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When politics get in the way of policy: Energy Union at a standstill

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- **The European Commission unveiled its long-awaited extensive package of energy legislation proposals at the end of 2016. While it is an important step on the way towards an integrated European Energy Union, the project still exists more on paper than in reality. Bridging the gap between vastly differing energy policies of various member states such as Germany and Poland will be one of the hardest obstacles to overcome on its way to success. With the increasing desire to limit the power of the Commission, however, the fate of the Energy Union will be decided more by what is going to happen outside of the EU, than in its centre.**



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On 30 November 2016, the European Commission unveiled its long-awaited bundle of energy legislation, which is dubbed the “Winter Package” or “Jumbo Package”. This 1000-page long legislative proposal covers a wide range of issues, from revised energy efficiency directives through the strengthening of the security of energy supplies, to energy market regulations. The main takeaway from the package is the EU’s reaffirmation of its ongoing commitment to cutting its CO₂ emissions by 40% by 2030 compared to 1990 levels.¹ Furthermore, it sets out three crucial goals: first, making the EU a global leader in renewable energy use; second, putting energy efficiency at the forefront of the EU’s policies; and third, facilitating an energy transition that is fair to EU customers.²

The one notable advancement from the previous energy framework is the increase of the binding energy efficiency target from 27% to 30% by 2030 compared to 1990 levels. Some experts³, however, claim that the efficiency target could (and should) be set much higher, to at least 40%, if the EU really wants to become the global frontrunner in clean and efficient energy usage. This approach was also advocated for by the European Parliament throughout the consultation phase⁴, but it ultimately gave way to a political compromise and ended up on a far less ambitious figure of 30%. This internal rift symbolizes one of the core obstacles the Commission faces in attempting to integrate the EU’s energy markets and energy policies into the so-called Energy Union, to which the Winter Package pertains.

The Energy Union was first proposed by Donald Tusk, then Prime Minister of Poland, and later adopted by Jean-Claude Juncker as one of the flagship projects of his Commission presidency. The Energy Union Framework

Strategy, officially launching the Energy Union, was adopted by the Commission in February 2015, but ever since the launch, discussions have been abound as to its exact shape and scope. The EU itself stresses that the Energy Union’s main objective is to provide the Europeans with energy supplies that are secure, affordable, competitive and sustainable.⁵

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Given the fact that the Energy Union covers not only energy policy as such, but also touches upon areas of security, trade, research and innovation or environmental protection, the legislative competencies must be shared between the EU and the member states. Despite the Lisbon Treaty granting EU institutions more powers over energy policy, the major part of the reins is still in the hands of the national governments. This means that so far, the Energy Union has been more of an “empty box” where each state can project what suits their national interest best, rather than a fully-fledged common policy scheme.⁶

Energy Union and the age-old governance conundrum

One of the main problems of the Energy Union is its governance⁷: energy policy largely falls under the principles

¹ This goal was, however, already agreed upon in EU’s 2030 Climate and Energy Framework, which was adopted in 2014.

² European Commission, Press release, “Clean Energy for All Europeans – unlocking Europe’s growth potential”, 30 November 2016, http://europa.eu/rapid/press-release_IP-16-4009_en.htm.

³ See for example <http://www.caneurope.org/energy/energy-savings> and <http://www.eceee.org/all-news/news/news-2016/2016-07-22>.

⁴ European Parliament, News, “MEPs call for more ambitious and consumer-focused energy targets beyond 2020”, 23 June 2016, [http://www.europarl.europa.eu/news/en/news-](http://www.europarl.europa.eu/news/en/news-room/20160622IPR33205/meps-call-for-more-ambitious-and-consumer-focused-energy-targets-beyond-2020)

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⁵ European Council, “Energy union: secure, sustainable, competitive and affordable energy for Europe”, <http://www.consilium.europa.eu/en/policies/energy-union/>.

⁶ Szulecki, K., et al., „Shaping the ‘Energy Union’: between national positions and governance innovation in EU energy and climate policy”, *Climate Policy*, 16:5, 548-567, 1 March 2016.

⁷ Keay, M. & Buchan, D., “Europe’s Energy Union: a problem of governance”, *Oxford Energy Comment*, November 2015, <https://www.oxfordenergy.org/wpcms/wp->

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of intergovernmentalism, meaning that all member states must concur before a policy is adopted. It gives the national governments the ultimate upper hand, but at the same time presents often-insurmountable obstacles to any ambitious EU-wide projects such as the Energy Union.

The result is often legislation that tries to balance out the different priorities of individual member states but inevitably ends up as a half-baked dish. Despite the efforts of Maroš Šefčovič, European Commissioner for Energy Union, who has traveled around the EU to consult all the 28 national governments (and sell the benefits of a common energy policy), the final document appears as a compromise to everyone. Jonathan Gaventa, director of E3G think tank, called the Winter Package “politically cautious” for leaving too much leeway to individual interpretations by national governments, as opposed to setting a clear and binding regulatory framework for all.⁸ Other experts have also warned that the legislation fails to provide a safeguarding mechanism of repercussions which would ensure that states are held accountable for not complying with the proposed regulations.⁹ The contrast between what would be the most efficient way of delivering on the EU’s ambitious plans and the inherent constraints presented by the EU’s own governance design is apparent.

The high-profile Central European Energy Conference, which took place in Bratislava at the beginning of December 2016, was a fitting example of this dilemma. In his opening keynote speech, Commissioner Šefčovič praised the Commission’s new legislative package as a way of advancing the EU’s dominant position in renewables and energy efficiency. He went as far as calling the Winter Package “a change in paradigm” in Europe’s energy use. Yet immediately after him came speeches by the trade and industry ministers of Slovakia, Poland and the Czech Republic – the *enfants terribles* of clean energy in the EU – sending the dreamy visions back to reality. Their vehement advocacy for coal and nuclear power went directly against the proposals set out in the Package, highlighting the conflicts that are bound to arise when the legislation gets adopted at the national levels.

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It seems ironic that it was a Polish prime minister who pitched the idea of an energy union back in 2014 when the EU’s dependency on Russian energy supplies¹⁰ once again came to the forefront due to the gas disputes with Ukraine. The original idea behind the Energy Union was to unite Eastern and Central European countries that are most heavily dependent on Russian imports in order to increase their bargaining power with the state-owned monopolistic gas provider, Gazprom. Juncker later extended the idea to cover the whole of the EU and to encompass a much broader agenda. At its inception, support for the idea was prevalent among member states as the annexation of Crimea heightened the sense of insecurity across the EU’s

[content/uploads/2016/02/Europes-Energy-Union-a-problem-of-governance.pdf](#).

⁸ E3G, “EU Clean Energy Package ‘Politically Cautious’”, 30 November 2016, <https://www.e3g.org/news/media-room/eu-clean-energy-package-politically-cautious>.

⁹ European Environmental Bureau, “EU on thin ice with Winter Package”, 30 November 2016, <http://www.eeb.org/index.cfm/news-events/news/eu-on-thin-ice-with-winter-package/>.

¹⁰ Roughly 1/3 of EU’s energy sources comes from Russia.

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energy markets. As the situation with Russia took on a less existential turn and the concrete complex features of the project began to emerge, the necessary momentum for such an ambitious endeavour seems to have disappeared.¹¹ At the moment, the Energy Union seems more like a bureaucratic hassle than a grand strategy, and its popularity with national governments is beginning to wane.

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New external impetus needed for further energy integration

Given the extensive range of policies included under the umbrella term of Energy Union, it is expected that different member states will see different benefits and drawbacks of the project. It would be foolish to expect unconditional support from all member states for giving up a portion of their national sovereignty in order to pursue the Commission's goals, such as the internal energy market or a common external policy towards supply providers. However, it can be argued that **despite the varying national energy mixes, market regulations and external policies, all member states would ultimately benefit from the existence of a larger, more powerful and better integrated Energy Union.** A common energy market would bring the consumers more

affordable and reliable power supplies, while a higher interconnectedness of countries would mean more secure and import-independent energy supplies.¹² Moreover, the transition to sustainable and efficient energy generation would, in the long run, benefit not only all member states but also the planet.

However, national governments usually focus on short-term gains, making it hard to reconcile widely opposing national approaches to energy, such as those of Germany and Poland. As Germany is the most progressive of the EU states in its domestic energy transition towards more sustainable sources, it supports mostly the parts of the Energy Union that focus on this area. On the other hand, Poland – and by extension the whole group of Central European states – is still heavily reliant on coal-based power generation as well as oil and gas imports from Russia. It should be in their national interest to decrease their dependency on Russia or to at least gain more leverage in contract negotiations through collective bargaining.¹³ Yet, the Czech Republic is the most averse towards a common energy policy and Poland's opposition to renewable subsidies so far outweighs the potential benefits of contract-sharing and collective bargaining with Russia.¹⁴

Moreover, most national governments retain close ties to their national energy companies, which are often fully or partially state-owned. The companies are not willing to give up on their dominant positions on national markets which give them control over energy supplies and prices. By interconnecting the EU's energy flows and establishing an internal market, they would lose much of their national clout. Given the close ties these major companies have to politicians in their respective countries, it is unlikely that national governments would easily adopt policies that would harm their interests.¹⁵ Thus, to most member states, the

¹¹ Gurzu, A., "Momentum builds for a united energy front", *Politico*, 22 October 2015, <http://www.politico.eu/article/energy-union-momentum-european-commission-flagship-project/>.

¹² Currently, the EU as a whole is importing 53% of its energy sources. See: https://ec.europa.eu/energy/sites/ener/files/publication/FOR%20WEB%20energyunion_with%20annex_en.pdf.

¹³ Poland is currently paying the highest price for Russian gas out of all of the EU.

¹⁴ Keay, M. & Buchan, D., "Europe's Energy Union: a problem of governance", *Oxford Energy Comment*, November 2015, <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2016/02/Europes-Energy-Union-a-problem-of-governance.pdf>.

¹⁵ Anon., "The European Union heads into battle with national governments on energy", *The Economist*, 17 January 2015, <http://www.economist.com/news/europe/21639577-european-union-heads-battle-national-governments-energy-only-connect>.

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benefits of the current proposals do not seem to exceed the costs of surrendering sovereignty.

To bring the member states back on the same page, a new catalyst is needed. A change in EU fundamental treaties in favour of more supranational governance is unlikely in the current climate, and so is the alignment of 28 different national energy interests. As the own short history of the Energy Union shows, external pressure is typically what works best in bringing opposing states together. Further developments in Europe's relations with Russia (for example following Trump's potential new orientations), constructions of new pipelines and grids, rising global commodity prices – all these could be used to generate the necessary political will for deeper energy integration. Without such external motivation, however, the likelihood of the member states unanimously getting behind the Commission's ambitious plan is extremely low.

Conclusion

The recent completion of the "Jumbo Package" of energy legislation is an important step on the road to a functioning Energy Union, but not the final one. The European Commission should maintain pressure for a more harmonised internal energy market and a more unified external energy policy. The ultimate power, however, lies with the member states. The Commission could offer a sort of compensation mechanism ensuring that what member states lose in one area of the Energy Union, they gain in another, thus creating a club where countries with diametrically opposite energy priorities like Germany and Poland would see benefits in joining. However, with the current widespread desire to diminish the Commission's

role, a move including its further involvement would be contentious. It is thus likely that political tensions will keep undermining the application of the Package.

In order to bridge the gap between the differing national interests, the final form of the Energy Union will either need to be dramatically scaled down, which would diminish its effects, or external developments will be needed to make a unified energy policy seem beneficial (or even necessary) to all. Thus, rather cynically, geopolitics is the Energy Union's best chance for success. The EU's relationship with Russia is a double-edged sword. On one side, the gas crisis helped forge a unique common response; at the same time, the covert clout Gazprom has in many member states systematically erodes the EU's aspirations to cohesion.¹⁶ The future of the EU's relations with Russia will therefore be central to the Energy Union's success. With the re-birth of OPEC's negotiating capacity and the uncertainty that Trump's presidency represents, unstable geopolitics will be a factor to take into account when thinking of what the Energy Union can achieve. Coupled with the pressing need for a collective action on climate change, the Energy Union functioning as it was envisaged would be of immense benefit to all member states. The work yet remaining to achieve it, however, is equally immense.

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¹⁶ Popkostova, Y., "Disruptive change: Europe's energy security and the US LNG", *Blogactiv*, 8 September 2016,

<https://guests.blogactiv.eu/2016/09/08/disruptive-change-europes-energy-security-and-the-us-lng/>.