

LISBON VETO RIGHTS FOR THE COUNCIL ON ENERGY POLICY

DISSERTATION

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*A study on the veto
powers conferred on the
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Executive summary

Poland’s veto against the Low Carbon Roadmap 2050 of 9 March 2012 represents the point of departure for this research. The aim was determine the extent to which the Council of Ministers retains veto powers on legislation pertaining to their national energy mix, or whether energy policy is governed by Qualified Majority Voting within the Council of Ministers. The central question was therefore “does the European Commission play a role in European energy policy, or is it controlled by the member states?” In order to develop a fuller picture of the case study into the Polish veto against the Low Carbon Roadmap, this dissertation explores the history of European integration, with a special focus on evidence of strong intergovernmental trends in decision-making. The “empty chair crisis” of 1965 constitutes the starting point of this historical review. From this historical starting point, this thesis looks for possible similarities between France’s objections to further integration in 1965 and Poland’s recent veto.

The methodology used to answer this question, was desk research (using qualitative secondary data). Various academic papers, newspaper articles and books were used to gather knowledge on the subject. A descriptive approach was used to present the facts of the Polish veto and the history of European integration. Hereafter an analytical approach was used, in order to find a possible causal link between Poland’s veto and prior veto’s wielded in Europe’s integration history. Limitations of this approach are that desk research rarely produces primary data, and that the data you get from desk research might not always be qualitative.

The theoretical framework consisted of both neo-functionalist, liberal intergovernmentalism and constructivist theories. Moravcsik’s three-step model served as an important tool to decipher how domestic factors might influence member state’s preferences on energy issues. This approach was used to analyse Poland’s possible motivations for putting down a veto and blocking the decision making process.

Conclusions of this report pertain to the three sub-questions asked, which were necessary to answer the central question. First sub-question was “how did intergovernmentalism develop in energy policy in the Council of Ministers?” To this end, 1965’s “Empty chair crisis” was examined, because it is a historic example of France slowing the integration process by abstaining from meetings. This change supports intergovernmentalist representations of EU decision making, by effectively showing the limits of the Community Method. France demanded veto rights on “very important” issues, as they were opposed to further integration. They also demanded to prolong the unanimity rule, because they were against QMV. The solution to the crisis was the Luxembourg Compromise. Although not legally binding, the Luxembourg compromise reminded the member states of their ability to stop Commission proposals: either by putting down a veto (on questions of unanimity) or by forming blocking minorities (on questions using Qualified

Majority voting). No direct causal link between the Polish veto, and the “empty chair crisis” could be established. However, it seems that both France and Poland wanted to protect “very important interests” when they blocked decision making. This could indicate that both countries had similar reasons for their divergent behaviour.

The second sub-question was “how does the Lisbon Treaty confer veto powers on member states?” The dissertation shows that member states do retain veto rights on energy mix issues, and that unanimity is required to adopt Commission proposals concerning the national energy mix of the member states. This leaves a seemingly negligible role for the Commission on such issues. By looking into the Lisbon Treaty, the main research question was thus answered. The energy section of the Lisbon Treaty (specifically art. 192 (2) c) confers veto rights on the member states. Poland was used as a case in point, due to their divergent voting behaviour on the 9th of March 2012 *vis-à-vis* the Low Carbon Road Map 2050. The analysis showed how economic and political issues might have lead Poland to vote against the reduced CO² emission targets in order to protect their own industries. Furthermore, energy security appears an important issue for Poland and other Eastern European states. This is a question which might not have been sufficiently dealt with in the EU, as energy negotiations seem to continue bilaterally (much to the dismay of newer member states).

Third sub-question, “might the Polish veto lead to a two-speed Europe on energy questions?” was answered in the affirmative. The dissertation explores possible ramifications of the Polish veto upon EU decision-making in the field of energy policy. Due to statements from the European Commission, it seems plausible that it will continue to propose legislation in the field of energy mix policies despite the recent veto. This, in turn, might lead to energy policy being made only by a coalition of the willing. This trend appears in other recent EU policy areas, for example with the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, where only 25 out of 27 member states decided to agree on an intergovernmental pact. Given the trends, it seems plausible that we will have a “two-speed Europe” in the field of energy mix policy with those certain member states disengaging from further integration. Time will tell if energy will be part of this “two speed Europe” as well.

In conclusion, the central question has been answered in the affirmative: the European Commission does play a role on energy issues, because they have the right to initiative proposals. However, the veto rights conferred to member states give them substantial powers to block legislation. Therefore, the Commission is hard pressed to pass legislation on energy issues, compared to issues where Qualified Majority Voting applies.

Table of Contents

List of Abbreviations	4
Introduction	5
Methodology	6
Chapter 1 Integration theories	8
1.1 Introduction	8
1.2 Neo-functionalism	8
1.3 Social constructivism	9
1.4 Intergovernmentalism/Liberal intergovernmentalism.....	9
1.5 Moravcsik’s three step model	10
1.6 Conclusion	11
Chapter 2: Literature review: History of intergovernmentalism in European integration	12
2.1 Introduction	12
2.2 1951-1963: Neo-functionalism and the Community Method	12
2.3 1963-1985: The “Empty Chair Crisis” and the “Luxembourg Compromise”	13
2.4 1986-2009: Regulatory policy mode and the internal market.....	15
2.5 Conclusion	17
Chapter 3 Case study: The Low carbon Roadmap 2050	18
3.1 Introduction	18
3.2 Contents of the roadmap	18
3.3 the communication as a legal instrument (“soft law”).....	19
3.4 The European Council and the Council of ministers	19
3.5 Decision-making in the Council of Ministers.....	20
3.6 Decision making process vis-à-vis energy issues	21
3.7 Conclusion	21
Chapter 4: Analysing the Polish veto	22
4.1 Introduction	22
4.2 Economic factors	22
4.3 Political factors.....	23
4.4 Energy security	23
4.5 Towards a “two-speed Europe” on energy?	25
4.6 Conclusion	26
Conclusion	27
Sources:.....	29

List of Abbreviations

<u>Acquis communautaire</u>	denotes all the legislation that the European Union has agreed upon so far and is thus the body of law that new member states must adhere to
<u>Community method:</u>	describes the “supranational” decision-making mode, where member states confer power to the European Commission, giving away sovereignty in the process
<u>Co-decision (aka. The “ordinary decision making procedure)</u>	the Council of minister and the European Parliament must both agree on Commission proposals – puts them on equal footing
<u>COM</u>	Council of Ministers – intergovernmental body member states meets in 10 different configurations to agree on proposals from the Commission
<u>COREPER</u>	<i>Comité des représentants permanents</i> - (Committee of permanent representatives) are delegations send out by the member states to closely follow the work in the Council of Ministers. They represent the viewpoints of their capitals, and meet weekly with each other to prepare items for the Council of Minister meetings.
<u>EC</u>	European Commission
<u>ECSC</u>	European Coal and Steel Community
<u>EP</u>	European Parliament
<u>EU</u>	European Union
<u>Intergovernmentalism</u>	countries are making agreements amongst themselves, and when they want, rather than relying the European Commission to set the pace. Is a theory of European integration counter to neo-functionalism.
<u>MS</u>	Member States (i.e. the 27 countries in the European Union)
<u>Neo-functionalism</u>	a European Integration theory made popular by Ernst Haas in the 1950s and 60s. Based on the Community method political spill-over.
<u>SEA</u>	the Single European Act – an important treaty from 1986, pivotal for creating the internal market
<u>ToL</u>	Treaty of Lisbon – the latest EU treaty which went into effect 1 December 2009
<u>Unanimity</u>	a decision making process in the Council of Ministers requiring all 27 member states to vote in favour of a proposal
<u>QMV</u>	Qualified Majority Voting - a decision making process in the Council of Ministers allowing decisions to be passed without every single country voting in favour

Introduction

Much interest has been shown by the media concerning Poland’s veto against the Low Carbon Roadmap 2050 at the Council of Environmental Ministers of the 9th of March (Euractiv, 2012, para. 1). The country stood by its position, despite pressure from other member states. It seems that Poland refused to let the Commission legislate and interfere in their national energy mix. The objective of this research is thus, to gain an understanding of contemporary European integration. Also, to find out what veto powers the Council of Ministers retains with the Lisbon Treaty on the choice of the national energy mix.

This conundrum imposed a number of questions. Especially the known Luxembourg Compromise seems pivotal to the development of the intergovernmental approach as developed by Stanley Hoffmann (Wallace, Pollack, Young, 2010, p.19). Second, it would be interesting to find out where in the Lisbon Treaty Poland derived its veto powers from. This is pertinent, because it seems that most decisions in the EU are taken by QMV and not unanimity. Finally, the wider implications of the veto vis-à-vis energy policy should be discussed.

Therefore, the central research question is “does the European Commission play a role in European energy policy, or is it controlled by the member states?” To answer this question, the three following sub questions have been formulated.

First, in chapter 1, three integration theories shall be examined, to find out which one is best suited to analyse bargaining on energy issues. This knowledge will be used in chapter 2, and will serve as a base for our analysis in chapter 4.

Chapter 2 will deal with the first research question, “how did intergovernmentalism develop in energy policy in the Council of ministers?” This chapter has been split into three main parts. Part one, covering the years 1951-1963, will start with the European Coal and Steel Community (ECSC) and Euratom, as these were both the founding stones of the European project, but also related to coal and nuclear energy (Pollak & Slominski, 2008, p. 11). Part two, will discuss the role of intergovernmentalism from 1963-1985. Here the Empty Chair Crisis and the Luxembourg Compromise will be discussed. Finally, in part three the years 1986-2009 will be discussed. Here 1986's Single European Act will be described, to see how it was used by the Commission as a legal basis for regulatory action and an escape from the intergovernmental deadlock (Moravcsik, 1998, p. 314).

Chapter 3 will answer the second research question: “how does the Lisbon Treaty confer veto powers on member states?” This will be done via a case study of the Roadmap. In that way, the content of the Roadmap

will be explained. Also, the reasons as to why unanimity was used in this case, and how the Lisbon Treaty confers veto powers on the member states regarding certain issues, shall be examined. Finally, the Council of Ministers will be scrutinized, to determine what kinds of decision-making modes they apply.

Chapter 4 will further analyse Poland’s reasons for putting down a veto. The chapter is divided into economic, political and energy security sections, all giving possible explanations for why Poland might have been opposed to the communication. Using this information, the chapter will elaborate on the final research question, “might the Polish veto lead to a two-speed Europe on energy questions?” This question will be elaborated upon by comparison to other contemporary European issues, *inter alia* the Financial pact and the Euro crisis. Finally, a conclusion shall be given where the three above-mentioned questions shall be answered.

Methodology

The idea for the dissertation came via the author’s interest in Poland’s veto on the 9th of March. Therefore, an analytic approach was chosen at the onset of the writing process. The goal was to understand “why” this veto was possible, and explain it to the reader. However, before arriving at the analytical stage, the research process had to go through the descriptive stage. As Gilbert says, this is the stage where one seeks information to familiarize oneself with the topic. It is, in fact, pivotal to go through this stage before reaching the analytical stage. Because, in order to describe, one must understand (Gilbert, 2008, p. 49-50). Consequently, the author wanted to establish a causal link between the descriptive and the analytical stage. To first look back into history, to see how veto and unanimity had been used already, and to see how this might relate to Poland’s recent veto.

The research method was qualitative secondary data obtained by desk research. Coupling official data with theory gave an idea of which factors determine council voting behaviour of member states. The theoretical framework for this dissertation consisted of an amalgam between neo-functionalism, intergovernmental and liberal intergovernmental (Andrew Moravcsik) integration theories (Wallace, Pollack, Young, 2010, pp.17-20). Especially Andrew Moravcsik was used as a tool to try to understand how MS form their interests domestically before engaging with other EU countries. Furthermore, different scholarly approaches to the Luxembourg Crisis were read, to gain a broad understanding of the issue. These opinions were held up against each other, to get insights into the scholarly debate on the subject.

The research questions were elaborated upon in brainstorming sessions. As such, the author exchanged views with the supervisor, Mr. Pijlman, in order to pin-point the most interesting approach to the issue. The questions adhered to Gilbert’s five point standard of being answerable, interesting, relevant, feasible, concise

and ethical (Gilbert, 2008, p.47-50). Finally, it seemed necessary to focus on three research questions. This is because the research objectives where to understand and analyse a problematic (as mentioned above), and therefore three questions where chosen that could link the different research questions together, to examine a possible causal link.

The justification using qualitative secondary data obtained by desk research as the research method, is that it seemed to most appropriate to tackle the issue at hand. Alternatively, one could have chosen the quantitative research method. According to Dr. Ouyang, there are four methods of quantitative research, correlational, cause-comparative, descriptive and experimental (Ouyang, 2012, para. 2). This method’s strengths are its ability to test a hypothesis in the “real world”, by actually communicating with people. It is usually based on large, random samples, where you use questionnaires or interviews to ask people their opinion. With this information, you can build statistics and try to determine patterns and predictions of people’s thoughts or behaviour. Weak aspects of the quantitative method are that answers can be “inaccurate” if the researcher is not careful when asking the questions, he runs a risk of making the questions biased (Xavier University Library, 2012, para. 1).

However, the quantitative approach was not chosen, because it did not seem helpful to answer the research questions. Partly due to the fact that the topic is rather specific, and not something you can ask people’s general opinion on. Interviews have purposely been exempted from the dissertation, because it was not deemed that it would add a great deal of extra value due to the large amount of information available. Also, negotiations in the Council can be quite sensitive, so it is not wise of a researcher to ask direct questions as to what happened behind closed doors. However, an informal discussion was held with Rikke Reumert Schaltz from the Danish Permanent Representation to the EU (Schaltz, 2012, personal communication).

Chapter 1 Integration theories

1.1 Introduction

Before moving on to chapter two (the historical overview), the three major integration theories shall first be examined. These are neo-functionalism, social constructivism and intergovernmentalism (including Moravcsik's liberal intergovernmentalism). It shall be seen which theory is best suited to analyse energy negotiations, to try to find out if the Commission has a role to play on energy issues. This chapter is important, because it will form the basis of the analysis in chapter 4.

1.2 Neo-functionalism

According to Wallace, Neo-functionalism is a theory made famous by writers such as Ernst Haas. It is built on the somewhat ideological view that member states aspire for a strong Europe. In the 1950s, Ernst Haas put forth the “functional spill-over” theory, postulating that member states would incrementally be integrated ever further i.e. common policy in one area would necessitate legislation in different areas. For instance having a common coal and steel union would lead start the common market, which requires a common set on employment policy etc. (Wallace, Pollack, Young, 2010, p.18).

According to Moravcsik, the criticism of Haas' neo-functionalism has been that it only holds under certain circumstances. The huge “waves” of integration, e.g. the ECSC, the SEA, accession of new member states etc., can be described using Haas because the member states are seemingly working together towards the same goal. They are willingly giving out sovereignty, thus accepting the pivotal role of the Commission. However, it is less usable when problems arise and integration grinds to a halt (Moravcsik 1998, pp. 13-16). An example like the “empty chair” crisis in the 1960s, where France's De Gaulle successfully blocked discussions by not showing up to meetings, seems hard to describe using neo-functionalism.

In summary, this theory has been very important to the academic world to describe European integration because it illustrates the dynamic of how one policy area leads to agreements being made in another area. Nonetheless, this theory is lacklustre in times of disagreement and hardship in European integration. Subsequently, neo-functionalism might not be best suited to describe the energy negotiations.

1.3 Social constructivism

Social constructivism holds that member state preferences are not permanent normative values, but rather socially contingent. Thus, opinions of states are susceptible to change over time due to interactions and discussions with other states. It postulates that there is a universal understanding between people, being rational beings. In short, Wendt says that international institutions are created *grace à* cultural exchange, ideas and ideologies (Jackson, Sørensen, 2007, p.162, 165). EU rules and regulations can transform nation states in terms of their laws and their social behaviour. Constructivism is thus opposed to rationalism, in that it does not see states as opportunistic. While rationalism is all about “zero-sum” games in an anarchic international society (Moravcsik, 1998, p. 25), constructivism holds that states act according to what seems as the right thing to do, and change their positions and opinions constantly. This means that states would not do something which might negatively influence their relationship with partner states in the long run (Wallace, Pollack, Young, 2010, p.24).

Needless to say, this theory has been criticized by rationalists for being too ideological. It seems that liberal scholars are generally opposed to the arguments put forth by constructivists (Wallace, Pollack, Young, 2010, p. 24).

In summary, social constructivism seems “semi-appropriate” for describing integration on energy standards. It seems that states can be influenced by bargaining and thus willing to adapt more stringent environmental standards than they would have done otherwise. One might postulate that not all of the 26 member states who voted for the 2050 Low Carbon Roadmap of the commission, would not have done so, without a long series of exchanges and meetings with their European neighbours. So it seems likely that member states’ positions can be changed, however it seems improbable that this is done due to “ideological reasons”. It follows that the intergovernmental/liberal intergovernmental view seems more coherent for this assignment.

1.4 Intergovernmentalism/Liberal intergovernmentalism

Andrew Moravcsik seems to draw on the work of Stanley Hoffman, who criticized neo-functionalism for blindly believing in the incremental building of a European super state (especially after the aforementioned “empty chair” crisis in the 60s). Hoffman says that while international institutions are gaining importance, the nation state will continue to thrive. Contrary to realism, liberal intergovernmentalism explains state behaviour *vis-à-vis* domestic issues and opportunities. It also explains state bargaining in more detail (Wallace, Pollack, Young, 2010, p. 20).

1.5 Moravcsik’s three step model

In his important book, “Choice for Europe”, Andrew Moravcsik outlines his theory on liberal intergovernmentalism. He bases his ideas on the aforementioned authors, such as Hoffmann and Keohane (Moravcsik, 1998, ix, p.15) In fact, he codifies state behaviour using this three step model (Moravcsik, 1998, pp. 3, 24):

Step one: Preference formation (domestic)

Based on economic interest, Nation states internally define their respective best- and worst case scenarios. Large economically important players are influencing the state, who wishes to aid its key industries. State preferences differ according to which economic interests they have: some countries might have a huge sustainable energy sector; others rely on car production etc. (Moravcsik, 1998, pp.24, 35, 38).

Step two: Relative power

Due to asymmetrical interdependence, countries with more power and resources are likely to “win” over lesser states. Again, some countries might want product a while the other want product b – negotiations are therefore give and take (you give me something I want, I give you something that is not so important to me) (Moravcsik, 1998, p. 60). This theory might stem from Keohane and Nye, who says that bargaining power is based on what countries can offer, and what they want (Duke, 2004, para. 22). This determines how coalitions are build, and how likely they are to succeed (Moravcsik, 1998, p. 73). Moravcsik says that it’s generally a positive-sum game with a mutually satisfactory outcome (Moravcsik, 1998, p. 25.).

Step three: Credible commitments

In the third step of his model, Moravcsik asserts that states give away sovereignty solely to appear credible towards other states. Thus, it works in two ways: first, it gives member states a “level playing field”, where states can take judiciary measures against each other, should they violate what has been agreed. Secondly, it is done to make sure that other states adhere to the promises. In fact, Moravcsik says that states commit themselves based on strictly realist assumptions: to gain power and maximize their position (Moravcsik, 1998, p. 73-74). Furthermore, he finds that the supranational element (i.e. the Commission) is redundant and sometimes even counterproductive (Moravcsik, 1999, p. 269-270).

According to Wallace, critics of Moravcsik’s theory have stated that it is negligent of influence of the Commission and the parliament in some areas. Thus, critics say that he is too far-reaching in his predictions, and that you cannot totally write off the European institutions. (Wallace, Pollack, Young, 2010, p.20).

In summary, Moravcsik’s liberal intergovernmental theory appears to be the theory best suited to describe the dynamics of energy policy making in the EU. First, because it takes into account domestic interests in the national states (step one). Secondly, because it shows that the powers and the interests of member states are not the same. Thus, their strength and flexibility determines negotiation outcomes. Therefore, this theory will be the used for the analysis in chapter 4.

1.6 Conclusion

Having now studied the most important theories of European integration, we have a solid understanding of what their strengths and weaknesses are. This is important next chapter where the history of European integration will be discussed. In this chapter, we have chosen Moravcsik’s three-step model as the best theory for chapter 4, where an analysis of Poland’s domestic interests will be carried out. Now we shall move on to chapter 2, the historical overview.

Chapter 2: Literature review: History of intergovernmentalism in European integration

2.1 Introduction

This section covers the history of European integration. Also, the history of energy policy shall be discussed. This chapter is therefore important to answer the first research question “how did intergovernmentalism develop in energy policy in the Council of ministers?” The first section will cover the years 1951-1963, comprising the ECSC and Euratom. Naturally, the functionalist theories of Ernst Haas will be discussed. The second section will describe the years 1963-1985. Here focus is on the Empty chair crisis and the Luxembourg compromise. The theoretical framework used to describe this period will be intergovernmentalism as described by Hoffmann. Finally, the period from 1986-2009, i.e. the period from the SEA to the ToL, shall be discussed, to see which dynamics seemed to govern this period of integration. It shall be discussed how internal market and competition policy seemed to be the driving engine of European integration in this period, with a regulatory role for the EC. For this purpose, Andrew Moravcsik’s liberal intergovernmentalism theory will be utilized.

2.2 1951-1963: Neo-functionalism and the Community Method

According to Mathijssen, the 9th of May 1950 was a crucial day for European integration. Robert Schuman put forth his so-called “Schuman declaration”, pleading unity and solidarity. With the European Coal and Steel Community, leaders sought to neutralize an industry with the potential of war. Coal and steel were to be put under common administration, in hopes of avoiding future atrocious wars such as World War II. Schuman had said that a supranational “high authority” (which later became the Commission) was to oversee this pooling of resources from the member states. Also, Schuman hoped that this could lead to the federation of European states at a later stage (Mathijssen, 2007, pp.12-13). The ECSC was negotiated very swiftly: it was signed 18 April 1951. The treaty lasted 50 years until 2002, and now does not exist anymore (Mathijssen, 2007, p.13).

Similarly, member states were quick on their feet when negotiating the Treaties of Rome. From 1955-1957, two major treaties were put into place. First, the European Economic Treaty (EEC) started what we now know as the “common market”. It was the first step towards economic integration (Mathijssen, 2007, p.14). Second, the Euratom treaty sought to internationalize nuclear energy procurement and research, both because

it was a potential treat and because it was seen as a more effective solution (Wallace, Pollack, Young, 2010, p. 359).

Ernst Haas described this period of European Integration as “neo-functionalism”, noting how initiatives and policies in one area (coal and steel) inevitably lead to policy making in other, related, fields (economy). Furthermore, domestic actors who benefitted from this would demand regulation in other areas, which would lead to a political spill-over effect. In his view, this process would lead to a self-sustaining circle of ever deeper integration (Wallace, Pollack, Young, 2010, p. 17-19). This is referred to decision making via the Community Method, because sovereignty is (to some extent) removed from the member states, and given to a supranational agent (i.e. the Commission) In that way, you could see the Commission as a driving engine for integration (Wallace, Pollack, Young, 2010, p. 91-95).

According to Pollak, the European Union’s prime objective was securing diverse, stable sources of energy. It seems that energy policy was thus an important part of the European puzzle right from the start. It is remarkable to notice, that two out three of the founding treaties were actually based on energy. The Commission wanted deeper integration on the energy field, and suggested more reforms (Pollak & Slominski, 2008, pp. 11-13).

However, notwithstanding the speed with which member states seemed willing to agree on energy and economic policies, there might have been limits to this enthusiasm. Despite pressure from the Commission, member states did not seek further integration on energy, they were more interested in the health of national energy enterprises (which were usually state owned), than they were in common European solutions (Pollak & Slominski, 2008, p. 11)

In summary, the period 1951-1963 appears to be a very productive period of European integration. MS agreed on several far-reaching treaties, both on the economic and energy related field, with a strong political will. Haas’s neo-functional theory is a good indicator of how the community method was at work here: the Commission worked as the legislator, with the MS amending and agreeing on these proposals. However, in terms of energy policy, it seems that the member states did not want to go further than what had already been agreed upon, despite the Commission’s insistence.

2.3 1963-1985: The “Empty Chair Crisis” and the “Luxembourg Compromise”

Palayret writes that on 24 March 1965, during the negotiations of the Common Agricultural Policy (hereinafter: CAP), the Commission made a proposal to have their own budget. Despite resistance from the French commissioners, The EC wanted to collect the national revenues from import levies to finance the

CAP payments and other programs. The revenues were estimated to billions, giving the EC a considerable sum of money to work with (Palayret, Wallace & Winand, 2006, pp. 52-53). In a way, this was a bold move from the Commission, knowing that giving more power to the EC might be unpopular with member states (Dinan, 2009, pp. 51-52).

Indeed, France’s president De Gaulle acted very strongly. Intrinsic to his position was resistance towards giving away sovereignty to the Commission, which he thought of as inferior to the member states. He thus pulled back the French representatives from all Council meetings after 29 June 1965, refusing to show up for meetings for a period of six months (Palayret, Wallace & Winand, 2006, pp. 21). This became known as the “Empty Chair Crisis”. De Gaulle knew that French presence was required in the Council to pass decisions, showing the limits of the Community Method. To exacerbate the dispute, De Gaulle vociferously voiced his resistance towards decision-making by QMV, demanding a treaty change to stop this (Palayret, Wallace & Winand, 2006, pp. 255-256). The Treaties of Rome stated that decisions were to be taken by QMV starting from 1 January 1966, which France was very sceptical about (Dinan, 2009, p. 50). France was worried about how external tariffs and trade policy could be disadvantageously determined, also fearing losing the favourable CAP agreement (Palayret, Wallace & Winand, 2006, pp. 54, 62-63).

However, pressure might have been mounting on General De Gaulle nationally and internationally. Nationally, had to face the Socialist candidate François Mitterand in the presidential elections of December 1965, where De Gaulle barely won the election (with 55% of the votes) (Palayret, Wallace & Winand, 2006, pp. 68). According to Palayret, this was a clear signal of the electorate, who wanted a more EU-friendly course. Furthermore, the National Agricultural Organisation of France (“Fédération nationale des syndicats d’exploitants agricoles”) had threatened to tell their (5 million) members not to vote for De Gaulle (Palayret, Wallace & Winand, 2006, pp. 69; Dinan, 2009, p.50). Internationally, the five other MS at the time had continued to meet in the Council. They expressed scepticism about France’s opposition, and made it clear that they did not want a treaty revision (Palayret, Wallace & Winand, 2006, pp. 54, 62-63).

De Gaulle was ready to find a compromise by January 1966. The “Luxembourg Compromise” was an official document, reiterating France’s concern *vis-à-vis* questions of extreme national importance. According to Dinan, France won the struggle with the EC. First, the Commission did not get the extra budgetary powers it wanted. Secondly, the “Luxembourg Compromise” was *de facto* a prolongation of the unanimity rule, delaying the implementation of QMV (2009, pp. 51-52). Palayret, however, asserts that the “victory” was not so clear cut. She says that the compromise was more of an “agreement to disagree”, and that France was just expressing the opinions of all the six members, who did not want to give more institutional power the EC neither (Palayret, Wallace & Winand, 2006, pp.73, 76-77, 251-252).

There have been discussions on whether or not the Luxembourg Compromise was, in fact, a legally binding document (Palayret, Wallace & Winand, 2006, pp. 251-252). According to Julio Cruz, most scholars agree that although it was part of the *acquis communautaire*, it was not legally binding. In fact, it was not an EU law but rather a public international law document (Palayret, Wallace & Winand, 2006, p. 262). Thus, it was not a guaranteed veto-opportunity that MS could use when they wanted to. However, Cruz also says that the Compromise did have significant political value. MS would use the phrase “very important interests” to express their dissatisfaction during Council meetings. Moreover, while the word “veto” was not used, member states would organise themselves in blocking minorities, to effectively block decisions that they were not happy with (Palayret, Wallace & Winand, 2006, pp. 258, 260, 270). Therefore, the Compromise might only have served De Gaulle’s purpose indirectly (Palayret, Wallace & Winand, 2006, p. 271).

From a scholarly point of view, it appears that this period 1963-1985 marks a shift from the earlier neo-functional period to a more intergovernmental one. Dinan says that member states let pragmatic, national interests take precedence over the community method (2009, p.51). Similarly, Stanley Hoffmann stated that member states reasserted themselves by opposing the Commission and furthering intergovernmentalism. He says that this was evident not only with De Gaulle’s behaviour, but also with the accession of new member states. When Denmark, the UK and Ireland joined in 1973, they all had stringent demands. Some even wanted opt-outs (Wallace, Pollack, Young, 2010, pp. 18-20). This tendency is further exemplified by the official creation of the European Council in 1974. It seems that the member states would no longer passively acquiesce to the Commission’s leading role, but started organising themselves in intergovernmental forums (Wallace, Pollack, Young, 2010, pp. 18-20). According to Pinder & Usherwood, this period led to frustration for many European federalists. Altiero Spinelli, one of the founding fathers of the SEA, is known to have characterized European integration at the time as a “dead mouse” (Pinder & Usherwood, 2007, p.27).

In summary, the period from 1963-1985 proves a stark contrast to the years before. De Gaulle led a coalition of opposition to the Community method, exemplified by the “Empty Chair Crisis”. The “Luxembourg Compromise” was a pull in the brake to stop further integration by QMV. Member states asserted their role, wanting to keep the unanimity rule for critical decisions.

2.4 1986-2009: Regulatory policy mode and the internal market

The Single European Act was a *fait accompli* on 17 February, 1986. It contained some 300 measures deemed necessary to finalise the internal market. The aim was the abolishment of barriers to trade such as import quotas and divergent product standards (Pinder & Usherwood, 2007, p. 24-25). Also, it extended the usage of QMV to new policy areas (Matthijsen, 2007, p.18), thus limiting the unanimity possibilities.

According to Wallace, this paved the way for the regulatory policy mode. In this setting, the Commission gained the role of the neutral deal maker who, with regards to the Treaties, pushed for more harmonisation between member states. It thus assumed the role of legislator on issues that would promote trade between MS, which would mean economic growth for all members. Simultaneously, the Council where used for discussions between member states to agree on new standards and ways to harmonize trade. This was to be done by mutually recognizing each other’s products and setting new zero

often higher) common rules. Finally, the European Court of Justice (hereinafter: ECJ) ensured that the rules were kept. It assured that anyone stepping out of line, would receive due sanctions, thus making it a level playing field for all MS (Wallace, Pollack, Young, 2010, p. 95-97).

The EC started to put forth environmental proposals after 1986’s Single European Act. It used its new powers in environmental policy and economic areas to justify such intervention. For instance, environmental standards were linked with internal market provisions (Wallace, Pollack, Young, 2010, p. 309). Nonetheless, energy was not specifically mentioned neither in the SEA or the Maastricht Treaty. According to Pollak & Slominski, it was not until the Treaty of Lisbon that energy got its own section. Article 194 of the ToL says that EU energy policy shall ensure a well-functioning energy market and cooperation between MS (Pollak & Slominski, 2008, pp. 12, 24).

Andrew Moravcsik’s theory on liberal intergovernmentalism seems to describe this period well. His ideas are based a three step model, where, first, MS define their national interests. This is often done in tandem with large national players i.e. huge corporations (Moravcsik, 1998, pp. 22-23, 381). The next step is the bargaining period, where MS use their relative power to get what they want from other countries. Due to asymmetrical independence, side deals can be made, pleasing MS who might not otherwise have been satisfied with the proposal (Moravcsik, 1998, pp. 3, 60). Finally, the ECJ is used to ensure that all players adhere to the rules. In short, this seems to create a dynamic where integration can take place in certain sectors (Moravcsik, 1998, pp. 67-70). In summary, it appears that the period from 1986-2009 introduced a new role for the Commission. It was successful in bringing forth proposals related to the single market. It appears that MS accepted this, because side deals and intergovernmental bargains were made to please those hesitant about further integration (Moravcsik, 1998, p. 74).

2.5 Conclusion

With the historical overview, indications of shifting tendencies within European integration were seen. From a fast-paced neo-functionalist approach in the 1950s, towards a more hesitant, intergovernmental approach in the 1960s. The SEA promoted the regulatory mode and gave new impetus to integration, and it seems that QMV become more frequent.

Moving on to chapter two, which will give a concrete example of a very recent example where unanimity was used in the Council of Ministers. Poland’s veto against a communication from the Commission called “a Low Carbon Roadmap 2050” shall be discussed, and answer the second research question “does the Lisbon Treaty confer veto powers on member states?”

Chapter 3 Case study: The Low carbon Roadmap 2050

3.1 Introduction

On the 9th of March 2012 the EU’s 27 environmental ministers met in the Council under the auspices of the Danish presidency of the Council of Ministers. The goal was to discuss the Low Carbon Roadmap 2050 and possibly adopt its CO² reduction targets into the Council conclusions (General Secretariat of the Council, 2012, p.2). However, despite pressure from other MS, Poland chose to put down a veto. That is important to this assignment, because, it seems that energy covers an area of EU politics where MS have veto powers. Therefore, it seems that this is a concrete example of intergovernmentalism in practice.

In this case study, the legal implications of the Roadmap will be discussed. We shall examine the contents of the Roadmap, to see exactly what it entails. Second, the signification of communications will be examined, to see if they are legally binding documents. This is important to understand why some countries might not want to support it.

3.2 Contents of the roadmap

The Commission’s Roadmap from March 2011 recommends reducing greenhouse gas (hereinafter: GHG) emissions by 80%-95% by 2050 (compared to 1990 levels). Furthermore, the Commission proposed incremental GHG reduction targets for 2020 (25% reduction), 2030 (40%) and 2040 (60%). It appears that the Commission attempted to stimulate the interest of the member state first by mentioning the energy dependency issues, claiming that 55% of the EU’s primary energy is imported, which is expected to rise closer to 60% in 2030. Second, it states that action is necessary to prevent the global temperature from rising with more than 2 degrees within the coming years. Third, the Commission postulates that lowering GHG emissions will not only improve the environment, but benefit the industry by creating jobs, create a “first-mover” advantage for green industries, and prompt savings for member states vis-à-vis lower healthcare costs and less money spend on fighting pollution (European Commission, 2011, pp. 3-4, 12).

The Danish presidency issued a draft suggesting Council conclusions before the 9 March meeting, reiterating the above-mentioned goals from the Roadmap (General Secretariat of the Council, 2012, p. 2). It appears that Denmark wanted a common statement from the 27 member states, agreeing to adhere to the reduction targets put forth in the Roadmap.

However, upon scrutinizing the actual council conclusions from the 9h of March, we see that only 26 out of 27 member states could agree on the political objective from the Roadmap (Lidegaard & Auken, 2012, p. 6). The reduction goals of non-sustainable energy sources of the Roadmap proved contentious. Despite pressure from other member states, Poland put down veto and successfully blocked agreement in the Council (RTBF, 2012, para. 1-4). Now the legal status of the communication will be looked at, to see what effects it could have had.

3.3 the communication as a legal instrument (“soft law”)

The roadmap is a communication from the European Commission to the Council of Ministers and the European Parliament. A communication falls out of the definition of a legal act (article 288 Treaty on the Functioning of the European Union). This definition entails regulations, directives, decisions and in some cases recommendations and opinions (European Union, 2012, para. 5 & 6). Therefore, it seems that a communication is not a legislative act, and thus not generally applicable.

However, according to Senden, communications might still have legal implications. Their functions are similar to white papers and green papers, because they are used to lay out ideas, schemes and concrete plans, which might then turn into legislation in the future. An example hereof is the White Paper for the International Market in 1985, which was important for the SEA. Furthermore, while soft law is not legally binding, they might create political obligations towards member states. Moreover, they can influence the behaviour or opinions of other countries (Senden, 2005, pp. 79-81).

In summary, the Roadmap might have been an important preparatory document. Although it did not entail legally binding effects, it had very concrete targets, and might have changed the behaviour of the member states ratifying it. In short, whereas adopting the Roadmap might not directly bind MS to the goals, it would make it politically harder for them to back away from the reduction targets at a later stage i.e. would pave the way for a regulatory action from the Commission.

3.4 The European Council and the Council of ministers

Now that the communication from the Commission and its legal status has been scrutinized, the Council of ministers shall be studied. It is vital for this dissertation to understand about the functions and decision making procedures of the Council. This section will discuss the European Council (heads of state) and the Council of the European Union (ministers). The purpose of this section is look at the role and function of the

Council. This section will explore the different compositions of the COM and the different decision making modes. Finally, it shall be seen which decision making mode is applied to energy.

According to article 10 of the TEU, the member states are represented both via the European Council (heads of state) and the council (ministers and deputies) (van Ooik & Vandamme, 2010, p.8). As mentioned earlier, the European council officially came into being in 1974, however it had *de facto* served as an intergovernmental forum since the creation of the ECSC (Wallace, Pollack, Young, 2010, p 81). An important distinction to make is that the European Council (heads of state) is there to define general principles and political guidelines of the union. It does not in itself have any legislative powers (Dinan, 2009, p. 225).

The legislative powers rest with the Council of ministers, which is to carry out “legislative and budgetary functions” in accordance with the European Parliament (Mathijssen, 2007, p.86). Dinan writes, that the COM is essentially an intergovernmental institution, performing community (or supranational) functions (2009, p.225-226). It is important to note, that the ministers must have the mandate to make binding decisions for their home country (Mathijssen, 2007, p. 81). They meet 2-3 times per month (Dinan, 2009, p.225-226). However, a lot of decisions are prepared by the two committees of permanent representatives, COREPER I (deputies for the EU-ambassadors) and COREPER II (the EU ambassadors). They meet several times a week, to prepare decisions on low level areas (general affairs) and high level cases (foreign policy, economy etc.), respectively. Based on their work, the COM will then often approve the cases without further discussion (Mårup, 2012, para. 1-11).

3.5 Decision-making in the Council of Ministers

According to article 13(2) of the Treaty on European Union, each institution can only act within the powers that have been conferred upon them by the treaties (van Ooik & Vandamme, 2010, p.9). The COM has been given powers to vote on proposals from the Commission. There are three voting procedures in the Council: simple majority, qualified majority and unanimity (Matthijssen, 2007, pp. 86-90). Each of those shall now be covered in turn.

- Simple majority: half of the MS are required to make an agreement – i.e. 14 out of the 27 member states (Matthijssen, 2007, pp. 86-90).
- Qualified majority: at least 72% of the Council representing 65% of the European citizens must vote in favour. On 1 November 2014 this will change to only 55% of the Council representing 65% of the population (EUABC, 2012, para. 7, 10)

- Unanimity: as mentioned earlier, unanimity means that all MS must be present and vote for a proposal. This has become less and less frequent (Matthijsen, 2007, p. 90)

Most of the Council’s decisions must be taken by co-decision (aka. “the ordinary decision procedure”). This means, that the EP and the Council must both agree on Commission proposals. After the EP has given its opinion in the first reading, the Council can then a) accept the amendments or b) reject them. In the latter case, the Council must communicate its position to the EP. Then there is 3 months for a second reading, where after a conciliation committee will be used. In short, the ordinary legislative procedure places the EP and the Council on equal footing (Matthijsen, 2007, pp. 64-67).

3.6 Decision making process vis-à-vis energy issues

According to Braun, the Lisbon Treaty is unique in that it is the first treaty to dedicate an entire section to energy. Article 194 says that the Council is to take energy-related decision in using the above-mentioned co-decision procedure with the EP. However, this does not apply to issues related to choice of energy supply. Article 194 (2) refers to art. 192 (2) c ToL which says such decisions shall be taken by unanimity. So here the MS seems to have a “brake” to stop proposals they see as counter to their national interests. This is interesting, because it seems to be one of the very few areas where the unanimity option is still being used (Braun, 2011, pp. 1-2).

3.7 Conclusion

In summary, the case study has answered the second research question: “does the Lisbon Treaty confer veto powers on member states?” by pinpointing the article in the ToL which confers veto powers on MS for energy questions. QMV is being used in most parts of the Lisbon Treaty. In some ways, unanimity seems to be an ancient ghost. However, the energy chapter of the Lisbon Treaty allows for member states to use unanimity. MS can block decisions they do not agree to, as Poland did with article 192 (2) c. They can even block non-legislative documents (as the Roadmap), in pre-anticipation of what kind of proposals this might lead to in the future.

Let us continue to chapter three, which will analyse Poland’s preferences for putting down a veto against the Roadmap. The analysis is based on economic, political and energy security related reasons. Also in chapter three, the implications of the Polish veto will be scrutinized to answer the question: “might to Polish veto lead to a two-speed Europe on energy questions?”

Chapter 4: Analysing the Polish veto

4.1 Introduction

This section will shed some light on the possible reasons for Poland's veto. This is important to the case study, because analysing Poland will help to clarify which kind of motivations countries might have when taking energy related decisions in the Council of Ministers. It might be that Poland had similar motives of national interests for blocking the Roadmap, as France did in 1965 when it wanted to block the Commission from acquiring more power.

This analysis is based on Andrew Moravcsik's three-step model (as was discussed in chapter 1). Thus, domestic factors in Poland are primarily examined. Having read analysis from current and former high level Danish deputies (Elleman, Møller 2012) and numerous newspaper articles (Euroactiv, Europolitique, 2012), including statements from the Polish environmental minister, there is reason to believe that Poland's motivation can be described using three elements. These are economic, political and energy security related. These three elements will now be discussed in turn.

4.2 Economic factors

According to Denmark's ambassador in Poland (Thomas Møller), the country has seen an incredible economic boom in recent years. Whereas other EU countries have had it rough since 2008, Poland managed an 15% increase in gross domestic product (hereinafter: GDP.) The middle class is steadily expanding, with lower employment rates and better living conditions. Albeit positive for the country, the growing economy makes energy demand rise. Also, mine workers constitute an important part of the electorate. Today there are around 110.000 mine workers in Poland. While this number has decreased from approximately 500.000, it is still an important domestic interest group. This reflects the fact that coal is a vital energy source: it comprises around 50% of the primary energy supply. This is quite a high number, compared to the EU average which is around 29%. It thus seems likely to assume that Poland focuses on maintaining a strong growth when considering investing in new energy types (Møller, 2012, p. 1).

Furthermore, Poland's electricity supply currently consists of more than 90% coal (The Warsaw Business Journal, 2012, para. 1-2). The Warsaw Business Journal therefore states that Poland had no other option but to veto the Roadmap. Cutting down in its CO² emissions would force shutting down existing power plants, and discard current plans of constructing no less than 12 new coal plants over the next decade (The Warsaw Business Journal, 2012, para. 2). The Polish Climate Minister, Marcin Korolec, says that the time plan for

2050 is too soon, because the plants build in Poland have a life span of over 40 years. (Iwaniuk, 2012, para. 4). Also, the Warsaw Journal says that nuclear energy and other alternative energy sources are seen as too expensive or inadequate in covering Poland’s needs. Additionally, the coal sector contributed to the 9% rise in GDP that Poland saw in 2012 (The Warsaw Business Journal, 2012, para. 1), which is something the country might not want to jeopardize.

In summary, economic interests might have played a role when Poland decided to vote against the Roadmap. It appears that the country is in a period of economic growth in certain sectors, which drives them to abstain from policies that might eventually jeopardize such developments. Furthermore, the amount of coal in the energy mix appears quite elevated compared to other EU countries. Thus, it seems as a gamble for Poland to abandon coal at this critical juncture.

4.3 Political factors

In an interview with Europolitique, the Polish Environmental minister, Marcin Korolec, elaborates on the Polish veto from the 9th of March. First, he states that Europe should not adopt too stringent environmental requirements. He believes that Europe’s competitiveness will be weakened by doing so, because the USA, China and India do not have the same requirements vis-à-vis the environment. He reiterates Poland’s wish of a common European position on this issue. Second, he explains why a transformation to green energy sources is unrealistic for his country. It is simply too expensive to switch, because nuclear energy has become unpopular after Fukushima. Additionally, Poland is just not willing to make huge investments in purchasing green technology from other EU states. Finally, he says that Poland is already doing everything they can to adopt sustainable measures, but that it is not easy in a time of economic hardship (Iwaniuk, 2012, para. 1-4).

In summary, it appears that Poland seeks “flexible” solutions to the climate change issue. It is favourable for them to have assurance that energy policy will neither interfere with their economic progress, nor impose heavy investment requirements (Iwaniuk, 2012, para. 5, 6).

4.4 Energy security

It seems that the fall of the Berlin Wall in 1989 changed the political landscape of Europe. With the subsequent collapse of communism in 1991 came the questions: should former soviet states be allowed to join the EU or not? The MS of the EU seemingly answered yes to this question when they met in 1993 to formulate the Copenhagen criteria. With this, countries were allowed to join as long as they abided to the

rule of law, had a stable economy and could adhere to the *acquis communautaire* (European Commission, 2012, para. 1-3).

Subsequently, the “big Bang” enlargement, having been successfully negotiated during the Danish presidency of the Council in 2002, took place in 2004. 10 new countries now joined the union. This might have been a new challenge for the EU’s climate change and energy policy, because the new members emphasised energy security. Especially the central and eastern EU countries seem to have had hopes of a common EU energy policy, wishing to free themselves of the clutches of Russia’s Gazprom (Wallace, Pollack, Young, 2010, p. 368).

According to Uffe Elleman Jensen, former Foreign Minister of Denmark, Poland is in a real conundrum: struggling to maintain its newfound independence from Gazprom, it is trying to look for its own resource of gas in the underground and find other energy solutions. This is not easy, however, in part because the EU (notably Germany and France), have done little to help them in this matter. At the moment the Nord Stream pipeline, which will supply Germany directly with gas, is being build. Meanwhile, the planned “Amber Line” (giving Poland access to the Nord Stream) is at a standstill due to Russian objections. In this situation, Poland is obliged to fight for its independence (Elleman, 2012, para. 3, 4).

Wallace seems to agree with this view. She writes that Germany, France and Italy, has preferred bilateral agreements with Russia. These countries have huge national companies such as Eon and Gaz de France, and therefore little incentive to push for a common EU approach (Wallace, Pollack, Young, 2010, p. 370). This seems to have been highly disappointing to the new member states, who thus had to fend for themselves. This could indicate that larger member states prefer to conduct energy negotiations bilaterally, without consulting some smaller member states. In her book, Wallace postulates that energy security concerns fluctuate according to availability of oil and gas resources including delivery security from Russia. In fact, it was not until 2008 and the gas crisis with Ukraine, that member states started to regularly to discuss energy issues (Wallace, Pollack, Young, 2010, p 371).

According to the Danish ambassador in Poland, Thomas Østrup Møller, the problem for Poland is that it needs coal to support the growth. He asserts that the Poles are in a difficult balance between maintaining a fast moving economy and lowering the importance of coal in their energy mix simultaneously. Møller says that Poland has plans of retrieving 15% of their energy from nuclear sources by 2030. However, the prospects for operational plants are long (2025 at the earliest). This is notwithstanding the fact that public opinion in Poland has been faltering since Fukushima (around 50% of the Polish support nuclear energy (Møller 2012, pp. 1, 2). According to UPI, Poland is actively searching for pockets of gas in search of alternative energy sources. UPI says that the National Geological Institute of Poland released a report in

March 2012 projecting that 346-748 cubic meters of gas had been found (covers around 60 years of consummation) (UPI, 2012, para. 1,2 & 5), which is less than expected (UPI, 2012, para. 2). However it will still be years before large quantities can be used (Møller 2012, p. 3). An alternative is Russian gas, albeit that Poland does not want to rely on Russia (UPI, 2012, para. 5).

In summary, several sources agree that energy security plays a vital part in national interests of member states. It could seem that Poland is especially sensitive to this, because other than coal, they might have no other options than Russian gas. However, it seems that there is no clear will from member states to carry out a common policy on energy security. France, Germany and Italy prefer bilateral agreements with Russia, much to the dismay of Eastern new member states.

4.5 Towards a “two-speed Europe” on energy?

The case study of the Roadmap indicates that Poland was willing to go against the wish of the 26 other MS in order to protect their vital domestic interests. However, Commissioner for Climate Action, Connie Hedegaard, says that additional measures for climate action will be proposed, despite the Polish veto: “The other 26 member states explicitly asked the commission to move on, and that is what we will do” (Krukowska, 2012, para. 3). This section will examine the third research question: “could Poland's veto lead to a two speed-Europe on energy policy?” We shall look at two things: the Financial Pact and the notion of Greek Crisis.

First, in December last year the EU met to agree on a new treaty called the Financial Pact. This is an agreement where member states accept to adopt national legislation which limits the financial deficit they can have. Moreover, it sets up sanctions for countries not respecting the rules. France's ex-president Sarkozy and Angela Merkel, who were speaking in favour of the Pact, were hoping for a unanimous decision, because then it is not necessary to revise the Lisbon Treaty itself (which would take months). It proved impossible though, as Britain's Prime Minister David Cameron said no to the treaty. He said that it was against Britain's national interests, and therefore he had to turn it down. Subsequently, it was agreed among the 17 Eurozone members that they would make an intergovernmental agreement nonetheless. Also, 9 other countries gave their consent to join the agreement (Volkery, 2011, para. 3).

Second, the Economist writes that Sarkozy has stated that he believes in a two speed-Europe: one composed of the Eurozone countries, with tight financial integration, and one for the rest of the 27 countries. It seems that such ideas have become more pronounced after the economic problematic situations in Greece, Portugal, Spain and Ireland has become known across Europe (Charlemagne, 2011, para. 1-8). Pinard from Le Monde writes that many people in those countries already felt disappointed by the procrastination of the other

member states when they need financial help. In his opinion, we are not witnessing a “two-speed Europe” but rather two different Europe's (2011, para. 3-4).

4.6 Conclusion

In chapter three, Poland’s veto has been analysed and three possible reasons pertaining to the veto was given. It appears that economic, political and security related factors might have influenced the Polish decision. Several experts seem to indicate, that especially the security part is vital to Poland and other Eastern European countries. They might be looking for some viable alternative to Russian gas, but do not find much aid from the other member states.

It is still too early to make an exact estimate of the political ramifications of the Polish veto. However, based on statements from Connie Hedegaard, it seems reasonable to assume that the Commission intends to progress on energy with the 26 MS who endorse the Roadmap. This could indicate that a “two-speed” Europe could ensue on the energy area, similar to what could happen on the economic field.

Conclusion

The aim of this dissertation was to find out if the Commission plays a major role in energy policy in the council, and to assess how intergovernmental tendencies have developed in the Council of Ministers concerning energy questions. Starting in 1951, we have seen how the first years of European integration were characterized by supranationalism, rather than intergovernmentalism. The member states approved of integration, which led to the swift negotiation of three major treaties: The European Coal and Steel, Euratom and the European Economic Community (Mathijssen, 2007, p. 14).

However, this tendency might have changed at the mid of the 1960s. In 1965, France sent an unequivocal message to the Commission by abstaining from meetings (the so-called "Empty chair crisis") (Palayret, Wallace, Winand, 2006, p. 254). It thus blocked decision making procedures to protect what France called important national interests. While scholars such as Dinan (2009, pp. 49-50) and Palayret (Palayret, Wallace, Winand, 2006, pp. 20-21, 65) have differing opinions of the reasons of this, it seems that France effectively slowed the integration process. France also insisted on prolonging the unanimity method, much to the dismay of the Commission (Dinan, 2009, p.50).

In any case, the "Empty Chair crisis" was resolved in January 1966 with the "Luxembourg Compromise", where France insisted on retaining unanimity on questions of particular national importance. Scholars indicate that member states reasserted their role, thus protesting against the Community method of decision-making, highlighting the importance of unanimity and veto powers. Although scholars disagree as to the legal applicability of the document, consensus seems to be that the Luxembourg Compromise might have endorsed intergovernmental behaviour from member states (Palayret, Wallace, Winand, 2006, pp. 20-21). They seem to have leaned towards making intergovernmental decisions, outside the influence of the Commission.

More recent integration history (following the SEA in 1986) seems to vacillate between regulatory mode for the internal market, and intergovernmentalism on areas such as energy issues. We have seen how energy security might have become a bigger issue after the fall of the Berlin Wall. The 10 new member states had different approaches to integration than older member states might have had. Indeed, with the 10 new member states came historical preoccupations of being dependent on Russia's gas (Wallace, Pollack, Young, 2010, p. 368).

This dissertation indicates that decision-making in the Council has incrementally shifted from unanimity towards Qualified Majority Voting over the years, culminating with the Lisbon Treaty (Mathijssen, 2007, p. 90).

However, the rhetoric of “national importance” was used extensively (Palayret, Wallace, Winand, 2006, p.65) by member states. The author finds it likely, that this can still be seen in some areas of the Treaty today. This could indicate that countries are still using this kind of language when blocking decisions in the Council.

The case study into the Commission's communication entitled Low carbon Energy Roadmap 2050 is a concrete example of veto power being used. It showed that the ToL confers veto powers on MS *vis-à-vis* energy issues. Indeed, Poland used art. 192 (2) c of the Lisbon Treaty, successfully blocking the Roadmap from becoming part of the Council conclusions during a meeting of the Environment ministers in the Council on the 9th of March 2012 (Braun, 2011, p 2). This is interesting because the roadmap itself is not a legally binding document, but merely a communication. It therefore seems unlikely that the reduction targets in the Roadmap could be legally binding. However, it might have led to legislation from the Commission (Senden, 2005, pp.79-80).

Having analysed Poland's motivations for putting down a veto, it could seem that the country acted from a pre-defined set of domestic interests. Particularly economic and security interests were important parts of their resistance to the Roadmap. Therefore, there might be similarities to France's resistance in 1965. Both instances seemed to be about protecting domestic interests, by using unanimity as a weapon against QMV. Thus, Poland might have acted in anticipation of future proposals from the Commission. It might therefore be concluded that countries value imminent national interest higher than European integration.

Although difficult to say at this early stage, Poland's veto might have ramifications for future energy decisions. It seems that the Commission has showed willingness to propose legislation despite Poland's consent (Krukowska, 2012, para. 3). The consequence of this might be a “two-speed Europe”, with policy being made only with those who are willing and able. This could appear similar to what we have seen in other areas of EU cooperation, i.e. the financial pact. This could be a detrimental tendency, with some countries being left behind. It seems beneficial that the EU takes the concerns regarding energy security and economic development of all member states seriously, rather than to try and leave some countries outside.

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