



EU Energy Policy under the Treaty of Lisbon Rules

Between a new policy and business as usual

Jan Frederik Braun

Abstract

This paper provides a preliminary assessment of the EU's energy policy under the Treaty of Lisbon rules. It reviews the major and minor effects of the rules on energy (both formally and informally) and how these are perceived by the EU institutions post-Lisbon. This includes consideration of the new elements of the reformed institutional architecture in this policy area. In the context of the Treaty of Lisbon, the main questions this paper seeks to answer are to what extent energy policy constitutes a new policy area and whether the EU is a more coherent actor in this and other instances where competence is shared with the member states.

EPIN Working Papers present analyses of key issues raised by the debate on the political integration of Europe. The European Policy Institutes Network (EPIN) is a network of think tanks and policy institutes based throughout Europe, which focuses on current EU political and policy debates (see back cover for more information). Unless otherwise indicated, the views expressed are attributable only to the author in a personal capacity and not to any of the institutions with which he is associated.

This paper is based on findings obtained from qualitative, semi-structured interviews with 31 (senior) officials from the four major EU institutions (the European Commission (11), Council of Ministers (11), European Council (1) and the European Parliament (5)) and the member states (3). The interviews were conducted from February to July 2010 as part of a doctoral research project on "A New Engine of European Political Integration: An Empirical Study of EU Actor Capacity in Energy Policy". All of the interviewees agreed to be quoted as part of the research in exchange for being granted anonymity.

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EU ENERGY POLICY UNDER THE TREATY OF LISBON RULES BETWEEN A NEW POLICY AND BUSINESS AS USUAL

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Introduction

The continuing significance of the Union's energy policy in combination with the Treaty of Lisbon rules makes it relevant to assess its state of play from within the main EU institutions. A significant question that has so far been minimally explored is the extent to which EU energy policy under the Treaty of Lisbon rules constitutes a new policy area or remains 'business as usual'.

This paper argues that amidst the institutional dust settling in 2010, certain trends are becoming apparent in EU energy policy. These trends apply to the energy policy-making process as well as to the wider area of shared competences between the Union and the member states. These trends include

- the revised role division/authorities;
- the increasing importance of confidence building and personal relations within and between the institutions; and
- the differing perceptions/interpretations within the institutions of the post-Lisbon political landscape.

First, we present an overview of the energy-related issues pertaining to the Lisbon Treaty. Second, we give an overview of the state of play in energy policy under the Treaty of Lisbon rules. While being an early and therefore inevitably speculative assessment of EU energy policy under the Treaty of Lisbon rules, we focus here on both the formal and informal effects along with the trends that have been noted from within the major European institutions. Finally, in the conclusions, we assess the overall state of play of the EU's energy policy with reflections on the European integration process at large.

1. *Le régime constitutionnel*

A conspicuous change in European primary law has been the inclusion of a specific chapter on energy. More specifically, Art. 194(1) of the Treaty on the Functioning of the European Union (TFEU or 'Lisbon Treaty') (co-decision and qualified majority voting) sets out the four main aims of the EU's energy policy:

- to ensure the functioning of the energy market;
- to ensure the security of supply in the Union;

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- to promote energy efficiency and energy saving, and develop new and renewable forms of energy; and
- to promote the interconnection of energy networks.

These aims, as the new Art. 122(1) TFEU stipulates, are to be executed in a spirit of solidarity, whereby

[w]ithout prejudice to any other procedure provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between the Member States, upon measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.

On the one hand, this provision confirms the Union's competence to adopt preventive measures to avoid security threats and may provide a basis for political backing for more far-reaching preventive measures in the future.¹ With no legal obligation on the member states, however, solidarity remains weak. A prime example in this regard is Regulation No. 994/2010/EU on the security of gas supply that was adopted at the end of 2010.² This Regulation was proposed largely in response to episodes like the Ukraine–Russia dispute, where the solidarity aspect had to be improved. While leading to a more harmonised and consistent implementation of measures for the security of gas supply and to a higher degree of preparedness in most member states, it achieves little regarding solidarity amongst the member states beyond what could already be done on a voluntary, bilateral basis.

Furthermore, from a Union perspective, Art. 194 TFEU entails prominent legal shortcomings. Art. 194(2) and (3) TFEU stipulate that measures in the field of energy taxation and member states' rights in deciding on the conditions for exploiting their energy resources, choices amongst different energy sources and the general structure of their energy supply are subject to unanimity. In addition, member states retain the right to conduct their bilateral (energy) relations with non-EU countries as they see fit, although these relations are subject to general obligations of sincere cooperation and competition rules apply, for example, to the import and transit of energy.³ Finally, the substance of the Euratom Treaty has remained unchanged. This is important, as about a quarter of the electricity in Europe is generated by nuclear power plants.

In short, the inclusion of a dedicated title and legal basis in the Lisbon Treaty is described here as formalising the shared ownership of EU energy policy between the EU institutions and the member states in terms of “[a] carefully crafted compromise between national sovereignty over national resources and energy taxation issues, and a shared Union competence for the rest”.⁴

In the area of external action, the Lisbon Treaty introduces some notable changes that could affect the politics of energy between the Union and the member states. Concerning external representation, Art. 17(1) TEU states that “[w]ith the exception of the common foreign and security policy, and other cases provided for in the Treaties, [the Commission] shall ensure the Union's external representation”. In the context of external action, Art. 21(2) TEU states that the Union shall define and pursue common policies and actions and shall work towards a high degree of cooperation in all fields of international relations. This includes (2f) amongst others “[h]elp [to] develop international measures to preserve and improve the quality of the environment and *the sustainable management of global resources* in order to ensure sustainable

¹ See Andoura et al. (2010).

² See Regulation (EU) No. 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC, OJ L 295/1, 12.11.2010.

³ The Regulation on the security of gas supply, for example, has a legal basis in Art. 194(2) TFEU.

⁴ See Andoura et al. (2010).

development”.⁵ In carrying out these and other measures, and ensuring consistency amongst the different areas of its external action and between these and its other policies, Art. 21(3) TEU states that “[t]he Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect”. Art. 218(3) TFEU supports the assumption that in agreements that are exclusively or principally related to the common foreign and security policy (CFSP), there is (still) a role carved out for the Council and hence the member states and their national energy policies.⁶

Besides being a dedicated title in the Treaty, energy constitutes a horizontal policy issue. In this regard, the EU’s energy policy is a component of other policy areas, such as

- *foreign policy* (e.g. linked to technological innovation and developing long-term relationships with supply and transit countries through a ‘package approach’);⁷
- *environment/climate change* (e.g. a key element in reducing CO₂ and stimulating investments in renewables); and
- *competition* (e.g. access to affordable energy resources for ensuring the international competitiveness of European industries).

A view expressed in the Council and Commission is that the EU’s (horizontal) energy policy should be part of a bigger package and that the Lisbon Treaty should help in formulating such packages.⁸

Despite its crosscutting sectoral nature, the legal base used for negotiations in the Union’s external dimension of the energy policy formally falls within Art. 194 TFEU. Yet, there still seems to be a certain ambiguity about which Treaty legal base to use in external action on energy and where to draw the line in the mix of the Union’s and member states’ competences.⁹ Moreover, this is accompanied by a rather hybrid negotiating format. Of additional importance is the introduction of Art. 218(6) TFEU on the conclusion of international agreements, which now require the consent of the European Parliament. We further reflect on both these matters below.

2. The politics of energy under the Treaty of Lisbon rules: Between a new policy and business as usual

Several claims are going around about the political consequences of the Lisbon Treaty. A popular view in the Council of Ministers is that the Treaty “[r]einforces the trend within the EU towards the emergence of a commanding European Council, a confident Council and Parliament sharing legislative responsibility, and a politically constrained Commission”.¹⁰ Others emphasise that the European Parliament and the European Council have been promoted by the Treaty as the Union’s primary poles of power, with the Commission and the Council of

⁵ Emphasis added by author.

⁶ Art. 218(3) TFEU states that the Council, based on recommendations from the Commission or high representative, shall adopt a decision authorising the opening of negotiations and nominate the Union negotiator or head of the Union’s negotiating team.

⁷ These include supply and transit countries, such as Russia, Ukraine and Azerbaijan. A ‘package approach’ wraps up certain issues in more comprehensive negotiations linking deal-making in energy issues, for example, to visa arrangements.

⁸ Derived from interviews 1 and 3 on 28 June 2010.

⁹ Derived from an interview on 21 June 2010.

¹⁰ See Dinan (2010).

Ministers weakened – at least in their respective political roles.¹¹ A relevant question here is whether or to what extent these claims are valid in the area of EU energy policy. Therefore, we focus here on reviewing the effects – major and minor as well as formal and informal – on energy policy and how these are perceived within the institutional quadrangle.

2.1 The European Council

As spelled out in the Treaty (Arts. 15(1) and 22(1) TEU), the European Council identifies the strategic interests and objectives of the Union. Concerning external action, the European Council as a whole identifies interests and takes decisions, for example, concerning a specific country or in thematic areas such as energy.¹² Hence as a provider of strategic direction, the European Council and its President (POTEC) Herman Van Rompuy, are formally excluded in the legislative process on energy. Nevertheless, and largely according to its role definition in the Lisbon Treaty, the POTEC has made efforts to create a distinct profile in non-legislative processes, such as the EU 2020 strategy, while having autonomously initiated a thematic discussion on energy at the European Council meeting in February 2011. This initiative by the POTEC has been hailed by the Commission's Directorate-General for Energy (DG ENER). As a senior official at the Commission stated, “[Van Rompuy's call] has created political momentum and added a much-desired political face next to the more technocratic aspects of negotiations on energy”.¹³

On the other hand, the European Council's increased institutional and political stature in energy policy should not be overestimated. Stated differently, the suggestion made by Kaczyński et al. (2010) of a “European-Councilisation of European politics”, i.e. a marginalisation and subversion of the Commission and the Council of Ministers, seems to be an exaggeration in this policy dossier. First, as defined in the Treaty (Art. 15(1) TEU), the European Council provides political impetus while not exercising legislative functions. Hence the European Council has limited ownership, especially in highly technical and complex policy dossiers like energy. Therefore this institution relies on the unmatched expertise within the Commission and Council (sectoral) machinery for further developing the broad political strokes set in its conclusions. Finally, its limited institutionalisation keeps the European Council from ‘hijacking’ European politics. A recent suggestion by Van Rompuy, for example, to increase the frequency of meetings from “twice every six months” (Art. 15(3) TEU) to once a month was rejected by the heads of state and government.¹⁴

2.2 The European Commission

In line with the formalisation of the EU's competence in energy policy in the Lisbon Treaty, the new DG ENER is part of a ‘re-compartmentalisation’ scheme meant to address inconsistencies, overlap and gaps in the Commission's governance of energy.¹⁵ Yet the extent to which this puzzle has been solved remains to be seen. Concerning the external dimension of energy, for instance, competence in these areas falls under the mandate of Commissioner Günther

¹¹ See the Joint Study of the European Policy Centre, Egmont and the Centre for European Policy Studies by Kaczyński et al. (2010).

¹² See the speech by Herman Van Rompuy (2010) on “The Challenges for Europe in a Changing World” at the Collège d'Europe in Bruges on 25 February.

¹³ Derived from an interview on 3 June 2010.

¹⁴ Derived from an interview on 25 June 2010.

¹⁵ Andoura et al. (2010) point out that in the area of energy sustainability, for example, matters are dealt with by different DGs (such as the DGs for Transport, Energy, Environment, Competition and Tax), each operating within its own paradigm.

Oettinger.¹⁶ This means that on projects of ‘European interest’, such as the Southern Corridor and the Mediterranean Solar Plan, the commissioner for energy takes the lead while the high representative for the Union in foreign affairs and security policy plays second fiddle. A senior official at the Commission stated that “[Baroness Catherine Ashton] can promote certain European preferences in energy linked to specific regional and third-country dossiers, but ENER takes the lead and final decision”.¹⁷

In the EU’s external representation for furthering cooperation and dialogue with non-EU countries and regions, however, a hybrid negotiating format has been put in place. The negotiation team here is tripartite: the high representative and the energy commissioner flanked by the presidency of the Council of the European Union. A clear example in this regard is the EU–US Energy Council, which was established in November 2009.¹⁸ During a summit of this Council in November 2010, the EU was represented by High Representative Ashton with energy Commissioner Oettinger in a secondary role.

The recent Energy 2020 strategy for competitive, sustainable and secure energy proposed by the Commission furthermore underlines that the external dimension of EU energy policy must be consistent and mutually reinforcing with other external activities of the EU (e.g. trade, climate change and biodiversity, and the CFSP). In matters of energy security, the strategy states that “EU policy will pay particular attention to safety and security of oil, natural gas pipelines and related production and transport infrastructure by combining energy policy and CFSP instruments”.¹⁹ In sum, both the hybrid negotiating format plus the Energy 2020 strategy on the external dimension of energy indicate that while trying to solve the puzzle of institutional fragmentation, the Commission – and the EU at large – promotes increasing synergies in the horizontal energy dossier.

At the same time, the practice of sorting out who should take the lead in international negotiations on energy-related areas and where the Union and national governments share competence is proving to be a hard nut to crack. A much-publicised example was the negotiating mandate for the UN Environment Programme on addressing mercury in 2010. This battleground between the Commission and the Council of Ministers over the rules for the EU’s external representation was not so much a legal as a political conflict.²⁰ From the Council side, the Commission’s claim that only it can represent the Union – while viewed as politically the most reasonable option in the long term – was perceived as pursuing an institutional collision course.²¹ The Commission criticised the Council for undermining efforts to put into practice the Union’s mantra of ‘speaking with one voice’ in international relations.²²

¹⁶ Derived from an interview on 21 May 2010. Both Commission President José Manuel Barroso and energy Commissioner Oettinger made a case for the inclusion of the external dimension of energy under DG ENER, thereby excluding the possibility of powers in this area being ‘siphoned’ off to the European External Action Service.

¹⁷ Derived from an interview on 28 June 2010.

¹⁸ See Council of the European Union (2009). The members of the Energy Council are the high representative flanked by the commissioners for energy, science and research plus the presidency of the Council of the European Union.

¹⁹ See European Commission (2010).

²⁰ Derived from an interview on 26 May 2010.

²¹ Derived from interviews on 16 April, 27 May and 28 May 2010.

²² See Council of the European Union (2010). In summary, the final compromise text states that the Commission is authorised to negotiate on behalf of the Union in matters that fall within the Union’s competence. To the extent that the subject matter falls within the shared competence of the Union and of its member states, the Commission and the member states should cooperate closely during the negotiating

Without going into the details of this case, two lessons are drawn here. First, post-Lisbon what is needed in areas of shared competence like these is confidence building between the Commission and the member states. A view expressed from the Council Secretariat is that the Commission should present arguments that convince the member states to provide a mandate for negotiating on national competences [plus] make clear to them that they have control over the negotiating mandate.²³ This requires diplomatic skill in winning over the member states. Also, bickering should not take place with respect to competence; discussions should instead focus on effectiveness. Questions of ‘who represents the EU’ and ‘who drives the EU’ are clearly linked to desires by the Commission to establish a distinct European identity in global governance while reducing the Union’s ‘patchwork power’ status in this area.²⁴ In patching up this state of affairs, a director of the Commission’s Services argued that “[the Commission] should make a case to the member states that, en bloc, the member states and the Commission are much more effective in international negotiations that involve both EU and national competences”.²⁵

2.3 The Council of Ministers

To a large extent the energy dossier is business as usual in the Council, i.e. there is a strong continuity between presidencies in pushing legislation through the Council machinery.

It is noticeable that during the heyday of the six-month presidency, which drew to a close in the first half of 2010, certain tensions between the Council of Ministers and the Commission in the external dimension of energy rose to the surface. These came to the fore in the aforementioned EU–US Energy Council. Owing to agreements made previously at a higher political level – the Energy Council was initiated by US Ambassador Richard Morningstar – DG RELEX (now External Action) was awarded the lead role in this dossier. This *fait accompli* can be regarded as an inheritance from the pre-Lisbon era.

Just as in the above-mentioned mercury case, a new sovereign attitude by the Commission in the Energy Council has been noted in the Council of Ministers, with respect to both the member states and the rotating presidency. Complaints in the Council of Ministers have included last-minute annotated agendas by DG RELEX/External Action on non-relevant subjects, a regular denial of information by the latter and an unsatisfactory degree of transparency in the policy-making process. This situation does not seem to be in accordance with the EU’s internal working methods in the Energy Council, which read that “[t]he Commission will report regularly to the Member States on its exchanges with the United States on this matter and will forward the agenda to them”.²⁶ In line with aforementioned arguments, the Commission defends its ‘new professionalism’ on the grounds of avoiding institutional overcrowding in this area plus limiting the opportunities for member states to insert national standpoints in Commission proposals. This attitude is questioned by the Council of Ministers, where a member of the Council’s Energy Working Party underlines that the Commission has little margin to act alone. It needs to cooperate with the Council presidency and the European Parliament for effective policy-making.²⁷ In accordance with the formal working methods described above, there have

process, “with a view to aiming for unity in the international representation of the Union and its Member States”.

²³ Derived from an interview on 27 May 2010.

²⁴ See Pisani-Ferry (2005) as cited in Gstöhl (2009). The term ‘patchwork’ refers to the EU as an accidental player, i.e. one that – depending on its internal arrangements or the lack of them – is sometimes at the table and sometimes not.

²⁵ Derived from an interview on 3 June 2010.

²⁶ Refer to Council of the European Union (2009).

²⁷ Derived from an interview on 8 July 2010.

been calls in the Council for consultations *ex ante* between the Commission and the Council (i.e. the presidency and member states) in an open and transparent way.

2.4 The European Parliament

Concerning energy policy, the main provision in the Lisbon Treaty (Art. 194 TFEU) has been hailed within the Parliament as a point of departure for further extending the EU institutions' power.

At the same time, the previously mentioned limitations of the separate energy title in the Lisbon Treaty have been described by officials in the Parliament's secretariat as a double-edged sword. "On the one hand, paragraph 1 [Art. 194] proposes opportunities [for] the Parliament while paragraph 2 sets limitations. The role of the EP [European Parliament] is to exploit the first paragraph and use it to the best of its abilities."²⁸

The introduction of Art. 218(6a) TFEU on the conclusion of international agreements is of more importance for enhancing the Parliament's role in energy matters. In these agreements, covering fields to which the ordinary legislative procedure applies, the consent of the European Parliament is now required.²⁹ In energy projects of European interest, such as Nabucco and the Southern Corridor, no agreements can be established without the permission of the Parliament. Furthermore, Art. 218(6a) provides for the Parliament to have a presence in international organisations and conventions like the International Energy Agency, the Energy Charter Treaty and the Energy Community.³⁰

Nevertheless, enabling the Parliament to use fully its new prerogatives requires a redefinition of the inter-institutional relations. Take the Parliament's place in international agreements, for example. The Treaty provides that the Parliament shall be immediately and fully informed at all stages of the procedure.³¹ Hence for this reason, the Commission and the Council's rotating presidency are obliged to brief the Parliament regarding the latest developments in international negotiations. On the other hand, that does not mean that MEPs can attend Council working group meetings on the spot in international negotiations, for which the Parliament has been pressing.³² These demands by the Parliament in general go further than the practice of national parliaments in national contexts. If it pushes too far, for example by micro-managing a policy process that should otherwise be led by the executive, the Parliament risks confusing the distinction between the legislative and executive authorities.

Another matter concerns problems of coordination between the Industry, Research and Energy and Foreign Affairs Committees in several energy dossiers, such as the third package of legislative measures on the internal energy market. In this and other legislative proposals, the Foreign Affairs Committee wants to carve out a strong role for the high representative.³³ An additional matter concerns the recently adopted gas security Regulation. During the negotiations on this legislative proposal, the Foreign Affairs Committee (unsuccessfully) proposed text amendments in which they pleaded for a substantial role for the high representative in several areas.

²⁸ Derived from an interview on 25 June 2010.

²⁹ The ordinary legislative procedure applies to most of the energy proposals.

³⁰ In the International Energy Agency, the Union participates, while in the Energy Charter Treaty, the Union is a fully-fledged member.

³¹ See Art. 218(10) TFEU.

³² Derived from an interview on 20 April 2010.

³³ Derived from interviews with officials of the European Parliament and Council of Ministers, February–July 2010.

3. Conclusions

To a large extent, EU energy policy under the Treaty of Lisbon rules remains business as usual. The carefully formulated, new energy provisions in primary law, which formalise the shared ownership of this policy field, offer little that will move intergovernmental topics into the Union arena, hence neglecting to reinforce aspects like solidarity. At the same time, the Lisbon Treaty offers new means in external representation to further the Union's cooperation and dialogue with non-EU countries and regions. As the Union is looking at energy matters beyond the internal market and towards presenting a political face to the external dimension, the new institutional actors initiated by the Lisbon Treaty, such as the high representative and the European Council president, are welcome in this regard. So when returning to the above-mentioned question of whether the Commission and the Council of Ministers are 'squeezed in' between the 'winners of Lisbon', i.e. the European Parliament and the European Council, in the EU's energy policy this is not the case.

Coordination and international representation in energy policy has nevertheless become more complex and not necessarily more effective post-Lisbon. The division of labour in the external dimension of energy amongst the European Commission, the high representative and the rotating Council presidency – with consent required by the Parliament – is not as clear-cut as the (political reality of the) Treaty puts it. This confusion can, for example, provide fertile ground for competing approaches to markets and politics amongst the Commission's services, the Council Secretariat and the European External Action Service. In this vein, Vice-President of the Commission Maros Sefcovic recently stated that within the EU, commentators love to see the institutions in permanent competition – a zero-sum game that means that whatever one institution gains, the other inevitably loses.³⁴

To avoid excessive bureaucratic politics and build on the legal basis of the Lisbon Treaty to ensure that, for instance, there is effective solidarity in the infrastructure and external dimension of energy, the combined politico-technical expertise and weight of the institutional quadrangle is required to 'play in tune'. Instances of shared competence like that for energy, which are at the same time both horizontal and sectoral, have proven just how much the institutions depend on each other under the Treaty of Lisbon rules. Thus the Commission's Energy 2020 Communication stresses that more effective coordination at the EU and member state levels needs to be put in place.³⁵ The mercury case shows that after a phase of inter-institutional conflict between the Union's institutions and the member states, outcomes emerge – in this case on who negotiates for the EU in areas of complex shared competence – that look workable on the international stage.

Therefore, in explaining these and other areas of shared competence like that for energy, we should abandon the practice of describing them under the Treaty of Lisbon rules in terms of the Community method versus intergovernmentalism. Instead, as recently suggested by German Chancellor Angela Merkel, we should explain the EU's energy policy in terms of a new 'Union method', i.e. a combination of the Community method and coordinated action by the member states.³⁶ As the section on energy in the Lisbon Treaty specifies, member states retain their right to frame their national energy policies. Yet in responding to common concerns, such as ensuring

³⁴ See the speech by the European Commission Vice-President Maros Sefcovic (2011) on "The EU's institutional evolution since the entering into force of the Lisbon Treaty", at the Bureau of European Policy Advisors in Brussels on 9 February.

³⁵ Refer to European Commission (2010).

³⁶ See the speech by Federal Chancellor Angela Merkel (2010) at the opening ceremony of the 61st academic year of the Collège d'Europe in Bruges on 2 November.

a well-functioning internal market in energy and security of supply, along with implementing the priority European infrastructure projects, the EU needs coordinated action. This process entails a commitment from the institutions and the member states to European cooperation: reaching consensus on the energy targets to be achieved followed by action in the respective areas, while all work towards the same goal of delivering them.

It is in this institutional setting under the Treaty of Lisbon rules that the Union must achieve a coordinated energy policy.

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Appendix. Title XXI on Energy (Art. 194 TFEU)

Title XXI: Energy, Art. 194

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:

- (a) ensure the functioning of the energy market;
- (b) ensure security of energy supply in the Union;^[*]
- (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and
- (d) promote the interconnection of energy networks.

2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Economic and Social Committee and the Committee of the Regions. Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 192(2)(c).

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature.

* Subject to a *procès-verbal* of rectification under examination.

About EPIN

EPIN is a network of European think tanks and policy institutes with members in almost every member state and candidate country of the European Union. It was established in 2002 during the constitutional Convention on the Future of Europe. Then, its principal role was to follow the works of the Convention. More than 30 conferences in member states and candidate countries were organised in the following year.

With the conclusion of the Convention, CEPS and other participating institutes decided to keep the network in operation. EPIN has continued to follow the constitutional process in all its phases: (1) the intergovernmental conference of 2003-2004; (2) the ratification process of the Constitutional Treaty; (3) the period of reflection; and (4) the intergovernmental conference of 2007. Currently, EPIN follows (5) the ratification process of the Lisbon Treaty and – should the treaty enter into force – (6) the implementation of the Treaty.

Since 2005, an EPIN Steering Committee takes the most important decisions. Currently there are seven member institutes: CEPS, Clingendael (the Netherlands), EIR (Romania), ELCANO (Spain), HIIA (Hungary), Notre Europe (France) and SIEPS (Sweden).

Structure

Currently there are 34 EPIN members from 25 countries, also from countries outside of the EU. The 'hard core' work of the network is based on the cooperation of about 10 most active institutes. The member institutes are quite diverse in size and structure, but are all characterised by political independence and the absence of any predetermined point of view or political affiliation.

EPIN organises at least three events across Europe per year. The network publishes Working Paper Series and other papers, which primarily focus on institutional reform of the Union. The network follows preparations for the European elections, the EU's communication policy, and the political dynamics after enlargement, as well as EU foreign policy and justice and home affairs.

Achievements

EPIN is a network that offers its member institutes the opportunity to contribute to the 'European added-value' for researchers, decision-makers and citizens. The network provides a unique platform for researchers and policy analysts to establish personal links, exchange knowledge and collaborate on EU-related issues. Members bring their national perspectives to bear on the issues tackled and through collaboration they contribute to establish a 'European added-value' (e.g. on EU communication, flexible integration). By doing so they strengthen a common European dimension in the national debates on Europe.



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