of the responsive or reactive nature of the European environmental policy of the second stage into a proactive and *sensu stricto* environmental type of policy. The rationale behind this broadening of the EEC's scope of action in the SEA was that to upgrade the common market to a genuine single market the EEC not only needed economic competences (as was essentially the case under the Treaty of Rome), but also competences in more regulatory areas, such as the environment. Indeed, in order to have a free market, an organized market had to be established, and for such an organization, regulatory policy areas need to be regulated.

Under Title VII of the SEA, three articles were created, then numbered Articles 130r, 130s and 130t. The basic structure of the environment title in the SEA is still the same today under the Treaty of Lisbon, where these (amended) articles are now numbered Articles 191, 192 and 193 TFEU. These three articles lay down the objectives and principles of European environmental policy; the legislative procedure for environmental policy-making; and the possibility of member states taking stricter environmental measures at their domestic levels than the harmonized ones at the European level (see Box 1.2).

Second, more effective decision-making rules and procedures were introduced by the SEA because they were needed to achieve the '1992' objective. These consisted of a bigger role for the European Parliament (EP) and a less stringent voting rule for the member states in the Council. Whereas the basic policy-making characteristic under the Treaty of Rome provisions was a dominant legislative role for the Council, making its decisions on the basis of the unanimity rule, the SEA strengthened the role of the

Box 1.2 Competences and legal bases of European environmental policy

Environmental policies are a shared competence between the EU and the member states (Art. 4 TFEU), meaning that both the EU and the member states can adopt environmental legislation, but that the member states can only do so 'to the extent that the Union has not exercised its competence' (Art. 2§2 TFEU).

Articles 191–193 TFEU are the current environmental articles under the Treaty of Lisbon. As argued above, the basic structure of these three articles is already in place since the SEA and has been considerably modified by the Maastricht Treaty and only slightly by the Amsterdam, Nice and Lisbon Treaties.

Article 191 TFEU: objectives, principles, restrictions, external action

- The first paragraph of Article 191 TFEU presents the *objectives* of EU environmental policy:
  - preserving, protecting and improving the quality of the environment;
  - protecting human health;
  - prudent and rational utilization of natural resources;
  - promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.
- The second paragraph depicts the *principles* that should guide EU environmental policy-making (see Box 1.1).
- The third paragraph stipulates the *restrictions* that need to be taken into account when making environmental policy in the EU:
  - available scientific and technical data;
  - environmental conditions in the various regions of the Union (which suggests the possible need for different approaches to environmental problems in different parts of the EU [Lee 2014]);
  - the potential benefits and costs of action or lack of action;
  - the economic and social development of the Union as a whole and the balanced development of its regions.
- The fourth paragraph deals with the division of competences for the EU's *external action* in the environmental area (see Chapter 10).

Article 192 TFEU: legislative process

Article 192 TFEU prescribes the legislative process to be followed to adopt environmental legislation in the EU.

- Paragraph 1 specifies the *basic rule*: the ordinary legislative procedure (OLP), in which the Council and the EP co-decide on the basis of a proposal by the European Commission (see Chapter 4).
- Paragraph 2 provides the *exceptions* to the general rule of paragraph 1. For the following issues, the special legislative procedure is applied, meaning that the EP's role is limited to being consulted and that unanimity – instead of qualified majority voting under the OLP – is required in the Council:
  a. provisions primarily of a fiscal nature;
  b. measures affecting:
     – town and country planning,
     – quantitative management of water resources or affecting, directly or indirectly, the availability of those resources,
     – land use, with the exception of waste management;
  c. measures significantly affecting a member state's choice between different energy sources and the general structure of its energy supply.
- Paragraph 3 stipulates that *Environment Action Programmes* (EAPs) (see Chapter 6) need to be adopted through the OLP.
- Paragraphs 4 and 5 require that member states will *finance and implement* the EU's environmental policy, but that in certain cases temporary derogations or financial support from the Cohesion Fund can also be used.

Article 193 TFEU: more stringent protective measures at the domestic level

Article 193 TFEU allows member states to maintain or to adopt environmental measures that are more stringent than those of the EU ('gold plating', see Chapter 6). Indeed, EU environmental policies provide 'for only a minimum level of environmental protection common to the member states and "shall not prevent any member state from maintaining or introducing more

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stringent protective measures"' (Lee 2014: 17). However, there is one important limitation to the member states' freedom in this regard: those stricter national measures need to be compatible with the (objectives of the) Treaty, which in practice means that they cannot impede the (completion of the) internal market.

EP in the legislative process by introducing the 'cooperation procedure' (see Chapter 3). The SEA also introduced qualified majority voting (QMV) for a (still rather limited) number of environmental issues. The introduction of the cooperation procedure and QMV for certain issues considerably changed the way environmental policy was made at the European level. It basically meant that the unanimity hurdle could be overcome on some issues and that environmental policies could be decided upon more easily than before.

The third stage was thus mainly characterized by the creation of a legal basis for European environmental policy, new decision-making rules and the impetus that was given by the '1992' goal of completing the single market. Other dynamics were also emerging in this period, but they are discussed in more detail elsewhere in this book. First, the EEC's international actorness, referring to its capacity to act in global environmental politics, became less and less contested in this phase. As will be explained in detail in Chapter 10, the struggle to be recognized as a full negotiation partner at the international level was won by the EEC in this phase. This, for instance, allowed the EEC to play a significant role at the United Nations Conference on Environment and Development (UNCED) in Rio in 1992, where the UN Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD) were signed.

Second, in this period, the first steps towards the creation of the European Environmental Agency (EEA) were taken (see Chapter 3). The EEA's main function is to collect information on the state of the environment in Europe, and to make this information publicly available so that it can be used by the European Commission to base its proposals for environmental legislation upon.

Third, because the environmental policy-making became increasingly Europeanized (due to more competences and more

supranational dynamics), it continued to attract ever more attention from non-state actors, including environmental NGOs and business lobby groups (see Chapter 5). Not only did interest groups increasingly begin to focus their activities at the European level, they also intensified their organizational capacities there by creating European umbrella organizations, such as the European Environmental Bureau (EEB), or by expanding their Brussels-based activities.

Fourth, the 1987–1992 period was not only characterized by an increase in the legislative policy instruments, but also other types of policy instruments originated here (see Chapter 6). For example, a couple of financial instruments for environmental policy were launched in the 1980s. Then in 1992 these different instruments were rationalized and pooled into the LIFE Programme, which financially supports environmental and nature conservation projects in the EU, as well as in its eastern and Mediterranean neighbouring countries (see Chapter 6).

Legal, institutional and legislative consolidation (1992–2009)

Since 1993, with the entry into force of the Maastricht Treaty (signed in 1992), a shift in the overall development of EU environmental policy took place. In the fourth phase, the legal and institutional framework was consolidated and even strengthened through the provisions in the various Treaty changes that were adopted in this phase: the Maastricht, Amsterdam (signed in 1997, entered into force in 1999), Nice (signed in 2001, entered into force in 2003) and even the Lisbon (signed in 2007, entered into force in 2009) Treaties. These Treaties further developed the legal bases and institutional frameworks for environmental policy-making which led to a steady increase in the number of pieces of EU environmental legislation adopted in this period (see Figure 1.1). This stage is also characterized by the creation and growth of environmental policies in an area that was until then virgin territory, namely climate change. The main starting point for the fourth phase is the entry into force of the Maastricht Treaty, which formally consisted of the Treaty on European Union (TEU) and the Treaty Establishing the European Community (TEC). Three components of the new legal and institutional framework deserve particular attention here.

First, since the Treaty of Maastricht, 'a high level of protection and improvement of the quality of the environment' is now a general objective of the EU (Art. 3 of the current TEU), although the Maastricht Treaty only stated that the EU's economic activities had to 'respect the environment'. What is important here is the fact that the references to environmental protection in the Treaties are no longer limited to the environment title, but that environment now also has a place among the general objectives of the EU. This has – at least legally – 'strengthened the European Community's (EC's) commitment to environmental protection' (Wilkinson 1992).

Second, and probably most importantly, the Maastricht Treaty introduced the codecision procedure for a large range of policy domains, including the environment. This policy-making procedure significantly updates the role of the EP as co-legislator. Under this procedure, a legislative proposal of the Commission needs the approval of both the Council and the EP before it can be adopted (see Chapter 4). Consequently, under this procedure, the EP can act as a veto-player. With the abolition of the cooperation procedure, the Amsterdam Treaty even expanded the range of environmental issues covered by the codecision procedure, and subsequently the Nice and Lisbon Treaties confirmed this trend.

Third, the 1999 Treaty of Amsterdam also inserted the concept of 'sustainable development' in the Treaty framework of the EU (Jordan 1998). The then Article 2 TEU mentioned that one of the objectives of the EU was 'to achieve balanced and sustainable development'. This wording was later changed by the Lisbon Treaty, which broadened the scope of sustainable development and extended it to the external relations of the EU as well (Benson and Adelle 2012). Today, Article 3 TEU states the objective that the EU 'shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment'.

The fourth phase in the history of EU environmental politics is characterized by the establishment and the steady growth of climate change policies in the EU. After having signed the Kyoto Protocol in 1997, the EU aimed to implement the Protocol's provisions and to make sure it achieved its 8 per cent emission reduction target. Moreover, the EU wanted to complement the

global leadership it had shown in the Kyoto Protocol negotiations with strong internal climate change policies (Oberthür and Pallemaerts 2010). In the early 2000s, a substantial amount of climate legislation was therefore adopted, focusing on the reduction of greenhouse gases (for instance from passenger cars), as well as on complementary issues such as energy efficiency or biofuels. Importantly, the cornerstone of the EU's climate policy was established in 2003 with the adoption of the directive on the EU Emission Trading Scheme, which created a market for emissions trading in the EU (see Chapter 9). These developments resulted, at the end of the 2000s, in a situation where climate change had evolved towards the most salient and most important issue on the EU's environmental agenda.

Besides the dynamics of deepening (the various Treaty changes), the 1992–2009 stage was also characterized by a widening process in the EU (two enlargement waves), since the number of EU member states increased considerably through the enlargement waves of 1995 (with Sweden, Finland and Austria joining) and 2004/2007 (with ten Central and Eastern European countries joining, as well as Cyprus and Malta). On the one hand, these enlargements meant that the existing European environmental policy became applicable to an additional 1.2 hundred million European citizens. Moreover, the new Central and Eastern European member states that had to implement the environmental *acquis* as a precondition for acceding the EU were mainly countries with relatively highly polluting industries. This means that in terms of the impact of the environmental legislation on people and economies, the enlargement wave was significant.

On the other hand, the impact of the enlargement on environmental policy-making does not seem to be as big as many analysts presumed. Before the EU enlarged in the 2000s, opinion about the consequences that enlargement was expected to have on the making of European environmental policy was highly pessimistic, in the sense that it was anticipated that it would have 'an adverse effect on progressive EU environmental policy' (Jehliaka and Tickle 2004: 77), mainly because most of the applicant countries were still facing the consequences of 'communist misrule where political indifference left massive degradation of the environment' (Kramer 2004: 291) (see Chapter 2). However, assessing the impact of the biggest enlargement in EU history on its environmental policy, Lenschow concludes that it did not result

in a 'retrenchment of the policy' (Lenschow 2010: 310). Likewise, Braun argues that 'new member states, at least so far, have not had the negative impact on EU environmental policy that had often been predicted' (Braun 2014: 1).

Nevertheless, this is not to say that enlargement towards Central and Eastern European countries had no impact at all on environmental policy-making. Even today these countries have more difficulties than the 'old' member states in taking up ambitious environmental targets. During their accession process to the EU around the turn of the century, they had to make up their arrears and to take on the burden of implementing existing EU environmental policies. Given these efforts, they usually seem to be somewhat reluctant to adopt stronger environmental policies (Wurzel 2012). This dynamic is well illustrated in the area of climate change, where a number of Central and Eastern European member states, with Poland in the front, have repeatedly jammed on the brakes for more ambitious policies (see Chapter 9).

The consolidation of the legal, institutional and legislative framework was in this fourth phase counterbalanced by a decreasing political ambition of the member states to further strengthen environmental regulatory framework at the EU level (Knill and Liefferink 2007). Member states seemed to prefer less strict environmental regulations since they feared that yet more environmental measures would undermine their international competitiveness. The economic rationale that strict environmental rules in Europe weaken the position of the EU in the global market vis-à-vis emerging economies where environmental standards are less stringent seemed to prevail. Moreover, member states preferred a flexible approach that gave them more room for manoeuvre in the national implementation of European legislation above the essentially harmonizing approach of the first stages.

'Green economy' and better implementation of a mature policy area (since 2009)

At the end of the 2000s, a number of developments prompted the start of a new stage in the evolution of EU environmental policy. The Lisbon Treaty entered into force in 2009, which determined the rules of the game of EU policy-making that are currently still in force. This happened at a moment when the financial-economic crisis in the EU was reaching its height. The resulting austerity

policies of the EU and the member states had a decisive impact on EU policy-making in general. In the environmental field, the crisis mainly meant that, on the one hand, environmental issues received less political attention since the political agenda was mainly dominated by economic, budgetary and fiscal policies (Burns 2014). On the other hand, environmental policy became increasingly framed in economic terms, with 'green growth' being the new overarching baseline for EU environmental policy initiatives.

In the meantime, the EU had developed outspoken environmental leadership ambitions on the international scene but these ambitions were severely impaired at the 2009 Copenhagen climate change conference. Although tackling the climate change issue at this conference was a high priority for the EU, it was completely sidelined during the endgame of the negotiations and the outcome of the conference, the so-called Copenhagen Accord, did not at all reflect the EU's position (see Chapter 10). In Copenhagen, the EU was forced to face the fact that power relations at the international level were changing, that the EU's relative power in the world was falling with the rise of the emerging powers and that the EU's self-proclaimed 'leading by example' strategy had reached its limits (Bäckstrand and Elgström 2013; van Schaik 2013). In other words, it became clear that the context of the twenty-first century, with the Copenhagen experience and later also the EU's unsuccessful attempts to reach an ambitious outcome at the Rio+20 Summit on sustainable development, had become less favourable for the EU than the context of the end of the twentieth century with the Kyoto conference and the Earth Summit in Rio (see Chapter 2). It is against this backdrop that EU environmental politics and policy have evolved since 2009. These evolutions are still ongoing, as a result of which their ultimate impact and relevance is difficult to assess today. Notwithstanding this qualification, the remainder of this section discusses the current trends, many of them being further elaborated in the next chapters.

Lisbon Treaty

The impact of the Lisbon Treaty – which is formally made up of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) – on EU environmental policy-making 'is most likely to be minimal' (Benson and Adelle 2012; Vedder 2010: 299). Because environmental policy is already

a relatively mature area of EU competences, there was very little scope for radical changes in the Lisbon Treaty (Benson and Jordan 2010). Besides the new wording of the sustainable development objective (see above), the Lisbon Treaty also gives animal welfare a prominent place as an EU objective. No new competences on the environment were attributed to the EU in this Treaty, although the addition of a new sentence to Article 191 TFEU – with the objectives of European environmental policy mentioning the fight against climate change at the international level – may be used in the future by the European Commission to claim more external competences in this field, for example to represent the EU in international climate change negotiations (see Chapter 10). This is the first time that climate change is mentioned in an EU Treaty. The Lisbon Treaty also changed the name for the codecision procedure, which had, since the Maastricht Treaty, put the Council and the EP on equal footing in the legislative policy-making procedure. Under the Lisbon Treaty, this procedure is now called the 'ordinary legislative procedure' but the procedure as such has not changed: the Commission proposes environmental legislation and the Council and the EP adopt it (see Chapter 4).

Two other innovations of the Lisbon Treaty, which were transversal in nature and thus not specifically related to the environmental area, have had an impact on policy-making in the environmental field. They have led to conflicts over procedural issues, thereby interfering with substantive discussions. First, the Commission and the Council interpreted the impact of the Lisbon Treaty on the external representation of the EU differently, with the Commission considering it as a pathway to a bigger role for the Commission and the member states in the Council opposing this view (see Chapter 10). This discussion was intermingled with the post-Copenhagen debate and particularly with the observation of some actors in the EU that the EU's failure in Copenhagen was at least partly due to its inability to 'speak with a single voice' and thus to its system of external representation (Corthaut and Van Eeckhoutte 2012; Delreux 2012a). These discussions dominated the EU debate in the context of a number of international environmental negotiations in the early 2010s and prevented the EU from considering the (probably more important) questions about content and strategy. Second, the Lisbon Treaty also reformed the so-called 'comitology system', used to implement environmental policies at the EU level after their adoption (see Chapter 4). It created two types of implementation

instruments (implementing acts and delegated acts), which give different powers to the Council and the EP depending on which instrument is chosen. The debate on the choice between implementing and delegated acts has in some cases created a hidden power struggle between the Council and the EP that has risked troubling the substantive debate.

At the same time as the entry into force of the Lisbon Treaty, though not an immediate consequence of it, climate change policies became more and more institutionalized in the EU. This institutional strengthening mainly took place in the European Commission, where the function of Climate Action Commissioner and a DG Climate Action (CLIMA) were created when the Barroso II Commission took office. Since the beginning of 2010, environmental policy-making is no longer the responsibility of one Commissioner and a single DG, but they were spread over an Environment and a Climate Action Commissioner, each with their respective administrative support in DG Environment and DG Climate Action. The new DG CLIMA was created out of an existing directorate of DG Environment. It started off with 60 staff members and quickly grew to about 150 officials. Five years later, at the start of the Juncker Commission, the responsibility for environmental issues was spread out over a further two additional Commissioners, with not only the Environment and Climate Action Commissioner having environmental issues in their portfolio, but also the vice-president responsible for the Energy Union and the first vice-president overseeing sustainability issues being responsible for environmental policy (see Chapter 3).

'Green economy' as a response to the crisis

EU environmental policy was not as directly affected as other policy areas by the financial-economic crisis and the Eurozone crisis that has had the EU firmly in its grasp since 2009. Indeed, the austerity policies in Europe and the resulting budgetary stringency did not immediately affect a regulatory policy area such as the environment to the same extent as it affected (re)distributive policy areas (such as social policies). Environmental policy is indeed regulatory in nature, which means that it mainly stipulates rules that limit the discretion of societal actors. It is not a policy area that primarily distributes or redistributes money between societal groups. However, although

EU environmental policy did not feel a direct effect of the crisis, it was indirectly influenced by the crisis in a twofold way.

First, the political attention and political importance attached to environmental policy steadily declined as the fight against the financial-economic crisis became the number one priority for EU and national policy-makers alike. The momentum for developing ambitious environmental policies disappeared and environmental issues were pushed into the background. This happened not only in the EU and in the member states, but rather was a worldwide trend that also affected global environmental governance (see Chapter 2).

Second, the framing and discourse of EU environmental policy changed. Environmental issues are no longer primarily approached from the perspective of environmental protection, but they are framed as a contribution to economic growth or competitiveness. In that sense, they are seen to be a part of the recipe for recovery from the financial-economic crisis (see Chapter 6). Catchphrases such as 'green economy', 'green jobs', 'green growth', 'sustainable growth' or 'low carbon economy' nowadays dominate the environmental debate and determine the way environmental problems are conceived in the EU. Positioning environmental policy under this 'green growth' umbrella is a key characteristic of the current stage of EU environmental policy. This fits within the 'ecological modernization' policy paradigm, which basically argues that ambitious environmental policies do not undermine economic growth, but contribute to growth and can even be a driver of it, for instance through technological innovation in the area of renewable energy (see Mol and Spaargaren 2000). Moreover, one could argue that the 'green economy' turn again puts EU environmental policy at the service of a broader economic objective, as was the case in the first decades of EU environmental policy (see the discussion of the first two stages above).

The 'green growth' approach is part of the 'Europe 2020' strategy, which is the overall growth strategy in the EU that is based on the EU's ambition to achieve 'smart, sustainable and inclusive growth' for the 2010–2020 period. Europe 2020 includes the 'resource efficiency' flagship initiative, which was the European Commission's new grand strategy in the environmental field in the 2009–2014 period under the then Environment Commissioner Potočnik. Under the resource efficiency framework, the aim is to achieve a more efficient use of natural resources. The issue is, however, not presented from the perspective of the impact of raw natural resources on the

environment, but as a strategy to promote growth, jobs and competitiveness (see Chapter 6). Next to the resource efficiency flagship, other strategies with long-term targets were also adopted by the Commission in this period, which all have in common that they intend to pave the way for an evolution towards a low carbon economy in Europe. Examples include the 'Roadmap for moving to a low-carbon economy in 2050' and the 'Energy Roadmap 2050' (see Chapters 6 and 9). Importantly, the shift towards the green economy paradigm in EU environmental policy is particularly evident in the broader strategies and in the policy documents with long-term visions adopted by the European Commission (such as the Roadmaps mentioned above). By contrast, the impact of the green economy framing on specific environmental legislation adopted since 2009 is less obvious (Burns 2014).

Better regulation and enhanced implementation

Periods of economic crisis are often characterized by calls for less regulation as, from this perspective, too much regulation is considered to hamper economic growth (Jordan et al. 2013). However, looking at EU environmental legislation, neither the financial-economic crisis nor such calls for deregulation have actually led to a significant abolition of environmental legislation in the EU. In other words, serious environmental 'policy dismantling' – that is, the 'cutting, diminution or removal of existing policy' (Bauer et al. 2012: 203) – has not taken place as such and stringent cuts in both the quantity and the level of ambition in the EU's environmental *acquis* have, at the time of writing, so far failed to materialize.

The possibility of policy dismantling has, however, been the subject of recent controversy. For instance, when the Juncker Commission adopted its first work programme (for the year 2015), it announced the amendment or withdrawal of around 80 pending legislative proposals in various policy domains. One of the most contested withdrawals was the so-called 'circular economy package', which aimed at eliminating waste in the economic system. It had been proposed by the previous Commission as the culmination of the resource efficiency flagship promoted by former Commissioner Potočnik (see above). This legislative package was indeed withdrawn in early 2015 despite complaints from environmental groups, members of the EP and Environment Ministers from the member states. The Commission emphasized, however,

that it remained strongly committed to the objectives of the package and that it would table an even more ambitious proposal on the circular economy by the end of 2015. Whether the withdrawal of the circular economy package can be considered as a case of policy dismantling will thus depend on the content of that new proposal.

The crisis and the call to soften the burden of environmental policy on Europe's industries forced the EU institutions and the national governments to think about more flexible and softer approaches to regulation. The increasing use of market-based environmental policy instruments illustrates this development (see Chapter 6). The evolution towards more flexibility is though not completely new in the EU. As early as the early 2000s, the Commission launched a 'Better Regulation' programme, which aimed to make European legislation more efficient. Since 2010, this effort has continued under the umbrella of 'smart regulation'. This focus on the quality of legislation – much more than on its quantity, which deregulation targets – has characterized EU environmental policy since the end of the 2000s. The fact that the first Vice-President of the Juncker Commission, Frans Timmermans, is in charge of better regulation again confirms the importance of this dynamic.

Part of this better or smart regulation effort is the Commission's Regulatory Fitness and Performance (REFIT) programme, which aims to simplify the European regulatory framework and to reduce so-called 'red tape' (that is, excessive regulation and administrative burdens). Although a couple of pieces of environmental legislation were explicitly targeted in the REFIT programme as having the potential for being simplified (Gravey 2014), its impact on environmental policy has in general remained relatively limited. The major impact of REFIT in the environmental field was probably the withdrawal by the Commission of its proposal for a Framework Directive on Soil (see Chapter 7), although it seems unlikely that a Soil Framework Directive would have been adopted, even in the absence of REFIT, given the major opposition in the Council to such a legislative instrument.

Environmental policy-making, particularly in the Commission and in the Council, is affected by these calls for better and smarter regulation. More than during previous stages, policy-makers tend to pay more attention to the avoidance of red tape and excessive bureaucracy. They also emphasize the necessity of having 'realistic' targets and objectives, as a result of which the level of ambition of newly adopted policies seems to be lower than in the past. However,

the idea is also that it should be feasible to actually implement and realize these targets now, which was often not the case with the 'ambitious' targets from the past.

Furthermore, current environmental policy-making processes increasingly focus on subsidiarity and more particularly on the question whether the European level is the most appropriate level to deal with a particular environmental issue or not. Critical initiatives by countries like the UK and the Netherlands on the balance of competences between the EU and the member states have pushed the subsidiarity question to the forefront. Simultaneously, the rising level of Euroscepticism and the electoral successes of anti-EU political parties in many member states have made governments more reluctant to support a further Europeanization of regulatory policies. These developments make it no longer sensible to adopt environmental policies at the EU level on questions for which the added value of supranational action is less evident (or where it is less easy to convince national public opinion about their necessity).

Making EU legislation 'better' or 'smarter' has also led to the trend of bringing together multiple separate and already existing pieces of legislation into one single – and simplified – legislative instrument. For instance, the Industrial Emissions Directive (2010/75) compiles seven existing directives into one more integrated piece of legislation. Also, the Directive on Environmental Impact Assessment (2011/92, amended by 2014/52) brings together four separate pieces of legislation and aims to streamline the regulatory framework into one text. This also explains why the number of legislative pieces that are in force has decreased, for instance in 2010 or 2014 (see Figure 1.1). However, such a reduction in quantity does not necessarily lead to a narrowing of the scope of the existing EU environmental policies and does not necessarily reflect considerable environmental policy dismantling in the EU.

Simultaneously with the call for making better regulation, much attention is paid to enhancing the implementation of existing environmental policies. At the end of the 2000s, almost all subareas of environmental policy were covered by European policies. The establishment of major Framework Directives (for instance on air, water and waste policy, see Chapter 7) and the adoption of a number of more specific pieces of environmental legislation mean that there is almost no virgin territory for environmental regulation anymore in the EU (with perhaps the notable exception of soil policy). However, the main problem is that the existing environmental objectives, for

instance in the areas of water or biodiversity policy, are not – or not adequately – achieved. The actual implementation record of environmental policy is among the weakest and most problematic ones of all EU policy areas (see Chapter 4). Hence, the rationale behind environmental policy developments in this stage was that progress in environmental protection should be achieved not through the adoption of more legislation, but through the improvement of the execution and the implementation of the existing rules.

Enhanced implementation is also part of the revision of existing legislation. A great deal of legislative activity today focuses on reviewing. Indeed, EU environmental politics is characterized by a 'continual process of amendment and revision' (Axelrod et al. 2011: 224). In these review exercises, special attention is paid to the implementation question, for instance by including so-called 'early warning systems' that require member states to submit a mid-term report about the progress they make in achieving their targets. When those mid-term reports indicate that realizing the targets is likely to be difficult, compliance plans can be adopted in order to help that member state to adjust its implementation so that the targets are actually achieved in the future and so that infringement proceedings can be avoided (see Chapter 4).

Conclusions

This chapter's discussion of the five phases in the evolution of the European environmental policy has shown that this policy domain has witnessed a remarkable growth in quantity, scope and impact. Characterized by a lack of legal competences in its first three decades, but expanding thanks to political will and judicial support, the EU's environmental policy is currently one of the most Europeanized policy areas. Summarizing the developments in each of the five stages, Table 1.1 presents an overview of the evolution of the European environmental policy.

In this chapter, we have mainly emphasized the legal and institutional developments as well as the various ways in which the making of European environmental policy was legitimized. The question remains, however, *why* these developments took place and which forces and dynamics were driving them. These driving forces will be dealt with in the next chapter, where we argue that the historical development and the current state of European environmental policy and politics can only be fully understood if one takes into

Table 1.1 *Overview of the evolution of the European environmental policy in five stages*

	1957–1972	*1972–1987*	*1987–1992*	*1992–2009*	*Since 2009*
start	Treaty of Rome	- societal and political organization - Stockholm Conf. - first EAP	Single European Act	Maastricht Treaty	- Lisbon Treaty - Copenhagen Conf. - financial-economic crisis
basic characteristics	- no legal basis - environment-related measures serving economic integration purposes (common market)	- no legal basis - origin of more coherent policies - increase in quantity, scope and political status of environmental policy	- explicit legal basis (environmental competences at European level) + introduction of more supranational decision-making - impetus of 1992 objective - environmental protection logic	- expansion of competences and supranational decision-making - establishment and growth of climate change policies - decrease of political ambition	- reduced political attention for the environment - framing of environmental policy as contribution to 'green economy' - more flexible forms of regulation - emphasis on better implementation
main institutions	mainly Council	mainly Council and Commission, also Court of Justice	mainly Council and Commission, limited role for EP	Commission, Council and EP	Commission, Council and EP
decision-making procedure	consultation procedure (incl. unanimity)	consultation procedure (incl. unanimity)	introduction of co-operation procedure (incl. QMV)	introduction of codecision procedure (incl. QMV)	quasi-generalization of ordinary legislative procedure (incl. QMV)

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account the global context in which the EU is embedded. Therefore, the driving forces and dynamics behind the progress of the EU's environmental activities are linked to the processes of globalization and the formation of a global environmental governance architecture. The current state of play of this policy area can be fully understood only by taking them into account, and by acknowledging that the EU is not creating environmental policies in splendid isolation.

Index

Note: page numbers in **bold** are major entries