

# **Crisis Management in the European Union: A Classical Federal Problem**

An Explorative Case Study on Lessons from Germany and the U.S. in the  
Covid-19 Vaccine Procurement

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## Abstract

Covid-19 posed a severe stress test to crisis management in the European Union (EU). Neither the member states nor the EU institutions managed to coordinate a swift and effective crisis response. This thesis argues that the core weakness in the EU's Covid-19 response lay in the *uncertainty over the division of competencies*. In other words, it was uncertain how the responsibilities between the member states and the EU institutions would be divided. As this is a classical federal problem, this thesis makes a unique contribution by comparing the EU's Covid-19 response with two federations, Germany and the U.S. In doing so, this thesis shows that a 'federal lens' can inform EU crisis management. For a long time, federalism was stigmatized and downplayed, however, this work highlights its promising value as an analytical as well as a prescriptive tool. The findings reveal that the EU should move towards the cooperative structure of the German system while keeping a level of flexibility.

**Keywords:** *comparative federalism, exploratory research, EU crisis management, Covid-19, learning*

## **List of acronyms**

CM – Crisis Management

CDC – Centres for Disease Control and Prevention

ECDC – European Disease Control and Prevention Centre

EU – European Union

FEMA – Federal Emergency Management Agency

IfSG – Infektionsschutzgesetz

IPCR – Integrated Crisis Response Mechanism

MLG – Multi-Level Governance

RKI – Robert Koch Institut

STIKO – Ständige Impfkommission

TFEU – Treaty of the Functioning of the European Union

WHO – World Health Organization

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## **1. Introduction**

In today's era of *transboundary* crises, the European Union (EU) has emerged as a key actor in managing cross-border threats. Crises, characterised by threat, urgency, and uncertainty increasingly transcend geographical borders and policy boundaries, thereby exceeding national crisis management (CM) arrangements (Rosenthal et al., 1989; Ansell et al., 2010). Thus, in need of rethinking CM, attention has shifted to the EU, which over the past two decades, has gained considerable competencies to coordinate and facilitate joint actions (Boin, 2018; Beaussier & Cabane, 2020). Yet the EU often struggles to make quick, effective, and informed decisions. Despite steady, incremental efforts to enhance a coordinated crisis response system, CM often remains ad hoc, and sector-based (Boin et al., 2013, p.82). This is due to the inherent challenge between the role of member states who are reluctant to transfer powers to the EU and the role of the EU level. While this persistent tension between member states and EU institutions forms a core debate in EU scholarship, in CM this tension becomes particularly pronounced, as decisions must be made quickly (Boin & Rhinard, 2022, p.657). It is this *uncertainty over the division of competencies* that constitutes a core obstacle to building effective transboundary crisis capacities in the EU.

### ***1.1 Research puzzle***

The Covid-19 pandemic is an ideal case to exemplify the uncertainty over the division of competencies. Despite being one of the wealthiest regions in the world and possessing strong healthcare systems, the EU had some of the highest infection rates globally (World Health Organization, 2024). During the first three months, a patchwork of different measures swept through the EU (Beaussier & Cabane, 2020). Desperately, member states attempted to counter the spread of the virus by closing borders, banning the export of medical supplies, and imposing lockdowns – violations of the most basic principles of the Single Market (Kreuder-Sonnen, 2022, p.59). Appeals for help from hard-hit countries such as Italy were met with silence. At the EU level, institutional actors such as the European Commission<sup>1</sup> were slow to respond and the Council ‘failed to act in concert’ (idem, p.25). Eventually, as the crisis deepened, the overwhelmed member states allowed the Commission to step in. However, this process of *upscaling*, or transferring competencies to the higher level of governance, was far from straightforward and occurred only at the ‘last minute’. Unsurprisingly, the EU's crisis response to Covid-19 faced harsh criticism for being too little, too late.

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<sup>1</sup> Hereafter referred to as ‘the Commission’

The *uncertainty* in the Covid-19 crisis response became so pronounced that it almost paralyzed the system. Scholars attribute this struggle between member states and EU institutions to coordinate a unified response to states' deep sovereignty concerns, or national egoism, which creates obstacles to effective crisis management (Greer, 2020; Fabbrini, 2013). Others highlight the inherent uncertainty of transboundary crises that complicate decision-making in the EU (Boin, 2018, p.96). While these explanations certainly play a role, they alone are insufficient to explain why the uncertainty in the Covid-19 crisis became so manifested. Thus, this thesis sheds light on a more fundamental weakness, namely the *uncertainty over the division of competencies* between the EU-level and the member states. Simply put, it is this uncertainty over clear provisions which institutions at what level have competencies and decision-making powers. Consequently, in crises such as Covid-19, the EU often acts in an experimental setting whereby institutions go beyond their assigned powers or risk institutional paralysis.

The uncertainty over the division of competencies in crises is a classical federal problem. Federal systems inherently involve the division of power and competencies between different levels of government (Watts, 2008, p.163). At its core lies the challenge to balance 'self-rule' and 'shared rule' (Fossum & Jachtenfuchs, 2017, p.477). The EU's governance system with its multiple, overlapping layers of jurisdiction shares similar features as federations (Riker, 1964). The EU's federal design is however much more complex and muddled than that of fully-fledged federations. The EU has no such thing as a 'federal constitution' that clearly defines the responsibilities between the multiple levels. Additionally, the EU's executive features are considerably weaker, as federations - despite prioritizing a balance between self-rule and shared rule - often include provisions, such as crisis mandates, to enable quick and informed decision-making (Wolinetz, 2011, p.33). In EU CM, the higher level (e.g., the European Commission) has weaker capacities compared to the lower level (e.g., member states). Thus, compared to federal states, the EU is highly asymmetrical. Nonetheless, the EU just like federations shares the same challenge of 'upscaling' and 'downscaling' competencies, decision-making, and resources in a timely and effective manner in crises.

Given the similarities between the EU and federations' structures, when it comes to the problem of division of competencies it is not far-fetched to conclude that the EU can learn from federations. Crisis *learning* is essential to investigate how past failures can be remedied in future crises. Quite surprisingly, lesson-drawing remains one of the most underdeveloped aspects of crisis management (Stern, 1997). Covid-19 provides an ideal opportunity in the form of a 'policy window' for change and learning (Kingdon, 1984). Germany, a mature federation, stands

out for its well-managed coordination between the states (*Länder*) and the federal government (*Bund*) during the Covid-19 crisis. Despite some difficulties in harmonizing measures, the German federation provided for both, localized responses and harmonization when needed, by relying on its pre-established consensus-building culture and coordination mechanisms (Färber, 2022, p.66). Meanwhile, the U.S. despite its high infection rates<sup>2</sup> is praised for its vaccine mobilisation efforts that granted early access to millions of vaccine doses (Frank et al., 2021). While acknowledging some downsides, both federations demonstrate the benefits of federal governance frameworks and the divisions of competencies in crises.

### ***1.2 Research aim and question***

Encapsulating some but not all federal features, the EU has been characterised as a federation *sui generis* (Wolinetz, 2011, p.29). Unfortunately, the ‘*sui generis*’ label has led scholars to overlook its comparative advantage. As a result, the EU often remained caught in evaluating itself on its premises. Yet, given its federal characteristics, the EU constitutes an ideal case for comparative research (Trömmel, 2011; Fossum & Jachtenfuchs, 2017). Despite some older contributions, there is a lack of direct comparisons between the EU and other systems (Scharpf, 1988; Hix, 1998; Kreppel, 2012). Quite remarkably until today, its comparative potential has not been fully utilized. Thus, by comparing the Covid-19 response between the EU and two mature federations, namely the U.S. and Germany, this thesis makes a unique attempt to demonstrate that the EU can learn from more established federal formal structures and procedures. *This thesis aims to deepen our understanding of what the EU can learn from Germany and the U.S. in addressing transboundary crises.* In doing so, it addresses the following three research questions:

- What was the problem of the division of competencies in EU crisis management of Covid-19 in concrete terms?
- How did the U.S. dual federal system and the German cooperative federal system address the Covid-19 crisis, specifically the vaccine procurement?
- What can the EU learn from Germany and the U.S. in addressing health crises?

This thesis uses an *explorative* research strategy arguing that federalist ideas can inform an approach toward EU CM that is both *analytical* and *prescriptive*. Unfortunately, federalism continues to be stigmatized and downplayed resulting in a noticeable reluctance to explore EU

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<sup>2</sup> partly due to the highly politicised response under the Trump administration



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CM through a federal lens (Fossum & Jachtenfuchs, 2017, p.474). Yet, this thesis shows that a federal analogy serves as a crucial tool, not only in reflecting the current structure of the EU but mainly in revealing the core weakness of EU CM: the struggle over the division of competencies. Hence, the contribution of the thesis is twofold: on the one hand, it builds a theoretical framework that employs a federal lens as an analytical and prescriptive tool to understand EU CM. As “federalism is not just a general theory that just waits to be applied to the EU” this thesis thereby contributes to exploring how federalism as a scientific tool can inform EU CM (Fossum & Jachtenfuchs, 2017, p.473). Second, it provides a first hunch on how a federal framework can be applied to the EU, specifically by taking the Covid-19 vaccine procurement as a case study. Ultimately, this thesis provides policy implications entailing how the EU can improve its institutional structures, coordination mechanisms, and response strategies.

This thesis is divided into six chapters. Chapter 2 provides a brief background on the emergence of transboundary crises and the development of the EU’s crisis management capacities. Chapter 3 reviews previous literature including studies on the EU’s effectiveness in crisis response, comparative federalism, and the EU as a federation *sui generis*. In Chapter 4, this thesis derives a preliminary theoretical framework that combines federalism and crisis management. Chapter 5 presents the research design that uses a comparative case study method as well as the analytical framework. This follows the analysis in chapter 6, divided into the Covid-19 response and vaccine procurement of the EU, Germany, and the U.S. Chapter 7 discusses the findings and Chapter 8 ultimately provides the conclusion, including policy recommendations.

## **2. Background – Transboundary crises and the EU**

Crises have become an intrinsic feature of modernity itself (Beck, 1992, p.19). A crisis is defined as “a serious threat to the basic structures or the fundamental values and norms of a social system, which—under time pressure and highly uncertain circumstances—necessitates making critical decisions” (Rosenthal et al.,1989) Crises are thus characterised by three criteria: threat, urgency, and uncertainty. As our systems become more interconnected, crises increasingly emanate transboundary spaces, making it harder for policymakers to respond in a timely and effective manner. They defy ready-made or conventional solutions. Thereby they pose significant challenges to any administrative system based on borders and boundaries (Boin, 2018, p.95). The Covid-19 pandemic illustrates this dynamic: a highly contagious virus

originating in one region quickly spread across the globe, overwhelming healthcare systems, disrupting economies, and straining governance at all levels.

In the past decade, the threat environment changed drastically, highlighting the need for international, collaborative responses (Ansell et al., 2010, p.204). Thus, CM, traditionally a core task of the state, gradually shifted towards international organizations such as the EU. The Treaty of Maastricht (1992) laid the groundwork for EU CM by launching the Common Foreign and Security Policy (CFSP) (Boin et al., 2013, p.57). This was followed by more and more steps towards institutionalizing CM, such as the creation of the EU Civil Protection Mechanism (Pirozzi, 2015, p.287-8). In 2010, the Lisbon Treaty brought about key strategic, institutional, and operational innovations, including the enhancement of the European External Action Service, commanded by the High Representative as well as the Solidarity Clause (idem, p.2878). The multiple, transboundary crises of the past decade also contributed as a driver for ‘crisisinduced integration’ (Farrara & Kriesi, 2021). While member states have always remained reluctant in transferring powers to the EU, after every crisis they called for more EU coordination and granted more powers to the EU.

Today, the EU features an impressive array of policies, experts, and mechanisms to address crises (Boin et al., 2013, p.2). They provide the necessary framework if member states decide to coordinate a joint crisis response. Despite this potential, the EU often struggles to act effectively in crises. A core challenge lies in the “very little agreement on how crisis and security management efforts [...] can be effectively and legitimately organized at the European level” (idem, p.3). Decision-making is already complex in ordinary times, but crises exacerbate this situation, requiring swift action that is often impeded by unanimity voting in the Council. Furthermore, the EU Treaties rarely provide a constitutional architecture for crises, especially in policy areas like health or internal security that remain largely under member state control (Ryde, 2022, p.11). Consequently, the EU relies on ad-hoc procedures, resulting in fragmented and reactive responses.

These limitations not only hinder the EU's immediate crisis responses but also raise broader questions about its long-term effectiveness. For a long time, the standard EU response to crises was ‘more Europe’ (Hix, 2018, p.75). However, in light of the multiple crises culminating in growing nationalist movements and EU-skepsis, such a forward approach of integration is unlikely to work. It is long overdue to rethink the EU’s incremental, sectoraloriented approach towards crisis management in more bold, innovative, fundamental terms— through a ‘federal lens’.

### **3. Literature review**

This section reviews the literature on EU CM and federalism. It starts with scholarship on assessing the effectiveness of the EU's crisis response. This is followed literature on comparative federalism and the EU. Finally, this thesis reviews how studies have understood the EU and federalism scholars have treated the EU in a comparative sense, as federation *sui generis*.

#### ***3.1 Previous studies on assessing the EU's crisis response***

Transboundary crises pose significant political-administrative challenges that must be addressed in an effective and legitimate manner. These challenges include coping with uncertainty, providing surge capacity, organizing a response, and communicating with the public (Ansell et al., 2010, p.197). Transboundary crises therefore necessitate 'unprecedented cooperation,' which is inherently challenging due to the widely distributed capacity and authority across multiple jurisdictions (idem, p.204). Consequently, a growing number of scholars have turned to studying the EU's performance in addressing crises (Boin & Rhinard, 2022; Fabbrini, 2013; Backman & Rhinard, 2017). Often, literature takes Ansell's 'boundaryspanning' criteria as a starting point to assess crisis management, which emphasize the need for organizational and procedural tools (2010, p.200). These include *distributed sense-making*, such as crisis detection, analysis, and decision-making, *swift coordination*, *surge capacity*, and a *transboundary authority* to provide clear leadership and task allocation (Ansell et al., 2010, pp.201-3). Others such as Backman and Rhinard (2017) more refined criteria, including detection, sense-making, decision-making, coordination, meaning-making, communication, and accountability, aim to capture both the process as well as the challenging tasks involved in effective transboundary crisis management. They reveal that the EU excels in detection and sense-making capacities, while decision-making capacities lag.

These criteria enabled scholars to systematically assess the EU's performance in addressing crises and reveal strengths and weaknesses. Depending on the criteria, assessments vary, however, even in the same crisis. In evaluating the EU's Covid-19 response, Goniewitz et al. (2020) for example find that decision-making was too focused on political and economic consequences, falling short of adequately addressing public safety and security. By focussing on detection, mobilization, and publicness, Boin and Rhinard (2022) assess the EU's performance in positive terms, finding that after a slow start, the EU managed to mobilize resources (idem, p. 656). While these studies provide valuable insights into specific performance metrics, they leave open the broader question of how the EU's governance system itself influences its crisis response capabilities.

Rarely do these assessments consider the EU's institutional architecture and the structural constraints it imposes on crisis management. This is quite remarkable as scholars such as Scharpf (1988) have long argued that the EU operates within a framework of "joint decision traps," where overlapping competencies complicate decision-making. The EU's multilevel governance system indeed constitutes a complex structure, characterized by the interplay of supranational and intergovernmental decision-making, which poses inherent challenges to coordination and rapid response. As Christensen et al. (2016) argue, organizational capacity is deeply intertwined with governance structures, and in the case of the EU, the absence of clear lines of authority further complicates matters. Scholars such as Fossum and Jachtenfuchs (2017) have therefore called for a deeper exploration of the EU through a federal lens, emphasizing that its structural challenges bear similarities to federal systems grappling with overlapping and unclear competencies.

### ***3.2 Comparative Federalism and the EU***

Federalism refers to the division of power between multiple levels of government, each holding some degree of autonomous decision-making authority (Burgess, 2006, p.33). It is therefore defined as 'self-rule' plus 'shared rule' (Elazar, 1994). Wheare's classic 'Federal Government' in 1946 launched the intellectual debate on contemporary comparative federalism. It was the first detailed attempt to rigorously compare the federal systems found in the USA, Canada, Australia, and Switzerland (Burgess, 2006, p. 27-8). His work triggered a whole generation to do comparative analysis and remains relevant until this day. Comparative federalism, in its classical sense, investigates the differences and similarities among federal political systems, specifically examining how various systems operate and distribute the power between national and subnational governments (Burgess, 2006, p.1). Thus, it was largely concerned with the internal dynamics of federations in the form of nation-states.

Over the past decade, comparative federalism slowly expanded, including multinational federations such as the EU. Federalism and the EU have a complex relationship, dating back to early European integration. Following early enthusiasm for using federalism as a model for European integration, this idea was soon dismissed. Instead, international relations theories, most prominently neofunctionalism and intergovernmentalism dominated EU studies (Fossum & Jachtenfuchs, 2017, p. 471). Only in the early 2000s, the heated debate about a European constitution sparked renewed interest in federalism, with scholars viewing it as a positive and liberating model of political organization (Watts, 2008, p.4). Prominently, Germany's foreign minister, Joschka Fischer, described the EU as 'European Federation' (Börzel, 2003, p.1). The following years saw numerous federal attempts to discuss the "*finalité politique*" of Europe

through a federal analogy. Studies tackled the question of how federalism is linked with the decision-making of the EU's multi-level governance structure (Scharpf, 1988), how a "federal vision" captures the EU (Nicolaidis & Howse, 2000), and reveal that federalism has analytical value to describe the structure of the EU (Börzel & Hosli, 2003). Watts (2008) and Burgess (2006) published systematic work on comparative federalism, including hybrids such as the EU (pp.56-8).

Today, the federal spirit seems to have faded. Despite abundant contributions in the early 2000s, federalism in the context of the EU is dismissed as an unsuitable analytical tool. Several reasons explain why federalism is often downplayed (Fossum&Jachtenfuchs, 2017, pp.472-4): first, it is seen more as a political solution than an analytical framework, often conflating political values with the institutional structure of federation. Second, federalism appears incompatible with the EU's reality, as member states resist the idea of transferring more power, questioning whether federal theory could address the EU's unique challenges. Third, there is a tendency to equate federalism with the U.S. model, overlooking the context-specific nature of the European experience. Fourth, mistakenly, federalism is too often associated with statehood (Börzel & Hosli, 2003). Consequently, "the stigmatization of federalism as ideological and as inappropriate for scientific analysis has become a hindrance to understanding" (idem, 2017, p. 474).

A more nuanced look into comparative federalism however reveals that its analytical value can provide key insights for the EU. Against the backdrop, "federalism as a principle of organizing authority and power is not necessarily wedded into statehood" (Börzel & Hosli, 2003, p.2). Put it differently, federalism does not rely on a state centric ontology. In addition, scholars find increasing similarities between the EU and the institutional nature and challenges inherent to federations. Thus, Fossum and Jachtenfuchs (2017) propose that bringing comparative federalism and EU studies once again closer together will yield important insights. Doing so, it is crucial to consider the EU's unique context and being explicit about its federal characteristics. Thus, the last part of the literature review turns to scholars that define what the EU is and is not, in federal terms and what this entails for its comparative value.

### ***3.3 The EU – a federation sui generis***

The EU shares some but not all federal characteristics. Börzel (2003) points out that it is marked by dual governance, as the EU and its member states function as distinct levels of authority, each with direct power over citizens. Second, EU law overrides national law, ensuring uniformity. Third, due to the overlapping jurisdictions, there is shared decision-making. Fourth,

decisions are increasingly made by majority voting, but smaller states remain overrepresented in key institutions to protect minority interests. Fifth, the European Court of Justice resolves disputes between EU institutions, member states, and citizens. Taken together, these features mean that its institutions form a strong counterweight to the member states, bringing it closer to a federal system (Trömmel, 2011, pp. 41-42).

Nonetheless, the EU still differs substantially from fully-fledged federations. First, the EU's 'upper government level' is not sovereign. It depends on the lower level—its member states—for the transfer of powers and lacks the capacity to generate competencies independently. Thus, the EU is highly asymmetrical compared to federal states (Fossum & Jachtenfuchs, 2017, p. 475). Second, the EU lacks a clear constitutional division of powers (Burgess, 2006, p.237). Third, member states remain the ‘masters’ of the treaties, holding exclusive power to amend them by unanimity (Börzel, 2003, p. 4). Fourth, the EU lacks an essential element of democratic control, as the executive power, the Commission, is not determined by citizens. Scholars therefore view the EU as a ‘case of federalization’, a ‘new contemporary federal model’, a ‘hybrid’, a ‘compound’ federal entity, a confederation or a ‘federation *sui generis*’ (Fabbrini & Sicurelli, 2004; Burgess, 2006; Fossum & Jachtenfuchs, 2017). The EU has a “considerable amount of federal features but [lacks] a federal tradition, a federal ideology and advocacy to a federal goal” (Verdun, 2016, p.108).

Conceptualising the EU as federation *sui generis* enables comparison. Its multi-level structure parallels with federations, making it suitable for comparative analysis. However, “inviting comparison is not the same as actually doing it” (Wolinetz, 2011, p.36). Among the few established authors that treat the EU in a comparative context are Hix (1998) and Kreppel (2012), applying propositions developed in other systems to the EU. In the beginning of the 2000s Börzel and Hosli (2003) argued that the EU is likely to be moving more toward the German cooperative federal system in which competencies are mostly (p.13-6). Fabbrini & Sicurelli (2004) revealed that the EU parallels more with the US in structural size and political and historical features (p.238).

While there is some existing literature linking comparative federalism with the EU, scholars have been hesitant to apply it, particularly in the field of crisis management. However, recent ‘polycrises’ have sparked renewed interest in this area. Caravita et al. (2022) highlight that the EU struggled to manage emergencies like the Covid-19 pandemic, urging a rethinking of the current distribution of competencies. Verdun (2016) suggests that the EU can learn from the decentralized, ‘confederal’ Canadian system. Given its comparative potential, this thesis argues that federalism offers valuable insights for EU crisis management. The EU has gained

significant competencies in crisis management in recent years, and comparative federalism provides a useful framework to draw lessons from other federations. This thesis will proceed by ‘unpacking federalism’ and establishing a theoretical framework for EU crisis management.

#### **4. Theoretical framework**

Federalism itself does not represent a fully-fledged theory. As Fossum and Jachtenfuchs (2017) put it, “federalism is not a general theory that just waits to be applied to the EU. It is itself in constant development, and many of the assumptions that underpin federal theorizing are highly context-dependent” (p.473). Therefore, this section derives an individual theoretical framework. Firstly, it discusses the nature and conceptual underpinnings of federalism by distinguishing it from *federation* and *federal political system*. Secondly, it turns to multi-level governance, deriving the value of federalism for the EU. Thirdly, it establishes *comparative federalism and crisis management*. Fourthly, this thesis differentiates between *dual* and *cooperative* federalism.

##### ***4.1 Towards a theoretical framework of federalism and crisis management***

###### *Laying the foundations*

Today, some twenty-five countries encompassing more than forty per cent of the world’s population are considered federal systems (Watts, 2008, p.1; Steytler, 2022, p.2). The spectrum of federal systems is wide, including unions, constitutionally decentralised unions, federations, confederations, and hybrids. (Elazar, 1994). Watts (2008) distinguishes between mature federations such as the US, Switzerland, Canada, or Germany; emergent federations which include Spain, Mexico, Belgium, or Brazil; confederal-federal hybrids such as the EU as well as micro federations and post-conflict federal experiments. Federal systems also vary in the degree of (a)symmetry, in constitutional status, in resource allocation, in the degree of centralisation and decentralisation, or in their linguistic and cultural diversity (Hueglin, 2013, p.44). Thus, there is no ‘standard’ federal model.

Defining federalism kept scholars busy for centuries, including scholars such as Aristotle, Althusius, Tocqueville, Plato, Montesquieu, Locke, Wheare, Riker, Watts, Elazar, Saunders, and Young (Watts, 2008). While there is no universal agreement on what federalism means, most modern federalist scholars agree with Elazar’s definition that federalism involves “self-rule” with “shared-rule” (1994). This means that sovereignty is being shared and divided between different levels of government rather than being located at one level alone (Börzel, 2003, p. 1). This rather open definition is particularly useful for four reasons: first, it captures the diverse and complex nature of federal systems around the world, second, it reflects the

adaptable nature of federalism, including the notion of change in federal systems over time and in response to cultural, political or economic circumstances, third, Elazar's definition can be applied to non-state entities such as the EU, and fourth, it enables scholars and practitioners alike to understand federalism as form of governance and as political philosophy.

It is remarkable that despite its widespread use and rich scholarship there is no such thing as a fully-fledged theory of federalism (Burgess, 2006, p. 283). As Scott (2011) puts it, "given the frequency of its practice it is shocking how anaemic our theory of federalism is" (p.1). Most often federalism is studied on a case-by-case basis. Burgess (2006) maintains that at best there is a partial theory based on "rigorous conceptual analysis and the pursuit of terminological precision" (p.1). In the next sections this thesis derives a conceptual framework based on federal theorising to pave the way for a genuine comparative analysis.

### *Terminology*

To establish a clear foundation, this thesis first addresses the delicate issue of *terminology*. Federal theory distinguishes between *federalism* and *federation* (King, 1982). Federalism is a normative, philosophical concept embodying values and principles such as shared power, described as "an idea, an ideal, and an ideology" (Palermo, 2017, p. 8). It is inherently different from *federation*, a merely descriptive term referring to a particular institutional set-up. Unfortunately, federalism is often downplayed as merely a system of governance. This perception may stem from two factors: first, all existing federations are states, leading to the assumption that federalism is tied to statehood, an issue that "has long plagued the European – and no less the comparative – literature on federalism" (Fossum & Jachtenfuchs, 2017, p. 477). Second, in the U.S., 'federal' is synonymous with 'national,' while in German, 'föderalistisch' highlights the diversity of entities within a union (Palermo, 2017, p. 9). Recognizing federalism as a rich concept encompassing values, beyond governance, is essential for analysing the EU, a unique federal system not confined to state structures.

Before defining key characteristics of federations, it is useful to turn to Watts (2008) who suggests distinguishing between *federation* and *federal political systems* (p.8). Both terms are descriptive referring to forms of political organisation. *Federal political systems*<sup>3</sup> refer to any entity with two or more levels of government, thereby combining *shared-rule* with *regional self-rule* (idem, p.9). Hence, federal systems can be seen as broad genus that encompasses

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<sup>3</sup> In this thesis also referred to as federal systems.



confederations, hybrids such as the EU, unions, or federations. *Federations* represent a particular species or ‘sub-category’ within federal political systems (idem, pp.8-9). This

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distinction is particularly valuable for this research, as the selected cases represent federal political systems, with two fitting the criteria for federations.

### *Conceptualising federations*

Following Riker (1964) for a constitution to be federal it needs to match three characteristics: first, it needs to have two levels of government ruling over the same land and people, second, each level should have at least one area of action in which it is autonomous, and third, there has to be some guarantee of the autonomy of each government in its own sphere (in Burgess, 2006, p.36). Watts (2008) includes some more nuance in his characterisation of federations (p.9). Accordingly, federations must include:

1. Multiple levels of government
2. Division of powers: Legislative, executive, and revenue powers are divided between two levels, ensuring each has autonomy in designated areas.
3. Representation of regions: Regional perspectives are formally represented in decisionmaking.
4. Supreme constitution: The constitution is written, supreme, and requires approval from regional units for amendments, preventing unilateral changes.
5. Conflict resolution: An institution, like courts or an upper house, resolves disputes between government levels.
6. Intergovernmental cooperation: Institutions and processes are in place to manage shared or overlapping responsibilities between government levels.

### **4.2 Federalism and Multi-level governance**

In the early 1990s, the concept of multi-level governance (MLG) introduced a new way to understand the EU. Ever since, MLG manifested itself as the dominant framework through which the EU’s system is analysed. MLG is defined as “*the dispersion of authority within and beyond national states*” (Hooghe et al., 2020, p.197). It was initially formulated for and directly applied to the EU (Stein & Turkewitsch, 2018). Globalization and economic integration have driven policy-making processes vertically upwards, downwards, and outwards to private or voluntary sectors (idem, p.43). Thus, authority is increasingly transferred from the nation-state

to subnational levels while simultaneously, also shifted to international organizations such as the EU.

Despite being a very recent addition to the theoretical literature, MLG and federalism can be grouped under one general rubric for analytical purposes. Both, federalism, and MLG are governance theories that share similar normative assumptions (Stein & Turkewitsch, 2008, p.2). Decision-making power is shared between transnational, state, sub-national, and non-state actors to prevent overly centralized government. Additionally, both align in normative concerns regarding conflict resolution, protecting minority interests, and balancing societal unity. Hence, most European and MLG theorists view the two concepts in complementary rather than contradictory terms.

While there is academic consensus that the two frameworks can coexist, there has been a tendency to prioritize MLG as the more suitable tool for understanding the EU, due to its lack of the “ideological baggage of federalism” (Fossum & Jachtenfuchs, 2017, p. 474). MLG is also considered more appropriate because it is not tied to nation-states. However, this thesis argues that, particularly in the context of EU crisis management, it is time to reintroduce the analytical value of federalism. Federalism offers several advantages over MLG, serving as analytical as well as *prescriptive* tool. First, while MLG excels in describing what the EU governance system is, it is unable to explain or predict (*idem*, p. 10). Second, while MLG tends to overemphasize subnational actors, federalism recognises both, the autonomy of subnational entities and the critical role of the federal government. Third, MLG tends to be overlay processoriented, underestimating institutional structures, making it conceptually scattered. Fourth, MLG’s openness allows flexibility but can hinder clear competence allocation, critical during crises.

In addressing transboundary crises, federalism offers a more structured framework with analytical, ontological, and normative tools. Federalism, derived from *foedus* ("treaty"), in fact implies formal agreements. More formalized procedures are often more efficient and less costly than MLG (Stein & Turkewitsch, 2018, p. 14). This thesis builds on Börzel and Risse’s (2000) argument that “the theoretical tradition of federalism provides constitutional structures that can be applied to systems of multi-level governance,” and that “further exploration of federalist concepts in the framework of multi-level governance” is valuable, as federalism provides essential principles for organizing political power territorially (p. 3). Thus, while this thesis does not dismiss MLG, it argues that federalism’s ability to function both analytically and prescriptively makes it a more comprehensive and holistic tool for understanding the EU’s crisis management. Importantly, applying federal principles to the EU does not require the creation of

a federation, but instead enriches the EU by facilitating lessons learned from other federal systems.

#### ***4.3 Comparative federalism as analytical instrument in crisis management***

An overarching theory of effective crisis management does not exist. But studies of crisis performance do offer important insights. According to Weick (1988) “improvisation, creativity and probing of solutions” are key components of CM (in Ansell & Bartenberger, 2019, p. 9). Crisis management is in fact a process of “learning-while doing”, a trial-and-error strategy (idem, p. 10). Comparative federalism offers a fresh yet established lens through which the crisis management processes in the EU can be explored.

Although comparative federalism is not typically associated with crisis management, the increasing frequency of transboundary crises has highlighted the critical role that federal structures play (Birkland et al., 2021; Verdun, 2016; Hegele & Behnke, 2013). While a comprehensive theory linking federalism and crisis management has yet to be established, existing studies highlight a number of foundational assumptions that underscore their interconnection. Federal systems inherently distribute power, responsibilities, and resources across multiple levels of government. This division of authority profoundly influences how crises are managed, presenting both challenges and opportunities.

At the heart of federalism lies the delicate balance between self-rule and shared rule. Doing so, federal systems rely on *competition* and *cooperation*. An appropriate balance between cooperation and competition is sufficient for the systems’ survival and efficiency (Elazar, 1994, p. 193). Crises such as the Covid-19 pandemic test this balance, as they place immense pressure on the federal structure. Excessive competition can therefore risk fragmented and uncoordinated responses, whereby regional governments act in isolation, undermining the overall crisis management efforts. Similarly, the institutional complexity of federal states might complicate ‘respond[ing] to crises in the rapid, focussed, complementary, and coordinated’ manner (Kincaid et al. 2010, p.6). These factors often lead to the assumption that federal systems inherently delay or complicate decision-making during emergencies.

However, a more nuanced perspective reveals that federal systems also offer significant advantages in crisis management. Federations establish clear structures for cooperation, a critical element of effective crisis response (Palermo, 2020). By dividing competencies and powers in a stringent manner during ordinary times, federations create a foundation for clarity in roles and responsibilities during crises (Watts, 2008, p.136). This institutional preorganization can streamline decision-making and reduce confusion during emergencies (Benz and Broschek, 2013; Hueglin, 2013). Moreover, federations support tailored, localized responses that address

the specific needs of diverse regions (Chattopadhyay et al., 2022). Finally, the decentralization inherent to some federal systems fosters innovation, where states can act as ‘laboratories of democracy’ (Bohrn, 2021, p.99). Thus, federal systems can drive innovation, with regions experimenting with policies and solutions suited to their unique contexts, while cooperation enables coherent, coordinated responses that leverage the strengths of various levels of government.

To delve deeper into the relationship between federalism and CM, it is essential to examine *dual* and *cooperative* federalism, the two predominant models of federal governance. These models differ significantly in how they allocate powers, structure interactions, and define roles between levels of government. Understanding these distinctions is necessary to analyze how federal systems address the "who does what" struggles that frequently emerge during crises.

#### ***4.4 Dual and cooperative federal models***

Federal systems vary in how they allocate power: some emphasize the separation of exclusive policy powers, assigning distinct responsibilities to different levels of government, while others share powers across levels of government within the same policy area (Scharpf, 1988). Building on Montesquieu's concept of organizing political authority as *séparation des pouvoirs* or *distribution des pouvoirs*, two primary models of federalism have emerged: dual federalism and cooperative federalism. Each model embodies unique structural characteristics that influence crisis management. Dual federalism, with its clear separation of powers and responsibilities between national and regional governments, fosters greater autonomy and competition, potentially spurring innovation but also risking fragmentation (Börzel, 2003, pp.36). In contrast, cooperative federalism emphasizes shared responsibilities and collaboration, facilitating joint decision-making and resource sharing. This approach can enhance coordinated responses but may also pose challenges related to coordination efficiency. These two models provide a conceptual framework for examining how structural aspects of federalism influenced the crisis management of the Covid-19 pandemic.

##### *Dual federalism*

In dual federalism each level of government is exclusively responsible for legislation, implementation, and administration within its constitutionally assigned areas (Hueglin, 2013 p.29). As a result, this form reflects a clear vertical separation of jurisdictional spheres. Each government level has an autonomous sphere of competencies. Responsibilities are assigned by

sector, meaning that specific policy areas are exclusively allocated to either the national (e.g. defence, foreign affairs, interstate commerce) or the subnational governments (e.g. education, public health), with minimal overlap between the two (Börzel & Hosli, 2003, p.5). The principles of dual federalism, characterized by the clear separation of responsibilities and autonomy at different levels of government, resonate strongly with the structural features observed in the United States. Within its designated policy areas, each level of government holds both legislative and executive powers. Consequently, in dual federalism a sort of ‘duplication’ of government functions can be observed.

Decision-making is highly decentralized in dual federalism, with minimal involvement from one level of government in the decisions of the other. Subnational governments rely on voluntary coordination mechanisms, such as intergovernmental conferences, to articulate their interests in alignment with national priorities (Börzel & Hosli, 2003, p. 5). The institutional autonomy of subnational governments also ensures access to fiscal resources without direct federal intervention. This separation of powers reduces the need for vertically integrated party systems or other mechanisms to ensure cohesive representation of interests across levels (Hix, 1998, p. 23).

Dual federalism as mode of governance offers unique implications for CM. On one hand, it offers the novel promise of tailored responses suited to local contexts due to the relative autonomy of subnational governments that give room for regional experimentation (Knauer, 2022, p.5). On the other hand, such decentralised federal system might lack uniform coordination measures risking fragmented responses, with subnational and national efforts potentially conflicting or duplicating each other (idem, p.6). In transboundary crises such as Covid-19, this fragmentation may hinder the speed and coherence of responses.

### *Cooperative federalism*

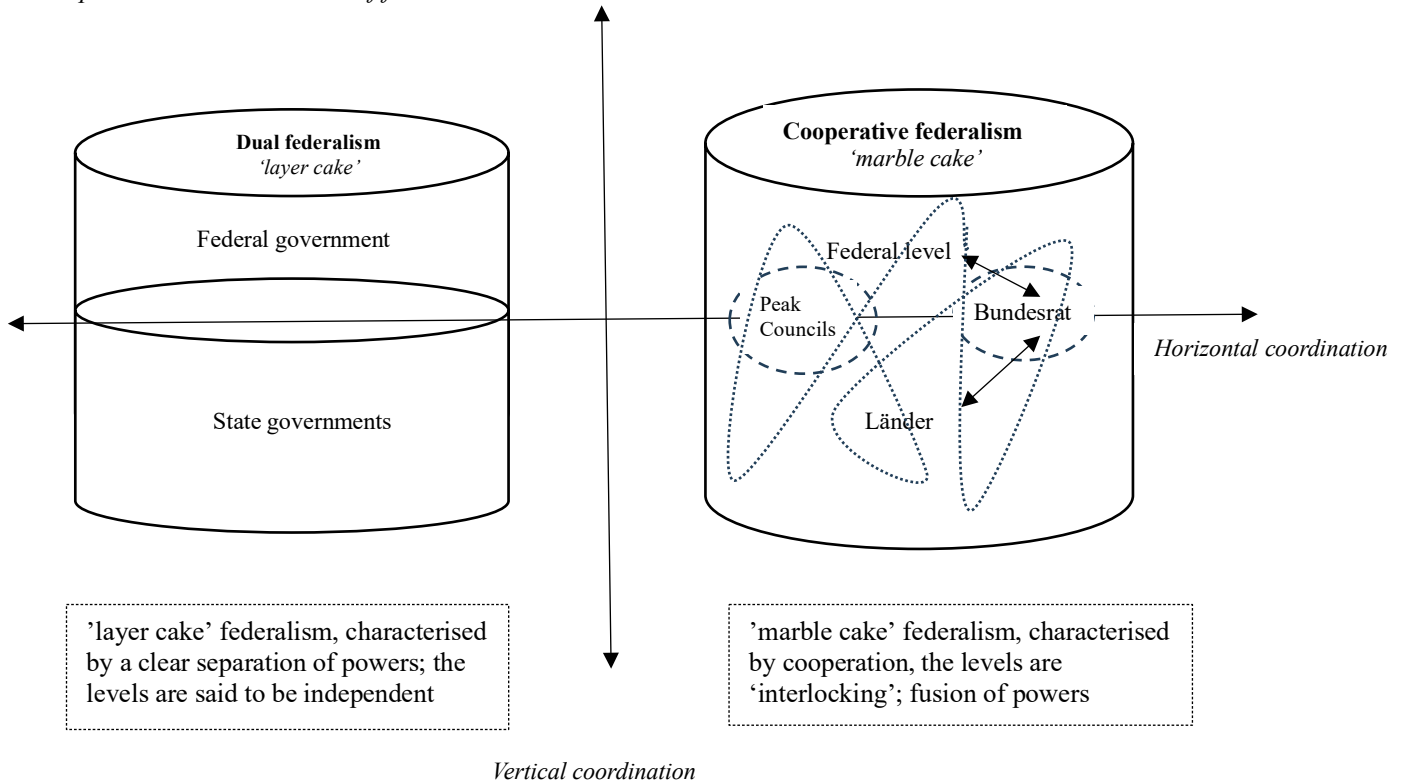
In contrast to dual federalism, cooperative federalism emphasizes shared responsibilities along *functional* rather than jurisdictional boundaries. Power-sharing can be organized in two ways: either by assigning framework legislative powers to the federal government or by employing concurrent powers shared between national and subnational governments (Hueglin, 2013, p. 30). This structure allows both levels to legislate and administer policies in the same areas, fostering a system of collaboration, whereby intergovernmental relations play a crucial role. A combination both, coupled with administrative federalism, where national laws are implemented by regional governments is notably exemplified in Germany.

In cooperative federalism, both central and regional governments actively participate in policymaking and administration, creating an integrated system of governance where “the two levels of political institutions are 'interlocking' rather than independent” (Hix, 1998, p. 23). This interdependence is institutionalized through mechanisms such as "executive federalism," where decision-making responsibilities are shared between executives at different levels of government (Börzel & Hosli, 2003, p. 9). For instance, in Germany, this is strongly reflected in the *Bundesrat* that represents subnational governments (*Länder*) at the federal level enabling them to influence national policy while ensuring their interests are safeguarded. This so called ‘*Politik- or Funktionsverflechtung*’ is best visualised by the ‘marble cake<sup>4</sup>’ metaphor as both layers of government are deeply inter-connected (Hegele & Behnke, 2013, p.21).

Cooperative federalism’s emphasis on close vertical and horizontal coordination has significant implications for crisis management. In particular the existence of crisis coordination mechanisms such as the peak intergovernmental councils and the *Bundesrat* provide an area for joint decision-making and information exchange. Yet, the need for consensus among multiple stakeholders can lead to delays in decision-making.

**Figure 1**

*Cooperative and dual models of federalism visualised*



<sup>4</sup> Originally the marble cake metaphor dates to Morton Grodzins (1984)

Note: This figure is an own illustration building on the *marble cake* and *layer cake* metaphor. This thesis employs cooperative and dual federalism as analytical tools to explore and compare power distribution in federal structures.

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## **5. Research Design**

Theoretically, the study of the EU is often conducted using international relations approaches. However, increasingly, scholars have found valuable insights by treating the EU in a comparative context. As Hix (1998) noted, “politics in the EC is not inherently different to the practice of government in any democratic system” (p.1). Building on the tradition of comparative federalism by scholars such as Watts (2008), Hix (1998), and Burgess (2006), this thesis adopts a comparative approach, comparing two federations, namely the U.S. and Germany to the EU CM. Guided by a pragmatist research philosophy, this study leverages the comparative lens to uncover nuanced similarities and differences between multilevel, dual, and cooperative federalist systems. The chapter first derives the methodology, including a comparative case study and case selection. Then follows a section on data collection and an analytical framework, ending with limitations.

### ***5. I. Methodology***

#### ***5.1.1 Pragmatism as a research philosophy***

This thesis is guided by a pragmatist research philosophy. *Pragmatism* is informed by an epistemology that emphasizes the generation of knowledge through action, experimentation, and discovery. It "mixes a hard-headed focus on facts with social values," thereby overcoming the dichotomy between positivism and interpretivism (Gillespie et al., 2024, p.1). Hence, pragmatism is an inclusive approach, embracing methodological pluralism. It is oriented towards practical issues, focusing on what works in real-world contexts (idem., p. 2). Doing so, pragmatists seek to learn from past events with the underlying aim that science can improve society.

The underpinning philosophical assumptions of pragmatism are well suited in guiding this *explorative* research. First, pragmatism is a particularity good fit for studying crisis management. Instead of neglecting or removing the uncertainty inherent to crises, it provides an approach to “try something and see if it works” by using trial and error strategies (Ansell & Bartenberger, 2019, p. 10). This is precisely what this thesis does, namely using a federal lens and explore what the EU can learn from it. Second, pragmatism's emphasis on discovery, and practical problem-solving matches this thesis (Gillespie et al., 2024). The purpose is not to test

a theory of comparative federalism in EU CM but to explore practical, real-world insights that can inform future crisis management in the EU.

Unfortunately, exploratory research is often unappreciated and dismissed as ‘guesswork’, ‘inspiration’ or ‘leap of faith’ (Gerring, 2004, p. 349). Instead, researchers often pursue the testing of ideas through rigorous analysis, also known as confirmatory/disconfirmatory research (idem, p. 350). Exploratory research holds however the promising and powerful advantage of shedding light on new ideas. In fact, most classics in social science are seminal works, derived from a new perspective. This thesis explores a federal lens – though not new but underexplored in the context of EU CM. Case studies enjoy a natural advantage in exploratory research (Gerring, 2004, p. 349). “It is the very fuzziness of case studies that grant them a strong advantage in research at exploratory stages” (idem, p. 350).

### ***5.1.2 Comparative federalism and the comparative method***

At the heart of this research lies comparative federalism. It entails the “study of the nature, operation, possibilities and effects of federal governance from across two or more cases” (Fenna, 2023, p. 25). It is not a method itself but provides the federal framework for this thesis. Comparative federalism is a branch of comparative politics, that most often uses the *comparative method* to reveal similarities and differences between political systems and identify patterns of behaviour (Magone, 2019, p. 2). By examining the practices and experiences across federal systems, it facilitates the researcher to gain insights beyond those gained from a single federation. A comparative method is thus particularly suited to the pragmatist research philosophy, as comparing enables learning through systematic discovery.

Classification is an inherent part of comparative analysis. The EU is neither a national state nor an international organization. It is said to be a unique system of governance (Wolinetz, 2011, p. 31). Hence, this has often discouraged comparison (Menon & Schain, 2007). Even in the comparative federalism context, it has been claimed that the EU – containing certain but not all characteristics of federations cannot be compared to federal states. However, this thesis in line with Burgess (2006) and Trömmel (2011) argues that the EU classified as federation *sui generis* contains great comparative potential. The *sui generis* label is not meant to characterise the EU as unique but rather to indicate that it is evolving beyond classical federalism (Trömmel, 2011, p. 42). Too often it has been argued that the EU due to its *sui generis* conceptualisation cannot be compared to federal states. However, the EU can be studied as ‘normal’ political system and doing comparisons in fact is key to permeate the EU’s complexity (Kreppel, 2012,



p. 642). Ultimately, the goal of comparative research is ‘to find intelligible patterns of commonality beneath apparent diversity’ (Marks in Caporaso, 1997, p.4).

### **5.1.3 Case selection – a comparative case study**

In comparative research, *case studies* serve as building blocks to examine and contrast specific units systematically. A case study is defined as “intensive study of a single unit with an aim to generalize across a larger set of units” (Gerring, 2004, p.341). In comparative research, the focus is not on a single unit but on comparing multiple cases to reveal patterns of similarities and differences (Ragin, 2013). A unit refers to a distinct, spatially defined phenomenon (e.g. country) that is observed either at a specific point in time or across a specified time period (Gerring, 2004, p. 342). This thesis conducts a comparative case study to analyse federal political systems. Thus, federal systems are the unit of analysis. Specifically, it examines how two mature federations, namely Germany and the U.S. addresses the Covid-19 vaccine procurement and distribution.

The Covid-19 crisis was selected for analysis based on three main reasons. First, as this thesis seeks to explore how the EU can address *transboundary* crises, Covid-19 serves as an example of a such a compounded crisis. A deadly virus spreading rapidly across policy sectors in all countries, its root causes are difficult to comprehend, thereby defying any readymade solutions (Boin et al., 2018, p. 95). Second, the EU’s response to Covid-19 was highly salient. In fact, among crisis managers, Covid-19 is said to be one of the hardest to manage (Boin & Rhinard, 2022, p. 663). Third, this thesis specifically zooms in the procurement question because it lies at the heart of the Covid-19 response with the Commission identifying it as ‘key’ and ‘best tool’ in the fight against Covid-19. The vaccine procurement furthermore exemplifies particularly well the federal dilemma of who does what in crisis response in the EU.

Comparing the EU with federations remains underdeveloped. Therefore, any sort of comparison with a federal state is insightful. This thesis chooses Germany and the U.S. to examine what the EU can learn from federations in addressing transboundary crises. Among the twenty-three federations worldwide there are seven ‘mature’ federations. Both, Germany, and the U.S. belong to these as they have effectively operated for at least half-century or more, exhibiting virtually all federal characteristics (Watts, 2008, p. 24). In fact, the U.S. is commonly used in comparisons with the EU (see discussion in Fossum & Jachtenfuchs, 2017, pp.468-9). Germany’s cooperative structure, in turn, provides a model for the EU to escape overlapping competencies (Börzel, 2003, p. 11). It is important to note that while both are federal in their institutional design, Germany and the U.S. have addressed the Covid-19 crisis differently. This

could be due to the type of federations: the dual system of the U.S. and the cooperative system of Germany. Both federations provide excellent cases to explore how can the EU learn from these.

## 5.2 Data collection

This research draws on a systematic collection of both primary and secondary sources to explore responses to the Covid-19 crisis across three federal systems, namely the EU, U.S., and Germany. First, this thesis identified appropriate primary sources for each case, consisting of policy documents (communications between the federal-state level, EU institutions), law (TFEU, *Grundgesetz*, U.S. Constitution), strategic documents (national Covid-19 response plans; vaccination strategies), and assessment reports from public agencies (FEMA, CDC, RKI). Primary documents were supplemented with newspaper articles and secondary research articles, enabling to contextualize, and analyse the rationale behind certain policies. All material is categorized according to their type and federations, in total 11 documents for Germany, 14 for the U.S. and 17 for the EU were identified (see Table 1). Third, the material is systematically analysed to extract relevant information aligned with how the Covid-19 was addressed (see analytical framework below for detailed criteria). To explore the latter, this thesis zooms in a specific case, namely the procurement and distribution of the Covid-19 vaccine. For the comparative analysis the following material was selected:

**Table 1**

*Empirical data for the analysis*

Type	EU	Germany	U.S.
Legal	[TFEU] Treaty of the Functioning of the European Union, Article 168 & 122	Grundgesetz (Basic Law) Art. 30; Infektionsschutzgesetz	Constitution Annotated, n.d; Tenth Amendment
Policy/strategic	European Central Bank, 2020; European Council, 2024; European Court of Auditors, 2022; European Commission, 2020a, 2020b	Bundesministerium für Gesundheit, 2020 & 2024; Robert Koch Institut, 2023	Centres for Disease Control and protection, 2020; The White House, 2020; FEMA, 2024,
Assessment reports	ECDC, 2020; Renda et al., 2024; SWP, 2023	Bohrn, 2021	Bohrn, 2021; CRS, 2022

Newspaper	BBC, 2021; Birnbaum et al., 2020	Lehmann, 2020; Berry, 2021, Bückner, 2020	Mueller, 2021; Estes, 2020, Zolan, 2020, Forgey, 2020
Other online document	AstraZeneca, 2020; Our World in Data, 2024, Costa-Font, 2020; Van de Rakt & Christl, 2020; de Ruijter, 2021	Richter-Kuhlmann, 2022	McKesson, 2024; Wilensky, 2021; Brown, 2022
Secondary literature	Kassim, 2022	Schweiger, 2022	Goel & Nelson, 2021
	Total: 17	Total: 11	Total: 14

**5.3 Analytical framework**

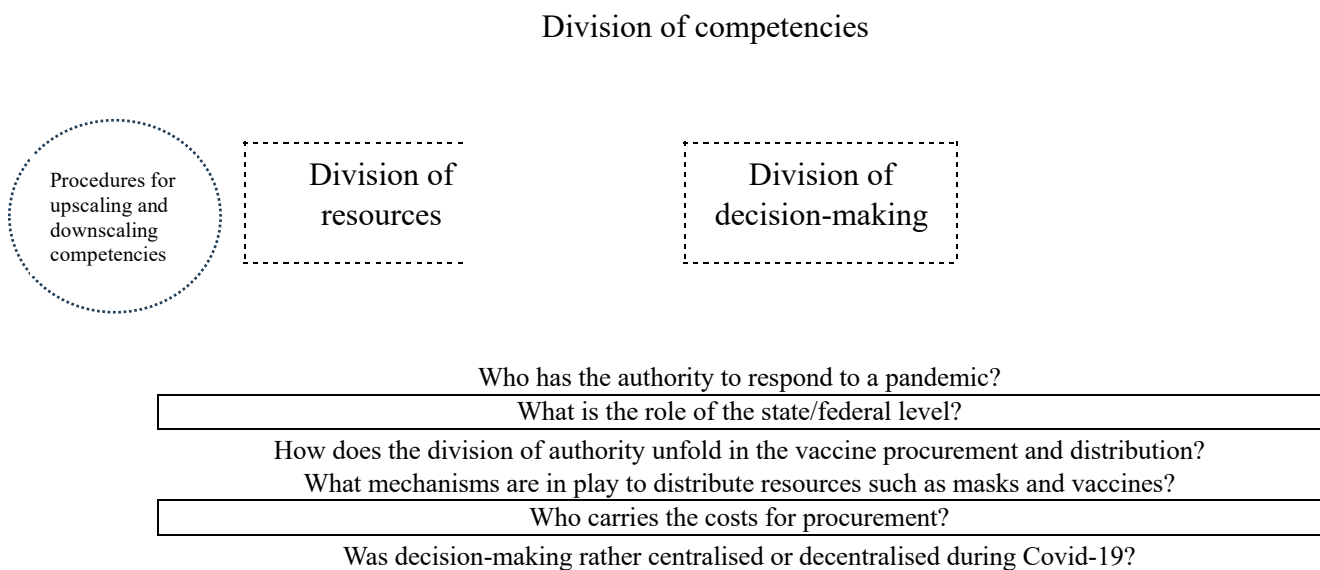
To give the comparative case study a consistent structure, the material is analysed according to a flexible template. Classics in comparative federalism have used criteria such as the structure of federations, the sociological bases of federations, the political economy of federations, the party system or constitutional review as bases of their studies (see Burgess, 2006, p.136). Steytler (2006) proposes to compare federations according to demographic, economic, social, political aspects and guiding questions such as ‘what are constitutional and legal framework in place?’, or ‘what was the state of preparedness?’ (p.6). Others again, focus on the distribution of authority, the distribution of finances, symmetry and asymmetry, or the level of centralisation and decentralisation (Watts, 2008, p.145). These criteria, traditionally used in comparative federalism are valuable as generic categories but need refinement to suit this research's specific focus on crisis management in federations.

As this thesis specifically zooms in the field of *crisis management* in federations, the comparative criteria have to address these crisis-related challenges. Coordination is often identified as critical in addressing a transboundary crisis (Christensen, 2016). It poses a dilemma because decisions have to be made swiftly, requiring a clear division of roles between the two levels of government in federations. Analysing how the levels *coordinate* and how they rely on procedures to *upscale* and *downscale* decisions and resources is key. Thus, this thesis derives the *division of competencies* as a core criterion. The division of competencies or authority, a central tenant of federalism, defines the allocation of legislative and executive authority across government levels (Burgess, 2006, p.136). Especially in crisis response, the clarity or ambiguity how competencies are shared and divided can significantly affect the speed and efficacy of the response.

The division of competencies fundamentally affects how *resources* are distributed and how *decisions* are being made in crises. Thus, this thesis takes the division of resources, and the division of decision making as sub-criteria to guide the analysis of the vaccine procurement in Germany and the U.S. Decision-making takes place both at the central and regional level with its dynamic varying according to the institutional set-up of a federation. This capacity is also closely linked to how resources are shared among the levels. In crisis, the availability and mobilization of resources play a pivotal role in determining an effective response (Burgess, 2006, p. 144). To conceptualise the division of competencies and subsequent decision-making and resources, this thesis conceptualises them through guiding questions including, ‘who has the authority to respond to a pandemic?’, ‘what is the role of the state/federal level?’, ‘how does this unfold in the vaccine procurement and distribution?’, ‘what mechanisms are in play to distribute resources such as masks and vaccines?’, ‘who carries the costs for procurement’, ‘was decision-making rather centralised or decentralised?’.

**Figure 2**

*Visualisation of the analytical framework*



**5.4 Limitations of the research design**

To end the research design, this section briefly reflects the four main limitations. The first limitation concerns the large scope of this research. This thesis aims to employ a comparative federal lens on crisis management, two fields that are rarely studied together, especially in the

context of the EU. To narrow the scope, this thesis on the one hand relies on the strength of the pragmatist philosophy, being practical oriented/trial and error strategy. On the other hand, the selection of only two federations (Germany and the U.S.) and a single crisis (Covid-19) helps to limit the scope. By specifically focusing on vaccine procurement and distribution, the study examines a rather ‘small’ case that reveals broader insights.

The second challenge concerns the comparison itself. Despite its federal features, the EU differs from fully-fledged federations, which must be kept in mind during analysis.

Additionally, Germany and the U.S. differ in their federal architectures, being cooperative and dual systems. This study does not aim to establish a causal link between federalism and crisis response but rather to identify patterns and explore lessons learnt for the EU.

Third, the absence of a well-established framework for studying federal systems in transboundary crises complicates the research. This thesis derives an individual framework, consisting of the division of competencies, resources, and decision-making as criteria, but further research is needed to explore other criteria.

Fourth, there are data limitations as this thesis relies on multiple types of sources, including newspaper articles and online documents. While a narrative analysis approach could provide a more critical perspective and detect potential biases, this method does not address the aim of this thesis.

## **6. Analysis**

The analysis is divided into three parts. First, the EU’s response to the Covid-19 pandemic is examined to establish a benchmark for comparison. Second, Germany’s crisis response, with a focus on vaccine procurement, is analysed. Third, the U.S. approach to vaccine procurement and distribution is explored. Each case study concludes with a synthesis that links the findings to the respective federal structures of Germany (cooperative federalism) and the U.S. (dual federalism).

### **6.1 The EU’s pandemic response and vaccine procurement**

The Covid-19 crisis posed a severe stress test to the EU CM. The EU’s early warning systems, including the cross-institutional crisis management system were activated rather swiftly, but warnings did not translate into political action (European Commission, 2020a; ECDC, 2020). Member states reacted in different ways to the unprecedented threat: heavy testing in Germany, immediate border closures in Poland and Austria, the centralisation of healthcare in Spain, quarantines in some regions in Italy, school closures in the UK (Costa-Font, 2020). Member states competed against one another for ventilators and protective equipment, undermining each

other's supplies. Tensions increased when the pleads for help by Italy and Spain were met with categorical rejection of Germany and the Netherlands (Van de Rakt & Christl, 2020). Neither the member states nor the highest political levels in the EU managed to address the threat in a timely manner or to coordinate action.

In an attempt to provide support to the overwhelmed member states, the EU relied on its strength in the Single Market and adopted the €750 billion Pandemic Emergency Purchase programme as well as the historic €2 trillion recovery deal (European Central Bank, 2020). The “EU appeared faster at putting economic measures than health measures”, a striking reflection of the Union’s priorities and competencies (Renda et al., 2024, p. 8). When it comes to coordinating a crisis response in health-related matters, the EU struggled much more. Importantly, the challenge lies not per se in health being a *shared* competence, rather it is the uncertainty of what roles member states, and the EU should take. Furthermore, the Covid-19 pandemic once more underlined the absence of a holistic crisis management approach in the EU.

The EU early identified vaccines as a priority to combat the threat (European Court of Auditors, 2022, p.4). In June 2020, after the UK and a month after the U.S, the Commission published its Strategy for Covid-19 Vaccines, proposing central procurement (European Commission, 2020b). Certainly, this was the most ambitious, and centralised procurement the EU had ever seen, marked by a rapid pace compared to the usual duration of EU decisionmaking (European Court of Auditors, 2022, p.16). Despite certain achievements, procuring vaccines was not straightforward and exemplifies the key challenge, namely the uncertainty over the division of competencies well.

### ***6.1.1 The case of joint vaccine procurement***

Jointly procuring vaccines proved to be a challenging endeavour. In April 2020 France and Germany together with Italy and the Netherlands took matters into their own hands and started to negotiate vaccine supplies (AstraZeneca, 2020). On June 13, four days before the Commission announced their common strategy, the group had reached an agreement with AstraZeneca to supply up to 400 million doses, with deliveries starting at the end of 2020. This shows that the four member states doubted the Commission’s ability to deliver on the vaccine procurement. They simply proceeded with their own initiative. It also reveals that there was uncertainty over who is procuring vaccines effectively.

The role of the Commission in vaccine procurement was by no means given. All 27 member states first had to agree to the Commission procuring vaccines on their behalf

(European Commission, 2020b). Decision-making is already slow in ordinary times, but in a crisis such as the pandemic it becomes even more tricky as decisions need to be made swiftly. Furthermore, the legal basis complicated matters. Health policy falls into the realm of the member states (Art. 168 TFEU, 2012). The EU only has *supporting* competencies to provide coordination and advice and no basis for *harmonization*. Fully-fledged federations often provide a stronger and especially *clearer* legal basis for harmonization and greater centralized intervention. This peculiarity of Art. 168 TFEU complicates crisis management in the EU. Thus, legally, vaccine procurement was based on the Emergency Support Regulation derived from Article 122 TFEU that allows the Council to adopt mutual assistance measures between member states (SWP, 2023, p. 14).

Between August 2020 and November 2021, the Commission signed 11 contracts with eight vaccine manufacturers providing access to 4.6 billion vaccine doses (European Court of Auditors, 2022, p. 8). However, several challenges arose during the vaccine procurement itself. During all negotiations the Commission had to seek reassurance from the member states, via a steering committee (SWP, 2023, p. 16). This resulted in friction as member states disagreed on risk-taking and costs, thereby delaying contracts. Furthermore, the entire process of vaccine procurement was characterised by a lack of transparency. Decision-making concerning the revision of the Emergency Support Instrument was not preceded by a public debate (SWP, 2023, p. 17). No access to contracts was granted to the European Parliament, undermining democratic legitimacy.

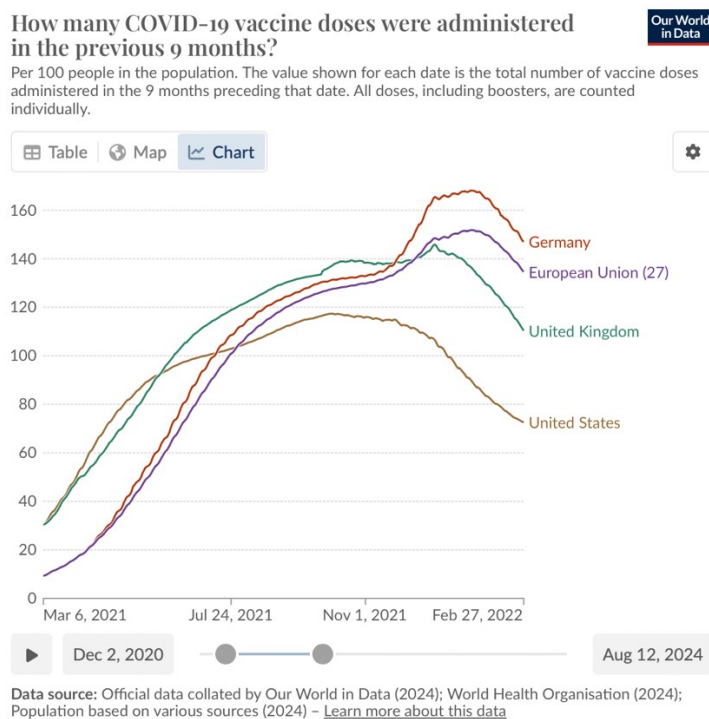
Concerning the EU's vaccine distribution, the EU initially faced supply problems and was 'unacceptably slow' (BBC, 2021). By May 2021, the U.S. and UK had administered over 80 doses per 100 inhabitants while the EU had managed 43.6 doses per 100 residents only (Our World in Data, 2024). Supply issues stem from multiple origins. A leaked contract reveals that the EU secured Pfizer and AstraZeneca doses at significantly lower prices than the U.S. (Birnbaum et al., 2020). It remains open whether this cost-effectiveness, came at the expense of timely vaccine rollouts. Moreover, perhaps due to a lack of experience or time, the EU had not fully analysed the vaccine production and supply chains (Renda et al., 2024, pp.43-4). Consequently, most contracts did not include specific provisions to prioritise deliveries to the member states (European Court of Auditors, 2022, p.34). Eventually, AstraZeneca's failure to meet vaccine supply commitments contributed to supply shortages.

### **6.1.2 Vaccine procurement: an (effective) yet *ad hoc* response?**

Despite its drawbacks and hurdles, the EU’s joint vaccine procurement is often seen as success (European Commission, 2021). In fact, by 2022 the EU was first major region to offer vaccines to all adults (see Figure 3). It also proved to be effective in avoiding ‘vaccine nationalism’ a situation that was evident in the 2009 Swine Flu outbreak (de Ruijter, 2021). The Covid-19 vaccine procurement marks an attempt to move towards a more coordinated and united crisis response. Interestingly, instead of the Council, that usually serves as a ‘first responder’ in crises, the Commission took the lead and advocated for a centralised procurement (European Council, 2024). Indeed, jointly procuring proved to be more effective as the EU together has a greater bargaining power than single states alone. However, this centralised endeavour was risky and lacked a robust procedural basis. It was not given that the Commission takes on the task of procuring, thereby slowing down the response. The vaccine procurement demonstrates that the EU continues to lack a manifested and clearly defined crisis response system in which member states and institutions know who takes on what roles. While the vaccine procurement worked out rather well, it remains unclear whether the Commission takes on again a proactive role in the next crisis (Kassim, 2023, p. 627). Thus, this uncertainty over the division of competencies in crisis management must be addressed more fundamentally.

**Figure 3**

*Covid-19 Vaccine doses administered between March 2021 and February 2022*



Note: Retrieved from Our World in Data, 2024, World Health Organization



## 6.2 CASE STUDY Germany

This thesis now turns to Germany's crisis response to Covid-19. It first analyses more generally the division of competencies and decision-making during the pandemic. In the second part follows the in-depth analysis of how a fully-fledged federation addressed the question of vaccine procurement.

### 6.2.1 Division of competencies during the pandemic

In international comparison Germany did relatively well in terms of governing the pandemic (Kuhlmann, 2023). The country relied on its pre-existing federal structure which divides competencies between the federal government (*Bund*) and states (*Länder*). Similar to the EU, health policy lies with *Länder*. Consequently, 16 separate response plans administered by 400 local public health authorities arose, characterising Germany's response as "*Flickenteppich*," or patchwork quilt (Bohrn, 2021, p. 73; Bundesministerium für Gesundheit 2024). When first Covid-19 cases were detected in small communities like Heinsberg in North Rhine-Westphalia and areas in Bavaria, local measures effectively limited the spread of the virus (idem, p. 72). Thus, the decentralised structure clearly brings the advantage of local agility.

Health is a concurrent competence, dividing responsibilities between the *Bund* who proposes measures, and the *Länder*, who enforce them (Basic Law, *Grundgesetz*, Article 30.). Thus, constitutionally the federal government has the authority to legislate for measures that combat and contain disease among the population. Germany's Basic Law does provide extraordinary emergency powers for federal intervention, though the threshold for being invoked is extremely high (Article 35, mutual assistance clause; article 91, internal emergency). Instead, an amendment made to the federal infection protection Act (*Infektionsschutzgesetz, (IfSG)*) allowed for a shift of legislative powers to the executive. This enabled, in contrast to the EU, more clarified positions regarding responsibilities and ensured the supply of medicine through centralised purchasing (Greer et al., 2022, p. 14). In addition, the national pandemic plan administered by the federal agency Robert Koch Institute, contributed to a swift response despite the country's largely decentralised structure by setting standards to which the *Länder* must adhere (RKI, 2023).

While Germany's federal system provided greater clarity on the role of the *Bund* and the *Länder*, the federal government did struggle with effectively harmonizing certain measures (Kuhlmann, 2023). Germany lacks federal emergency powers that would allow standardization, mainly due to its controversial history with such powers. However, the country's cooperative structure paved a way for adopting the [federal emergency brake] *Bundesnotbremse* (*Infektionsschutzgesetz*, 2021). In April 2021 the *Länder* through the Bundesrat granted the way

for adopting the emergency brake to set a minimum standard of measures (Bundesrat, 2021). This increased the mandate of the Federal Ministry of Health and thereby contributed for example to preparing nation-wide vaccination centres. The *Bundesnotbremse* demonstrates that Germany's crisis management too was overwhelmed by the transboundary threat. However, a key takeaway is that such an emergency brake was only possible because of the existing federal structure. Put differently, the pre-existing federal mechanisms such as the Bundesrat enabled this upscaling of authority for a limited time span.

Germany stands out for what Elazar (1994) calls '*shared rule*' federalism. Its upper house, the Bundesrat composed of Land governments could vote on pandemic policies touching *Länder* competencies. A major role also played the well-established coordination mechanisms such as *Bund-Länder Konferenzen* or the *Ministerpräsidentenkonferenz*, a supreme executive body consisting of its 16 state premiers. By relying on these procedures, *Bund* and *Länder* were able to coordinate closely and harmonize policies. Between March 22 and June 17, the *Ministerpräsidentenkonferenz* took place eight times to negotiate a series of nationwide restrictions (Bundesministerium für Gesundheit, 2024). In fact, this demonstrates an "internationally atypical, unusual ability to coordinate, collectively, formally and without leadership from a central state" (Greer et al., 2022, p. 14). The close cooperation also effectively prohibited the dilemma of competing authorities.

### **6.2.2 Vaccine procurement and distribution**

In Germany, procuring, financing, and distributing Covid-19 vaccines clearly fell into the realm of the *Bund* (Bundesministerium für Gesundheit, 2020, p. 8). The *Bund* did not need a separate mandate from the *Länder*. In contrast, in the EU it was more uncertain who takes on the task of procuring. As the EU only has the ability to coordinate, it was highly dependent on the member states mandate. The *Bund* decided to procure via the EU's Advance Purchase Agreements. During the vaccine procurement, the federal Ministry of Health played a central role, supported by Germany's public health authority, the Robert Koch Institute to provide scientific guidance in vaccine administration (Bundesministerium für Gesundheit, 2020, p.3). The Standing Committee on Vaccination (STIKO) issued evidence-based recommendations on vaccine eligibility and prioritization.

The distribution of vaccines played out through Germany's cooperative federal structure. Whereas the *Bund* procured, *Länder* were responsible for deciding on the logistics at the local level (Bundesministerium für Gesundheit, 2020, p.9). *Länder* responsibilities included the adequate storing of vaccines, and provision of necessary vaccine supplies. This clear division

of responsibilities effectively prepared Germany for the swift execution of the vaccination campaign. By the beginning of 2021, the *Länder* were prepared for the rollout, starting with the prioritised group via special vaccination centres (RKI, 2023, p. 3). However, bottlenecks in the supply chains delayed the official start of the vaccination campaign until April 2021 (Berry, 2021). Importantly, the challenges faced in the vaccination rollout stem from delays in the EU procurement rather than from the Germany's federal system itself.

The balance between centralised procurement and a highly decentralised vaccine rollout, led by the most local level showcases the flexibility of Germany's federal structure. Once doses were allocated proportionally to the population and delivered to central hubs in the 16 *Länder*, they were well-prepared for efficient distribution (Bundesministerium für Gesundheit, 2020, p.12). *Länder* organised the distribution differently, adjusted to their needs, relying on companies specialised in pharmaceuticals. Lower Saxony and Baden-Württemberg for example tasked Deutsche Post DHL while North-Rhine-Westphalia collaborated with Kühne+Nagel (Bücker, 2020). In close cooperation with the RKI and the *Bund*, the *Länder* organised and financed the set-up of around 460 vaccination centres, medical personnel and supplies (Richter-Kuhlmann, 2021).

### **6.2.3 Linking the German vaccine procurement to cooperative federalism**

By employing the federal analytical framework in an explorative way to Germany's crisis response and vaccine procurement, two aspects stand out. At the heart of Germany's cooperative structure are experienced actors and well-established consensus-building mechanisms allowing for swift *coordination* during the pandemic. This is a key ingredient of effective transboundary crisis management. Although, the federation did struggle, as can be seen in the amendments of the infection protection act, its pre-established cooperation mechanisms, such as the *Ministerpräsidentenkonferenz*, *Bund-Länder Konferenzen*, and the *Bundesrat*, facilitated joint decision-making and allowed for harmonization. The analysis reveals that the clear division of competencies, with the *Bund* as the central procurer and the *Länder* responsible for local implementation, resulted in a relatively smooth vaccine procurement and distribution. This demonstrates the strengths of decentralised governance in crisis response, which allows for local agility while also ensuring that the federal government can centralize actions when necessary. The analysis also highlights the limitations of central procurement through the EU. However, this issue is not directly related to Germany's federal system, as Germany itself was not responsible for the EU's procurement delays. Practically speaking, had the EU been granted clearer competencies or a more agile mechanism for rapid vaccine procurement, Germany would have likely received sufficient doses on time.

### **6.3 CASE STUDY United States**

In contrast to Germany's cooperative system, U.S. federalism is characterised as a competitive system where information is gathered in different agencies more independently and more autonomy is handed over to the States. Although its Covid-19 response has been widely criticized as one of the worst among high-income countries, the dual U.S. model might still hold valuable lessons for the EU (Mueller, 2021, p.1). This becomes especially apparent when accounting for the U.S. swift efforts in vaccine development and procurement. The nation's rapid investment in vaccine research and the expedited rollout of the vaccines through Operation Warp Speed demonstrated a capacity for federal action. The section first analyses the initial response to the threat, highlighting how the division of competencies played out during the crisis. In the second part, the analytical framework zooms into the vaccine procurement and distribution.

#### ***6.3.1 Division of competencies during the pandemic***

Traditionally, under the U.S. dual federal system, States operate with significant autonomy. The Tenth Amendment of the U.S. Constitution reserves all "powers not delegated to the United States [...] to the States" (Constitution Annotated, n.d.). Thus, as the constitution does not grant health as federal competency, the authority to legislate in matters of public health lies with the States. As a result, in mitigating the pandemic, the States enjoy a high level of local agility as governors could decide on most suitable strategies for testing, contact tracing, and reporting (source). Despite the strength of a tailored approach that provides for swift, adequate measures, decentralisation also posed challenges (Bohrn, 2021, p. 31). Similar to the ineffective patchwork of responses that was evident in the EU, the separate testing strategies caused contradiction among the U.S. States.

The power of the federal government in health is limited. While states hold the 'police power' which includes to legislate and enforce public health matters, the federal government only has supporting, coordinating and regulatory competencies (The White House, 2020). Yet, the dual system holds important mechanisms for the government to assist overwhelmed States. The Centers for Disease Control and Prevention, for example as the nation's foremost public health agency, provided guidance and support after the initial pandemic outbreak (CDC, 2020). Early in the pandemic, Congress set aside political divides to pass the CARES Act, a \$2.2 trillion stimulus package. This demonstrates the opportunity for federal resources to mitigate crises. CARES aimed at stabilizing the economy and funding public health initiatives (Bohrn, 2021, p.32).

On March 13, the president invoked the Stafford Act to declare a national emergency (The White House, 2020). In contrast to Germany, declaring the state of emergency is commonly used in the U.S. to quickly mobilize resources via the Federal Emergency Management Agency (FEMA, 2024). Another tool of centralising authority included the use of the Defence Production Act which provided substantial powers to the executive, allowing to direct private industry to prioritize the production of goods for the federal government (FEMA, 2024).

While competencies in theory seem to be rather clear and align with Elazar's (1994) 'divided-power' federalism, the Covid-19 pandemic reveals significant uncertainties, both between the States and the government and among the States. The federal government initially struggled to devise a national coronavirus strategy (Bohrn, 2021, p. 29). Debates over authority between President Trump and state governors complicated a united crisis response. Soon after the adoption of CARES, the Congress became gridlocked again, delaying federal support. Furthermore, the Trump administration did not make full use PDA powers, thereby causing insufficient streamlining of medical supplies (Zolan, 2020). As a result, competition between the States for medical supply increased and culminated in bidding wars. New York Governor, Cuomo highlights: "I'm competing with other states, I'm bidding up other states on the prices" (Estes, 2020). The bidding wars ultimately resulted in critical delays of resources and high costs.

The U.S. federal system's powers during the pandemic appear less clearly defined, allowing significant room for manoeuvring. Under the Trump administration, this ambiguity was compounded by conflicting federal actions. Initial steps toward centralizing and streamlining the response were followed by President Trump's refusal to take responsibility for mitigating the crisis, stating, "Governors are supposed to be doing a lot of this work. The Federal government is not supposed to be out there buying vast amounts of items and then shipping. You know, we're not a shipping clerk" (Trump in Forgey, 2020). It appears that the powers in the U.S. federal system during crises are less clearly defined, leaving much room for manoeuvring. There is also contradiction in the competence of the federal government under the Trump administration.

This 'blame game' led to confusion over authority and characterized the pandemic response as fragmented and decentralized. In the absence of a cohesive national strategy, States were left to carry responsibility alone. While intergovernmental coordination mechanisms, through FEMA or the CDC, were established to guide efforts, their effectiveness was often undermined by the politicised response. Unlike Germany's *Ministerpräsidentenkonferenz*, the

U.S. lacked such coordinating bodies to facilitate communication and cooperation across the vertical division of authority.

### ***6.3.2 Vaccine procurement and distribution***

Although confusion over competencies and politicization partially undermined the U.S. crisis response to the Covid-19 pandemic, the process of vaccine procurement highlights valuable lessons the U.S. can offer to the EU. Unlike the EU, the U.S. adopted a swifter and more decisive strategy on vaccine procurement, demonstrating how significant federal capacities can play a crucial role in mitigating a pandemic.

Early on the U.S identified vaccines as crucial to combat the virus and invested in a diversified portfolio of vaccine candidates (CRS, 2022). These investments were essential for companies to build their manufacturing supply chains early and ‘at risk’. Under Operation Warp-Speed, a public-private partnership, involving the Department of Defense and Department of Health and Human Services 103 million doses of vaccine were made available by the end of February 2021 (Brown, 2022). In contrast, the EU had only 27 million doses by that time. Licensing and authorisation went through U.S. Food and Drug Administration, which authorised the first three vaccines between December 2020 and February 2021. The federal government selected McKesson Cooperation as central distributor of the vaccines and ancillary supply kits (2024). By mid-December 2020 McKesson began its distribution of Moderna and Johnson & Johnson. In contrast, the vaccine rollout in the EU only started in spring 2021.

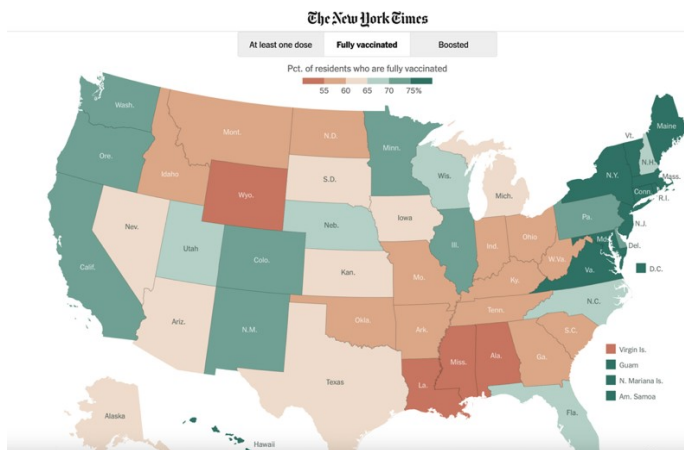
The rapid mobilisation of vaccines demonstrates the strength of the dual federal system in the U.S. While the federal government struggled to enforce uniform measures across States, it successfully utilized its vast resources to swiftly procure vaccines. This stands in contrast to the EU, where limited federal-level capacities and a more complex decision-making process slowed down initial vaccine rollout. The early bipartisan support for funding vaccine development, such as through the CARES Act and Operation Warp Speed, provided a strong foundation for swift action (Bohrn, 2021, p.32. However, the U.S. experience also underscores the challenges of maintaining a coordinated approach in a highly decentralized system. While federal resources enabled rapid vaccine availability, the decentralized nature of vaccine distribution led to significant disparities between states (Figure 4). Yet, the uneven distribution might also be a result of different factors such as economic prosperity, logistics, or political ideology (Goel and Nelson, 2021, p.68).

Despite the problems of divergence and some states falling behind, the highly decentralised approach also provides opportunities for innovation. Early on West Virginia, a

poorer and less educated state was among the nations’ leaders in distributing vaccines (Wilensky, 2021). As the only state to opt out of the vaccine distribution partnership between the federal government and two pharmacy chains, it relied on a network of 250 independent pharmacies, allowing to reach out to rural areas. In addition, decisions have been made by the governor at the state level, eliminating confusion and competition among localities. West Virginia's success could inform other states or even federal-level strategies on how to improve vaccine distribution in rural and resource-limited settings, thus fulfilling the role of ‘laboratories of democracy’ in federal systems.

**Figure 4**

*Vaccination rate in U.S. states in December 2021*



Note: New York Times, Centre for Disease Control and Prevention, December 2021

### **6.3.3 Linking the U.S.’ vaccine procurement to dual federalism**

By applying a federal analytical framework to the U.S. Covid-19 mitigation strategy, and specifically its vaccine procurement efforts, an ambiguous picture emerges. On one hand, the central government’s role as the primary vaccine procurer proved highly effective. Through Operation Warp Speed, the federal government leveraged its resources and centralized authority to secure a diverse portfolio of vaccine candidates, ensuring rapid procurement. This demonstrated how, even in a dual federal system with limited health-related powers, the federal government can take decisive action in areas of national concern, particularly when it has financial and logistical capacity. On the other hand, the highly decentralized nature of the U.S. federal system allowed for variation across states in vaccine administration. The case of West Virginia reflects a key federal advantage: the ability to experiment and adapt to local conditions.

Even during crises, states can function as 'laboratories of democracy,' learning from one another and adopting 'best practice' strategies.

However, the analysis sheds light on one major weakness of the U.S. federal system's crisis response. It appears that in the dual system the division of authority was not as clear as in Germany. In the U.S., the federal government and states often found themselves in conflict over responsibilities, leading to confusion and delays. For example, debates over the use of the Defense Production Act and the federal role in securing medical supplies revealed overlapping and contested competencies. President Trump's statements, which shifted responsibility for pandemic management to the states, further exacerbated this lack of clarity. In contrast, Germany's cooperative federal system, though also decentralized, benefited from more clearly delineated roles between the *Bund* and the *Länder*. While health policy largely fell under the jurisdiction of the *Länder*, the federal government played a supportive role, coordinating and harmonizing measures, when necessary, through mechanisms such as the *Ministerpräsidentenkonferenz*. This structure allowed for a more unified approach without undermining state autonomy.

## **7. Discussion**

### ***7.1 Discussion of the federal responses to the Covid-19 crisis***

The analysis was guided by an analytical framework that identified key federal components essential for crisis management, focusing on the division of competencies, decision-making processes, and resource allocation. This framework enabled an *exploratory* examination of the Covid-19 mitigation strategies employed by three federal entities: the EU, Germany, and the U.S. By narrowing the focus to vaccine procurement, a priority for all three entities, the analysis provided a concrete basis for comparison. The guiding questions included: 'who has the authority to respond to a pandemic?', 'what is the role of the state/federal level?', or 'how does the division of authority unfold in the vaccine procurement and distribution?'. It is important to note that this thesis does not aim to provide a causal link between the federal structures and management of the Covid-19 crisis but rather to explore how federations mitigated the pandemic. Thus, before moving to the final step of identifying lessons for EU crisis management, this section discusses the similarities and differences between Germany and the U.S. The analysis shows that the division of governance inherent to federal systems is not an obstacle to address transboundary crises. A successful response can be achieved when both, the federal and the state level know their authority, and are able to balance decentralisation with centralisation.



### **Division of competencies**

Both federations divide competencies between the federal and state level. In the U.S. the States have the so-called ‘police powers’, showcasing the ‘divided-power’ federalism. In Germany states are responsible for deciding and implementing health measures while the government gives guidelines and recommendations, exemplifying the ‘shared-power’ federalism. While in both systems, the federal government takes an assisting, coordinating, and monitoring role in case of a national emergency, this played out differently during the pandemic.

In the U.S, the government can mobilize resources and support states by invoking a national emergency. Public health however remains primarily a state responsibility. During the pandemic, politicisation and discussions over authority culminated in an ambiguous role for the federal government. This lack of clarity over who is responsible combined with the decentralized nature of the U.S. federal system, resulted in fragmented responses, with states largely left to make decisions independently.

In contrast, Germany’s federal system, built on a consensus-driven culture and well-established cooperative mechanisms, displayed a clearer division of responsibilities. The federal government could set national standards, while the *Länder* implemented and managed policies at the local level. This system avoided the gridlock that hindered the U.S. response and allowed for a more unified approach to the crisis. This clear division of responsibilities helped avoid the fragmentation seen in the U.S. and allowed for a more coordinated approach to managing the crisis.

### **Division of decision-making**

The dual and the cooperative system provided different structures for decision-making during the pandemic. Germany's decision-making during the pandemic was highly coordinated and collaborative. Guided by the IfSG, the government could centralize certain decisions such as guidelines adopted together with the RKI, while maintaining an effective horizontal coordination between the *Länder*. The existence of pre-established coordination mechanisms enabled Germany to respond effectively, even in the absence of direct federal emergency powers. The *Ministerpräsidentenkonferenz* played a central role, ensuring that policies were harmonized across the country. Even when it became clear that the federal level needed more authority to standardise the federation relied on its consensus-building tradition and amended jointly the *Infektionsschutzgesetz*.

In contrast, decision-making in the U.S. was complicated by the uncertainty over the division of competencies. In theory, in the dual system, decisions related to health lie with the States while the federal government is responsible for making decisions related to funding. During the pandemic, the government adopted certain decisions such as the CARES Act, but overall politicisation hindered smooth decision-making. This was seen in discussions between Trump and the governors in the Congress and also in the bidding wars, ultimately causing delays in decision-making. Furthermore, intergovernmental coordination bodies such as FEMA and CDC were available, but their efforts were often undermined by politicization.

Lastly, the case of vaccine prioritization also exemplifies well how the dual and cooperative structures led to more centralised or decentralised decision-making. In the U.S. decision-making concerning prioritizing groups was largely left to the States, underlining the dual system that gives more autonomy to the States. In contrast, in Germany, the federal government played a larger role. For example, the RKI and STIKO provided guidance on prioritization. Thus, the nature of cooperative federalism enabled stronger federal oversight and central coordination to ensure a uniform approach while keeping vaccination distribution as local as possible.

### **Division of resources in the vaccine procurement**

In both federations, the government was responsible for procuring vaccines. In Germany the *Bund* centrally procured via the EU's vaccine procurement scheme. Doing so, it was affected by the EU's supply challenges. Thus, the U.S. procurement holds key points for the EU. Despite struggles over authority, in the U.S. it was clear early onward that the government will organize the vaccines. This clarity proved to be critical in securing early vaccine doses and thereby saving lives. The U.S. purchasing power paid off. Under Operation Warp Speed, the federal government invested extensively in preclinical development, clinical trial for vaccines and provided substantial funding for seven potential vaccine candidates. In providing substantial support to producers, the U.S. expedited the costly Phase 3 trials, thereby shifting the reducing the risk for companies. Subsequently, once the FDA approved the vaccines, a sufficient dose was available as early as December 2020 (Brown, 2022). Throughout the entire process, the U.S. government officials were highly involved in the vaccine supply chains which gave them the significant advantage of rationing scarce inputs and providing tailored additional subsidies. Thus, Operation Warp Speed demonstrates the U.S. dual system allowed the government strength in mobilizing resources, centralizing decision-making, and directly intervening in areas traditionally governed by states.

Ultimately, both federal systems shed light on the strength of a decentralised crisis response. Both systems give much responsibility to the local level, thereby enabling tailored responses that were especially useful in mitigating initial outbreaks. In the U.S., decentralization allowed for innovative state-level approaches, such as West Virginia's use of independent pharmacies to reach rural areas. In Germany, cooperative federal system ensured *Länder* could adapt federal guidelines to regional needs. However, both systems also faced significant challenges in harmonizing responses and addressing disparities. These insights underscore the importance of balancing central authority with local adaptability, a lesson that holds critical implications for managing future transboundary crises.

### ***7.2 Lessons learnt from Germany and the U.S. for the EU***

This chapter draws lessons learnt for EU CM from the findings of the case study on Covid-19 mitigation and specifically the vaccine procurement in Germany and the U.S. The adoption of a centralized procurement and distribution of Covid-19 vaccines represented an unprecedented step in terms of scale and speed for the EU. For the first time, the EU collectively negotiated agreements, purchased, and allocated vaccines for all its member states. This initiative not only underscores a significant moment of European solidarity but also reflects deeper European integration in the realm of public health. By safeguarding the internal market and adhering to EU values, this strategy effectively countered the threat of vaccine nationalism.

Despite these successes, the EU's response to the pandemic represents once again an *ad hoc* response, rooted in the lack of clearly defined competencies. In an attempt to counter the threat, a patchwork of different measures swept through Europe. Eventually, the Commission proposed a centralised procurement revealing that neither the member states nor the Commission knew how to respond. In its procurement, the Commission firstly, depended on the mandate from the member states, thereby risking a delayed response. Secondly, it constantly faced pressure by member states' varying expectations. Thus, the Commission's approach to vaccine procurement was marked by caution, a reluctance to take risks, relative inexperience in procurement negotiations and an insufficient early investment in research capacity. As a result, vaccine procurement turned out to be ambiguous in its effectiveness. It was not based on any pre-defined crisis management framework, thereby risking legitimacy and efficiency.

Germany's and the U.S. Covid-19 crisis response hold valuable lessons for the EU. To start with Germany, two key lessons can be identified. First, competencies are more clearly defined than in the EU. Implementing health-related policies lie primarily with the *Länder* while *Bund* can propose legislation and streamline. In crises, the *Infektionsschutzgesetz* grants the *Bund* stronger competencies to coordinate and harmonize. Even when the pandemic risked

undermining this clarity, the cooperative culture of the German federal system enabled that actors could effectively negotiate, build consensus, and move forward. The vaccine procurement underlined the clarity even more as it was clear from the beginning that the *Bund* takes on the task of procuring while *Länder* retained the authority to implement the vaccine rollout.

**Lesson 1:** The EU needs to assign competencies to the levels of government more clearly. The current overlap in competencies causes uncertainty, particularly during crises. The role of the Commission in ‘supporting’ member states must be clarified. Therefore, this thesis recommends amending the EU Treaties, in particular to define more clearly what a ‘supporting competence’ in crises entails. Importantly, amendments should not transfer more power to the EU, but clarify the division of power.

Second, Germany’s federal system allowed for better horizontal (across states) and vertical coordination (between states and government) in the Covid-19 crisis. Horizontally, Germany used the *Ministerpräsidentenkonferenz* where heads of the *Länder* meet to discuss and evaluate measures and learn from each other. While the EU features the Council which allows for cooperation, this institution features rather vertical cooperation, between the member states and the Commission. There is no such thing as an established forum for informal horizontal coordination. Although the EU established in 2021 the Health Emergency Preparedness and Response Authority’s (HERA) to facilitate the smoother distribution of medical supply, this is only in health and not all-encompassing enough. While HERA enhanced coordination, especially horizontal coordination can still be improved by institutionalizing more direct forums for member states to meet and cooperate in real time during a crisis.

**Lesson 2:** The EU should establish a permanent forum for horizontal coordination among member states that addresses day-to-day matters and operational decisions during crises. This forum, similar to Germany’s *Ministerpräsidentenkonferenz*, should include representatives from the member states’ governments.

In the U.S, Operation Warp Speed demonstrated the capacity of the federal government in enabling quick access to Covid-19 vaccines for U.S. citizens. The federal government with its wealth of resources took swift action and invested in a diversified portfolio of vaccine

candidates. The EU simply had less and weaker common resources and could not match the mobilisation of the U.S.

**Lesson 3:** Therefore, the EU should strengthen its common R&D capacity to invest earlier and with more capacities in for example the development of vaccines to help counter a pandemic. In addition, the EU should establish a permanent health reserve similar to the U.S. national stockpile. Specifically, strategic manufacturing should include protective equipment such as masks and vaccine supply.

Lastly, Germany and the U.S. are both good examples to show that federalism does not entail the excessive upscaling of powers in crises. Instead, these federations reveal that decentralisation can be useful in crises because the local level can act more autonomously and adopt suited mitigation strategies. For example, in Germany *Länder* organized the vaccine rollout independently, allowing them to decide on the location of vaccination centres, and the specific administration. This was key for a swift roll-out. Similarly in the U.S., States were autonomous, thereby allowing for example West Virginia to rely on local distribution via pharmacies. This shows how federalism holds the opportunity for innovation through experimentation.

**Lesson 4:** The decentralisation inherent to the EU must not be a hindrance for crisis management. Instead, the EU should maintain a decentralised crisis response system to allow for swift and localized responses, as long as responsibilities are clearly divided.

## **8. Conclusion**

This thesis aimed to deepen our understanding of what the EU can learn from mature federations in addressing transboundary crises. Covid-19 and specifically the vaccine procurement served as a case study to compare how Germany, a cooperative federal system and the U.S., a dual federal system have addressed the pandemic. By employing a *federal lens* to EU CM, this thesis has shown that federalism is not only a governance form but an analytical and prescriptive tool for understanding how the EU can address crises more effectively. This is a unique contribution to the literature on EU CM. After enthusiasm in the early 2000s, European studies turned its back on federalism, discrediting it as a stigmatized ideology. However, this thesis has made an initial attempt to show that it is high time to apply a federal analogy to EU CM. Instead of continuing to study the EU through the classical integration theories such as supranationalism

and intergovernmentalism, federalism gives new insights that go beyond the debate of deeper or lesser integration but triggers to think in terms of clearer distribution of competencies.

First, this thesis established that the EU's struggle in addressing the Covid-19 crisis was rooted in the problem over the division of competencies. In concrete terms, analysing the EU's response to Covid-19 highlights that neither the member states nor the EU institutions succeeded in addressing the threat in a timely, collaborative and effective manner. The uncertainty of who-does-what in addressing the pandemic became so pronounced that it almost paralyzed the entire system. While the joint procurement is often portrayed as a success, it does highlight the struggle over the division of competencies. On the one hand, it was not certain that the Commission would procure, slowing down the response. On the other hand, the Commission, by claiming the competence to procure dangerously centralised powers, undermining legitimacy. More clearly defined competencies in terms of which layer does what in crisis response would have been needed. Based on this struggle, this thesis derived its central argument that, because the EU shares the same struggle over the division of competencies as federations, it can be understood through a federal analogy.

Second, this thesis compared how two mature federations addressed the Covid-19 pandemic, specifically the vaccine procurement. In Germany, the *Bund* had a coordinating role with a limited ability to harmonize, while the *Länder* had the responsibility to implement measures. This clear division of competencies was also evident in the vaccine procurement where it was clear that the *Bund* centrally procures and the *Länder* distribute vaccines. It was the German cooperative federal structure that enabled the upscaling and downscaling of responsibilities. As an example of upscaling, the *Länder* agreed to amendments to IfSG through the Bundesrat giving the *Bund* more power for a limited time to harmonise measures. When it comes to downscaling, *Länder* were responsible for administering the vaccines. The dual federal structure of the U.S. complicated coordination between the two levels of government as there were no established platforms for upscaling or downscaling authority. Instead, States competed with each other for medical supplies, and responsibilities were shifted in a 'blame game' between the President and the governors. Thus, horizontally and vertically unclarity, rivalry, and uncertainty hampered a smooth crisis response. Nonetheless, when it comes to procuring vaccines, Washington demonstrated strong capacities, experience and clear authority.

Third, this thesis found that the EU, featuring federal characteristics and sharing similar challenges can learn from fully-fledged federations in CM. Two decades ago, Börzel (2003) argued that the EU is likely to be moving towards the cooperative federal system evident in

Germany. Today, the intensity and frequency of transboundary crises, such as the pandemic urge a renewed and more fundamental rethinking of the EU's CM capacities. Cooperation is key in effectively addressing crises. Thus, the EU should take the cooperative federalism of Germany as an example. Importantly, this thesis does not advocate for the EU to become a federation, but to take on the clear division of competencies inherent to Germany's federal system and learn from its well-established forums that allow for swift upscaling and downscaling in crises. Based on the lessons learnt [see discussion above] this thesis concludes with four policy recommendations for the EU:

- *clarified definition of EU's 'supporting competence' in health crises: the Commission does not need more authority, but the EU's crisis response does need clearer division of competencies*
- *establish a permanent forum for horizontal coordination: an informal platform where member states can discuss and align crisis response*
- *establish a permanent EU health reserve and strengthen R&D capacity*
- *maintain flexibility in the form of a decentralised crisis response system by leaving implementation of health measures to the member states but providing central guidelines for crisis response*

### ***8.1 Limitations and avenues for further research***

This thesis closes with final reflections on the limitations and potential for future research. First, this thesis has conducted an explorative study, with the aim to deepen the understanding of the EU's crisis management capabilities. It cannot and does not aim to prove a causal link between federalism and CM. The results are therefore to be understood as 'first hunch'. Future research should dive deeper into the causality and set up a positivist study that attempts to isolate factors such as leadership or health care structure. Second, key to this thesis was effectiveness, loosely conceptualised as a swift and coordinated crisis response where actors clearly know their responsibilities. However, a discussion of how effectiveness is measured could further strengthen this study. Third, another limitation concerns the generalizability of what the EU can learn in addressing transboundary crises. As this thesis analysed the Covid-19 crisis, policy recommendations merely focus on how the EU can better address health crises. Thus, these recommendations only form the first steps towards setting up a more strategic, holistic and cross-sectoral crisis management system in the EU. Future research should continue to explore

different transboundary crises such as the financial crisis, the migration crisis or climate-change through a federal lens.

Building on this thesis, research could explore in greater detail the dimension of legitimacy. We can see how the Commission, a non-elected institution gained more executive powers in the Covid-19 crisis. This centralisation risks undermining legitimacy and thereby hampering effective crisis management. Once again, federalism also here might hold valuable insights for the EU on how to escape such legitimacy struggles.

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