Contemplating compliance: European compliance mechanisms in international perspective
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PART I

Theory and Methodology
INTRODUCTION TO PART I

Before turning to the theoretical background underpinning this dissertation, an explanation of the distinction made in this thesis between theory and methodology is in order.1 According to some, theory and methodology can be used synonymously.2 Cryer et al., for example, prefer to make a distinction between ‘methodology’ and ‘method’. According to these authors, the concept of methodology has theoretical connotations, while method is the way in which a research project is pursued – what one actually does to answer the research question – and has empirical and sociological connotations.3 This interpretation of the terms theory, method and methodology, then, faces two main problems. The first concerns the literal meaning of these terms, and the second the interpretation of and distinction between them.

In the legal research context, method is understood to mean the way or procedure of attaining an object, in casu the tools employed in finding the answer to a legal research question.4 Methodology refers to the system or body of methods, or a particular procedure, where the tools or methods employed in finding the answer to the research question are deployed or interpreted based on certain principles.5 A chapter or paragraph on methodology should thus focus not mere-

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1 There is a plethora of literature discussing the issue of methodology and especially concerning the question of what constitutes science or a “scientific method”. However, in legal research this discussion is much more recent. (See e.g. Cryer, R. et al., Research Methodologies in EU and International Law (Hart Publishing, Oxford 2011); McConville, M. and W. Hong Cui, eds., Research Methods for Law (Edinburgh University Press Ltd, Edinburgh 2007); Patterson, D., ‘Methodology and Theoretical Disagreement’ in U. Neergaard et al. (eds), Essays in European Legal Method (DJOEF Publishing, 2011); Hesselink, M., ‘A European Legal Method? On European Private Law and Scientific Method’ (2009) 15 (1) European Law Journal.)
3 Ibid.
4 The word method originates via the French word methode and the Latin methodus from the Greek word methodos, literally meaning “to practice” or “to follow” (from meta (after) + hodos (way or route)). Modern dictionaries yield the following definitions for the word method: “a particular procedure for accomplishing or approaching something” (in Oxford Dictionaries Online, accessed December 2012, from http://www.oxforddictionaries.com (Oxford dictionary)), or “a procedure or process for attaining an object” (in Merriam Webster Online, accessed December, 2012, from http://www.merriam-webster.com/dictionary) (Merriam-Webster).
5 Methodology adds the suffix –ology, stemming from the Greek word logos, which means “word”, “thought” or “reason” or “the study of”. Literally, the word methodology thus means “the study of following or practicing”. Dictionary definitions for methodology give “a system of methods used in a particular area of study or activity” (Oxford dictionary), “1: A body of methods, rules, and postulates employed by a discipline: a particular procedure or set of procedures; 2: the analysis of the principles or procedures of inquiry in a particular field” (Merriam-Webster). The American Heritage Dictionary adds the following: “Methodology can properly refer to the theoretical analysis of the methods
ly on the methods or tools employed in order to find the answer to the research question, but should also explain how these methods are used and interpreted, and what principles are used in choosing these methods.

In order to choose the correct elements and principles for finding the necessary methods, an additional but separate element is needed: a theoretical framework. As mentioned above, the terms methodology and theory are sometimes used as synonyms. However, a system or body of methods (methodology) is not synonymous with a system of ideas intended to explain something (theory). Rather, one formulates a theory, a system of ideas, in order to explain something and subsequently, in order to test or prove one’s theory, a system of methods chosen according to certain principles (methodology) can be applied.

In light of the above explanation, this part of the thesis is set up as follows. Chapter 2 will explain the theoretical framework that underlies this dissertation. A general theory is formulated based on existing ideas and theories, which will be used to explain the facts of the case studies, and which will lead to an answer to the general research question posed in this dissertation. Chapter 3 will then appropriate to a field of study or to the body of methods and principles particular to a branch of knowledge. In this sense, one may speak of objections to the methodology of a geographic survey (that is, objections dealing with the appropriateness of the methods used) or of the methodology of modern cognitive psychology (that is, the principles and practices that underlie research in the field). In recent years, however, methodology has been increasingly used as a pretentious substitute for method in scientific and technical contexts, as in “the oil company has not yet decided on a methodology for restoring the beaches”. People may have taken to this practice by influence of the adjective methodological to mean “pertaining to methods.” Methodological may have acquired this meaning because people had already been using the more ordinary adjective methodical to mean “orderly, systematic.” But the misuse of methodology obscures an important conceptual distinction between the tools of scientific investigation (properly methods) and the principles that determine how such tools are deployed and interpreted.”

When the meaning of the term theory is considered, the following is found. The word comes via the Latin from the Greek word *theoria* meaning “contemplation”, “speculation”, or “a looking at”, from the word *theoros*: “spectator”. Modern dictionaries provide the following definitions: “the analysis of a set of facts in their relation to one another”, “the general or abstract principles of a body of fact, a science, or an art” (Merriam-Webster), and “a supposition or a system of ideas intended to explain something, especially one based on general principles independent of the thing to be explained” (Oxford dictionary).

A distinction can be made between the terms theoretical framework and analytical framework. A theoretical framework explains which theories can be used to explain the relationship between certain concepts or variables. An analytical framework sets out how this relationship between concepts or variables will be analyzed in a particular case, using a specific methodology. In the case of this book, for example, chapter 2 presents the theoretical framework, while chapters 2 and 3 taken together form the analytical framework. This part therefore uses the term theoretical framework, while later parts will refer to an analytical framework.
explain which methods are used, why and how, in order to be able to actually apply the theoretical framework to the facts and cases.