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**Bridging internal and external European integration in the  
wake of the 2022 energy security crisis: a cross-dimensional  
analysis of the EU and the Energy Community**

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<b>€/MWh</b>	Euros per megawatt hour
<b>ACER</b>	European Union Agency for the Cooperation of Energy Regulators
<b>bcm</b>	Billion cubic meters of natural gas
<b>CEF</b>	Connecting Europe Facility
<b>CEF-E</b>	Connecting Europe Facility for Energy
<b>CFSP</b>	Common Foreign and Security Policy
<b>DG</b>	Directorate-General
<b>DG ENER</b>	Directorate-General for Energy
<b>DI</b>	Differentiated integration
<b>ECRB</b>	Energy Community Regulatory Board
<b>EEAS</b>	European External Action Service
<b>EECG</b>	Energy Efficiency Coordination Group
<b>EGD</b>	European Green Deal
<b>EnC</b>	Energy Community
<b>EnCT</b>	Energy Community Treaty
<b>ENP</b>	European Neighbourhood Policy
<b>ENTSOG</b>	European Network of Transmission System Operators for Gas
<b>ERCEG</b>	European Regulators' Group for Electricity and Gas

<b>ESMA</b>	European Securities and Markets Authority
<b>EU</b>	European Union
<b>GCG</b>	Gas Coordination Group
<b>GDP</b>	Gross Domestic Product
<b>HI</b>	Harmonised integration
<b>HR/VP</b>	High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the European Commission
<b>LNG</b>	Liquefied natural gas
<b>MCM</b>	market correction mechanism
<b>MERS</b>	Energy Rescue Scheme for Moldova
<b>MoU</b>	Memorandum of Understanding
<b>NATO</b>	North Atlantic Treaty Organization
<b>NS1</b>	Nord Stream 1
<b>NS2</b>	Nord Stream 2
<b>OLP</b>	Ordinary Legislative Procedure
<b>PCI</b>	Project of Common Interest
<b>PMI</b>	Project of Mutual Interest
<b>QMV</b>	Qualified Majority Voting
<b>RRF</b>	Recovery and Resilience Facility
<b>RRP</b>	Recovery and Resilience Plan

<b>SCI</b>	Supplier Concentration Index
<b>SoSCG</b>	Security of Supply Coordination Group
<b>TCF</b>	State aid Temporary Framework
<b>TCTF</b>	Temporary Crisis and Transition Framework
<b>TEN-E</b>	Trans-European Networks for Energy
<b>TEU</b>	Treaty on European Union
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>TTF</b>	Title Transfer Facility
<b>TTE</b>	Telecommunications, and Energy Council
<b>UEMO</b>	Energy Market Observatory
<b>UESF</b>	Ukraine Energy Support Funds
<b>UK</b>	United Kingdom
<b>ULSP</b>	Legal Support Platform
<b>US</b>	United States
<b>USTF</b>	Ukraine Support Task Force

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## Introduction

As Europe was still in the process of recovering from the 2021 energy crisis, the Russian invasion of Ukraine on 24 February 2022 triggered what is referred to in this thesis as an 'energy security crisis'. This 'critical juncture' in European integration marked the first time Europe had experienced a war on its continent since the end of World War II, bringing about what EU leaders called a "tectonic shift in European history" during the Versailles Summit on 11 March (European Council, 2022, p. 3). This external shock has challenged the European Union (EU) in multiple ways, not only by exploiting its structural weaknesses, such as energy dependence on Russia, but also by triggering more hidden institutional frictions. Some argue that the energy security crisis has pushed Europe to respond in unprecedented directions (F. Fabbrini, 2023), thereby still fulfilling Monnet's prophecy that Europe 'forges itself in crises'. Common political and legislative commitments in response to the crisis have the potential to trigger a snowball effect for deeper and wider integration while also facilitating the transition to cleaner, renewable, and more affordable energy. However, European energy security integration must first come to terms with the institutional arrangements that it inherited from the past.

Energy security has been a part of policy-making since the earliest days of the European integration project. Nevertheless, it is still today a shared competence between Member States and EU institutions. The evolution of energy security policy before the energy crisis can be divided into two distinct phases (Mišík, 2019), which can be associated with two different but complementary dimensions that together define energy security (Herranz-Surrallés, 2015): the external dimension of the energy market, energy governance (Goldthau & Witte, 2009), and energy security conceived as a 'foreign energy policy,' energy diplomacy (Herranz-Surrallés, 2015). Given that energy governance is predominantly associated with a supranational decision-making process, while energy diplomacy is dominated by intergovernmentalism, the crisis presents an opportunity to understand which integrative mechanisms prevailed in this internally fractious policy field.

European integration in energy security does not only take place between the Member States and the EU (internal integration), but also, when considering the European continent as an arena, between the EU and its neighbouring countries (external integration) 'beyond the EU borders', as first argued by Lavenex and Schimmelfennig (2009). In this context, the EU is able to extend its policies in the European neighbourhood through the Energy Community (EnC), an organisation established under international law with the aim of creating a 'pan-European

energy market' (Renner, 2009). The Energy Community is separate but intrinsically linked to the EU for several reasons. First, it was founded by the EU itself with the aim of creating a pan-European energy market; second, among its decision-makers, we can find the European Commission; third, it takes part in various activities within European agencies and fora; fourth, most importantly, it prepares the candidate and potential candidate countries for accession in the implementation the *acquis communautaire* related to the energy sector (Göler & Kurze, 2020; Renner, 2009). Over time, the Energy Community came to include nine countries, namely Albania, Bosnia and Herzegovina, Georgia, Kosovo, North Macedonia, Moldova, Montenegro, Serbia, and Ukraine.

With these starting points in consideration, this thesis pursues several objectives. Firstly, it aims to critically review the history of European energy security integration, both internal and external (with the Energy Community), creating parallels between the two organisations. Secondly, this thesis aims to examine whether the necessary conditions exist to consider the 2022 energy crisis as a 'critical juncture', in the historical-institutionalist sense of the term, which has the potential to generate institutional legacies in European energy security integration. Thirdly, with regard to theories of European integration, it seeks to unravel the extent to which the relationship between internal and external integration is unexplored. This regard, it contends that Europeanisation, comprising both internal and external integration, cannot be explained by a single theoretical paradigm.

This thesis raises at least three fundamental questions. First, what is the role of institutional arrangements in shaping European integration in energy security? Second, can we consider the 2022 energy security crisis as a 'critical juncture' in European integration? And third, in the event that further integration has been achieved, what is the nature of the latter? This thesis asserts that institutional arrangements of the EU and the Energy Community (independent variable), influenced by the 2022 energy security crisis (intervening variable), provide an opportunity to explore the conditions and mechanisms driving European integration (dependent variable). It will answer the following question: *How have institutional constraints and the 2022 energy crisis affected internal and external European energy security integration?*

The first chapter of this thesis investigates the evolution of energy security in the European context. This chapter innovatively intertwines historical timelines with the theoretical dimensions of energy security. On the one hand, it explores the transformation and existing architecture of the EU institutional framework for energy security. On the other hand, it

provides a rich understanding of the Energy Community's history, institutions and decision-making processes, outlining its unique aspects while drawing connections to the EU.

The second chapter centres on the events that led to the 2022 energy security crisis in connection with the Russian invasion of Ukraine, becoming a game-changer for European policymaking. The chapter offers a dual analysis: it presents a 'snapshot' of the European situation before the war, highlighting its threats and vulnerabilities concerning energy security, and it offers a detailed account of the crisis contextualised within existing crisis literature, underscoring its potential as a 'critical juncture' for European integration, according to historical institutionalism (HI). Notably, the chapter introduces fresh perspectives, including the nuanced differentiation between 'energy crisis' and 'energy security crises', the significance of explanatory values for comparing the 2022 energy security crisis to the past 2006/2009 energy crises, and the application of critical juncture analysis to the recent turbulence in energy security.

The third and final chapter interprets the European response to the 2022 energy security crisis. In its exploration, it explains and analyses critical initiatives like the REPowerEU Plan and the EU Energy Platform while illuminating the manifestations of theoretical assumptions that came into play during the European response. This chapter's contributions are manifold: it explores the EU and EnC's crisis management measures, highlights the growing collaboration between these two entities, and ventures into new theoretical territory by applying two theories, i.e., new intergovernmentalism (NI) and neofunctionalism (NF) to energy security integration.

## Literature review

The following section will examine the advances made by the existing literature on the dependent variable taken into examination, meaning (internal and external) European energy security integration. Then, it will review the literature concerning the independent variable, i.e., institutional arrangements within the EU and the Energy Community, and third, the intervening variable, i.e., the 2022 energy security crisis. Accordingly, it will explore theoretical frameworks that ought to be considered in order to interpret energy security integration. Finally, hypotheses will be formulated concerning the selected variables that will be tested in the course of the dissertation.

The term ‘energy security’ is ubiquitous in contemporary discussions of energy matters, but it is rarely accompanied by an explanation of the notions underlying its meaning. Energy security has a multifaceted character, and its definitions vary depending on the risks and objectives in the energy supply sphere (Sovacool, 2011), the different security logics (Ciută, 2010), the sectors and objects of energy security that an author opts to consider (Natorski & Herranz-Surrallés, 2008). Energy security means different things in different contexts that considerably change over time (Cherp & Jewell, 2011; Ciută, 2010). Until the 1980s, the concept was mainly related to stable oil supply and purchases; after this period, it started to include reliable gas supplies (Aalto, 2008; Brutschin, 2017; Prontera, 2017), resilient electricity systems (Lovins & Lovins, 1982), and the stability of critical infrastructure (Farrell et al., 2004). Also, new, wider environmental and social concerns were more recently added to the energy security agenda (Bilgin, 2011). Although we will try to take as comprehensive a view of energy security as possible, our focus will be on the case of natural gas, not only because some authors argue that it provides the most rigorous test of integration in this area (Aalto & Korkmaz Temel, 2013), but especially because it has been the field most affected by the energy security crisis, finding itself at the centre of contention.

To provide an introductory framework to the concept of energy security, we can observe that the term is usually linked to several notions: unhindered and uninterrupted access to energy sources, a condition of non-dependence on a limited number of sources, suppliers or geographical areas; the ability to produce energy resources in abundance; a resilient energy system that can withstand internal and external shocks; some form of energy self-sufficiency (Chester, 2010). In the case of the EU, scholars tended to consider energy security as a synonym

of ‘security of supply’ as the EU finds itself in a position of high import dependence (for a detailed account of the EU energy mix and energy dependence patterns, see Section 2.2.1. “Threats and Vulnerabilities”). The inherent materiality of energy differentiates it from other currently contested spheres of integration or ‘European identity’ (Aalto & Korkmaz Temel, 2013). Energy security issues are expected to reach the EU policy agenda when there is a specific ‘triggering’ or ‘focusing’ event (Dekanozishvili, 2023), and the same goes for scholarly attention to this policy area. Yet, even in the highest peaks of attention, the highlights of this integration path, such as the ‘Energy Union’ initiative (Zachmann, 2015) and its relation to issues with the security of supply, have not been largely discussed by the existing literature (Austvik, 2016).

Following Kustova (2015), the literature on EU energy integration has been developing in arguably three major directions: first, *inter alia*, in the process of Europeanisation of national energy policies and the conditions that might facilitate an EU common energy policy. Second, on how EU integration can effectively ensure EU energy security. Third, on whether the EU exhibits international actorness and whether it can have a meaningful external energy policy (Kustova, 2015). Among these trajectories, this thesis aligns with the first direction.

The landscape of European energy policy-making has evolved considerably. Despite Member States historically displaying hesitance to pool their economic and strategic resources (Schmidt-Felzmann, 2008), recent scholarship recognises the growing influence of the European Union in shaping energy policy (Andersen & Sitter, 2015; Eikeland, 2011). As these structures – comprising political, legal, and social institutions – unfold (Risse et al., 2001), an emerging paradigm of Europeanisation begins to shape Member States’ energy policies. Europeanisation, in essence, encapsulates the assimilation of formal and informal procedures, beliefs, and norms rooted in the EU’s decision-making processes into the very fabric of local policies and discourses (Mtchedlishvili, 2018; Radaelli, 2022). Even if it may seem akin to European Integration on the surface, the two terms captured are not synonyms. While European integration signifies the intensifying policy interdependencies among Member States and EU institutions (S. Fabbrini & Puetter, 2016), Europeanisation goes far beyond the borders of its Member States, touching upon the EU attempts to shape global governance and international regimes (Olsen, 2002).

Noteworthy scholars posit that its influence and dissemination of EU norms and legislations can be perceived even beyond the EU borders, meaning involving countries that are not Member States but share a border or are in geographical proximity to the EU, the so-called neighbouring countries, belonging to what is defined as the EU ‘neighbourhood’ (Bressand, 2010; Göler & Kurze, 2020; Jokela, 2014; Lavenex & Schimmelfennig, 2009; Olsen, 2002). The literature has shown increasing interest in the ‘extra-territorialisation’ of European policies in recent times, diving into the mechanics of extending internal EU rules beyond its borders. Other authors expanded the research on external integration, drawing attention to differentiated external integration in the context of non-EU Member States’ sectorial inclusion to specific policy areas (a practice not at all exclusively confined to energy policy) (Amadio Viceré & Sus, 2023; Aydın-Düzgit et al., 2021; Blockmans, 2014; 2020; Jokela, 2014). Yet, a glaring void emerges when examining the existing literature that combines a comprehensive exploration of external integration with the Energy Community, focusing in particular on energy security in the wake of the recent invasion of Ukraine.

The independent variable and the intervening variable selected to analyse this phenomenon shall be explained with reference to the theoretical approach in which they are embedded. As this thesis considers the impact of institutional arrangements of the EU and the Energy Community (IV) the 2022 energy security crisis (IntV), and European energy security integration (DV), it is possible to recognise that it has a historical institutionalist ‘backbone’. This theory is concerned with how existing institutions affect the choices available to policy-makers and the development of new institutions. Thus, this thesis is built on two core conceptual pillars of HI: the importance of institutional arrangements and critical junctures (Pierson, 2000). Scholars such as Pierson, Skocpol, and Thelen developed this school drawing from the rich tradition of the historical social sciences set by Barrington Moore Jr., Bendix, and Lipset (Badie et al., 2011). Windows of opportunity for institutional change open up under conditions of institutional crisis during critical junctures, but the actors, nevertheless, are constrained to act within the bounds of their policy heritage (Badie et al., 2011). For these reasons, our ‘critical juncture hypothesis’ (H1) is rooted in historical institutionalism. It postulates that significant shocks, such as the 2022 energy security crisis, are likely to serve as ‘critical junctures’ in the process of European integration. Crises have become a popular topic for researchers on European integration in the post-Maastricht period (the treaty establishing the European Union is considered the starting point), especially in the last 20 years (Zachová,

2022). Ferrara and Kriesi (2022) defined a ‘crisis’ which corresponds to the ‘extraordinary moment of urgency and uncertainty that poses an immediate threat to the proper functioning of the policy domain challenged by the crisis in one or more EU Member States.

With new crises emerging in the past two decades, scholars are more prone to combining existing theoretical approaches in order to interpret European integration trajectories (Zachová, 2022). Hence, our historical institutionalist ‘backbone’ will be complemented by two other theoretical frameworks to understand the complexity of crisis-induced integration: new institutionalism (NI) and neofunctionalism (NF). Neither is a ‘crisis theory’ in and of itself. Still, all regard crises as an integral part of the European integration process and formulate general propositions about European integration that can serve as hypothetical expectations about the emergence and reactions to crises (Lefkofridi & Schmitter, 2015; Schimmelfennig, 2017).

A number of scholars argue that the current phase of post-Maastricht European integration follows the logic of ‘New Intergovernmentalism’, a theory introduced by Bickerton, Hodson and Puetter (Bickerton, Hodson, & Puetter, 2015), according to which we are observing ‘Integration without supranationalisation’ (S. Fabbrini & Puetter, 2016). In sum, these scholars argue that the intergovernmental forums of EU governance have become the main catalysts of integration, departing from the traditional ‘Community method’ according to which integration is a transfer of competencies to supranational bodies (S. Fabbrini & Puetter, 2016). ‘Integration without supranationalisation’ is attributed to changes in the political economy of Member States since the 1980s, with the end of the post-war Keynesian consensus, as well as to changes in state-society relations and growing tensions between elites and citizens over integration (Bickerton, Hodson, & Puetter, 2015). This pattern of policy-making was identified in prominent new areas of EU activity, such as economic governance, foreign and security policy, crucial sub-fields of justice and home affairs, and social and employment matters bodies (S. Fabbrini & Puetter, 2016). However, it still lacks an investigation in the energy security domain. First, according to NI, intergovernmental forums and, notably, the European Council take lead roles at all stages of the policy process, including agenda-setting, decision-making and, finally, the adoption and implementation of EU policies at all relevant levels of governance bodies. (S. Fabbrini & Puetter, 2016). Instead of focusing primarily on longer-term overall policy directions, the European Council has become a key actor in day-to-day decision-making. Hence, the ‘Deliberation and consensus hypothesis’ (H2a) proposes that in alignment with New Intergovernmentalism, deliberation and consensus have become fundamental norms



guiding decision-making processes at every level within the European Union (Bickerton, Hodson, Puetter, et al., 2015). Second, according to NI, when delegation took place, Member States privileged the delegation of powers to ‘*de novo* bodies’ to the detriment of traditional supranational institutions such as the European Commission or the European Court of Justice (Bickerton, Hodson, & Puetter, 2015; Hodson, 2015). The second hypothesis for NI (H3b), named ‘*de novo* institutions hypothesis’ (H3b), was formulated accordingly. ‘*De novo* institutions’ are conceived by Bickerton (2015, p. 706) as ‘newly created institutions that often enjoy considerable autonomy by way of executive or legislative power and have a degree of control over their own resources’. Although an exhaustive review of the literature on EU agencies is beyond the scope of this thesis, it is important to point out that New Intergovernmental literature has already examined some *de novo* agencies in order to test its explanatory value (Hodson, 2015; Morillas, 2020; Scipioni, 2018), but there are considerable gaps in the field of energy security.

New Intergovernmentalism stands in contrast to neofunctionalism, a previous integration theory formulated by Haas in the late 1950s and early 1960s. Haas developed his ideas in a critical encounter with the functionalist Mitrany (1943), synthesised with Jean Monnet’s pragmatic strategy for running the ECSC. Without fully exposing all of neo-functionalism’s distinct features, which are readily available in the introductory chapters of Haas’s *Beyond the Nation-State* (Haas 1964), let us mention two ideas that are highly relevant to our analysis.

First, neo-functionalism concentrates on the role of supranational actors that come up with a supply side of integration. Situations of uncertainty coupled with a fragmented organisational landscape offer opportunities for political entrepreneurship (Riker 1986). Neofunctionalists sought to explain the emergence of a common EU policy through the role of political entrepreneurship of EU institutions and Member States (Maltby 2013), arguing that the success of policy entrepreneurship depends on the exploitation of moments of crisis (Herranz-Surrallés, 2019). Hence, our ‘policy entrepreneurship hypothesis’, grounded in the NF theory, posits that supranational actors have the capability to serve as ‘policy entrepreneurs’, i.e., political actors known for driving transformative policy change by seizing opportunities and mobilising resources strategically (Morisson & Petridou, 2023), championing and aiding the process of integration, arguing that the European Commission and the EnC Secretariat have exhibited such entrepreneurship.

Second, neo-functional theorising subsumes the effects of integration under the concept of ‘spillover’ (Schimmelfennig, 2017). Spillover arises when both a higher scope of themes and a higher level of authority result from reforms (Falkner, 2016). More less ‘unintended consequences’ activate this process from an initial institutional setting in a particular sector into other policy areas (Lindberg, 1963). Hence, linkages among different sectors (energy, trade, foreign and security policy) are assumed to serve as transmission belts of the integration process (Renner, 2009). According to these considerations, Hypothesis H3b termed the "Spillover hypothesis", suggests that when integration happens in one policy domain, it can result in indirect effects or spillovers into other policy areas. Nowak (2011) argued that the Energy Community is an excellent example of neo-functionalism because it has the potential to generate an expansion of the energy-related *acquis communautaire* beyond the EU’s borders, creating geographical spill-overs. While several authors associate neo-functionalism with the first creation of the EnC (Stüwe, 2017), there is an academic disinterest in studying its integration dynamics since the Energy Union lost *momentum*.

As we navigate the complexity of European energy security, both NI and NF provide invaluable lenses through which to understand the intricacies of European energy security integration. The assumptions fostered by these two ‘schools’ serve as a compelling narrative, offering fresh perspectives on the future of European integration in the energy sphere and beyond. Table 1 provides an overview of different integration theories, the specific hypotheses formulated based on these theories, and the outcomes or evidence related to each hypothesis in the context of European energy security integration. This thesis argues, on the one side, that the 2022 energy security crisis can be considered a critical juncture according to HI and, on the other side, that while NI provides a more convincing explanation than significant theoretical alternatives for internal integration, NF serves the same important function in explaining external integration.

Table 1: Integration theories, hypotheses, and their manifestations

Integration theory	Organisation	Hypothesis	Outcomes
<b>Historical institutionalism (HI)</b>	EU (internal integration) / EnC (external integration)	<b>H1: critical juncture hypothesis</b>  <i>The 2022 energy security crisis is likely to serve as a critical juncture in European integration.</i>	
<b>New Intergovernmentalism (NI)</b>	EU (internal integration)	<b>H2a: Deliberation and consensus hypothesis</b>  <i>Deliberation and consensus have become the guiding norms of day-to-day decision making at all levels.</i>	Empowerment of the European Council
		<b>H2b: De novo institutions hypothesis</b>  <i>Where delegation occurs, actors support the creation and empowerment of de novo institutions.</i>	ACER, GCG, Energy Platform governance, ACER-ESMA Task Force
<b>Neofunctionalism (NF)</b>	EnC (external integration)	<b>H3a: policy entrepreneurship hypothesis</b>  <i>Supranational actors can act as “policy entrepreneurs” promoting and facilitating integration.</i>	European Commission and EnC entrepreneurship
		<b>H3b: Spillover hypothesis</b>  <i>Integration in one policy area can lead to spillover effects into other policy areas.</i>	Spillovers from energy policy

Source: Hypotheses based on Capoccia and Kelemen (2007) for HI, Bickerton et al. (2015) for NI, and Schmitter (Schmitter, 1969) for NF, elaborated by the author.

## **Approach and methodology**

This research will concentrate on a macro-level of analysis and will avail itself of qualitative, secondary and descriptive data, pivoting on the utilisation of empirical data. Two criteria have been used to categorise the sources of information. Firstly, they were categorised as either official – issued by the European Union, the Energy Community, the International Energy Agency or the relevant states – or unofficial, which comprise preparatory documents from 'working groups' meetings. Secondly, sources were divided between those related to the European Union and those to the Energy Community, facilitating a dual analysis of both internal and external integration. Noteworthy sources encompassed official EU legislation, European Parliamentary Research Service briefings, public statements by European Union leaders, institutional press releases, working reports, reviews, explanatory notes, implementation reports, and meeting documents. Of utmost significance within these were data explicitly showcasing the actions taken in response to the energy security crisis. Furthermore, the study prioritised European-level documents over national and sub-national ones to zero in on an organisational macro-level perspective, concentrating on the European Union and the Energy Community.

In delineating threats, vulnerabilities, and the energy crisis response, this study incorporated quantifiable indicators. Utilising the Eurostat official 'DataBrowser', datasets were tailored to include the neighbouring countries when possible (Eurostat, 2022b, 2022c, 2023e, 2023b). However, a limitation arose with two indicators: the 'Supplier Concentration Index' and the 'N-1 Rule for Energy Infrastructure' (European Commission, 2020a, 2020b). These primarily encapsulated European Union Member States, having been established in the context of the Energy Union. Moreover, the study charted the evolution of TTF average prices for natural gas from January 2021 to August 2023, based on the Intercontinental Exchange data (Statista, 2023). The study faced other inherent limitations. Several documents remained elusive, especially those of a confidential nature in areas such as foreign policy and energy, understandably so during a period of conflict such as the one we are currently experiencing. In this regard, it was particularly challenging to have access to the minutes of the Energy Community meetings, which were not always accessible to the public, depending on the discussed topic.

Central to our approach is a case study of the Energy Community and the EU. The research focuses on these two organisations as case studies, with a time framework that focuses on the beginning of the energy crisis in 2021 to the present day (the analysis was stopped in August 2023). It has proven particularly challenging to focus on the external dimension of European integration by concentrating only on the Energy Community, as there are other agreements, such as the European Neighbourhood Policy, which include one or more countries also involved in the Energy Community. Even if the EU Ukraine response provides rich insight into how international institutions behave in emergencies and the crisis management techniques they deploy to expand their power, the EU and the EnC case studies no doubt have both unique features that are difficult to generalise.

This thesis used both a critical juncture and congruence analysis as part of its analytical framework. Firstly, it used a ‘critical juncture analysis’ to comprehend the 2022 energy security crisis. This approach is particularly fitting for scenarios where an exogenous shock, like the said crisis, prompts divergent responses across cases due to varying foundational conditions, as delineated by scholars like Capoccia (2015) and (2012). Using this lens juxtaposes the reactions of both the EU and the EnC to this critical event. Secondly, this thesis employs congruence analysis to correlate the theoretical predictions of historical institutionalism, new intergovernmentalism, and neofunctionalism with tangible observations. As articulated by Haverland (2010) and other scholars, this method does not seek comparisons between cases. Instead, it juxtaposes these cases against theoretical constructs. Yet, it is essential to note, as pointed out by Mills et al. (2010), that such empirical endeavours cannot confirm or challenge theories definitively but only test a theory's relative strength by offering insights and elucidations.

# **Ch. 1: The European institutional framework in energy security**

## **1.1. Introduction**

Energy security has emerged as a central concern in the context of European integration in recent decades, driven by a combination of geopolitical shifts and climate change imperatives. The 2022 energy security crisis in connection with the Russian invasion of Ukraine brought this topic to the centre of European policymaking. To investigate the implications of prioritisation, it is vital first to understand the European energy security policy heritage, constituted by the institutional arrangements in energy security policymaking. In other words, in order to comprehend the extent to which institutional dynamics allow for policies that are favourable to integration in this area, one must first review the state of integration that prevailed before the energy security crisis of 2022.

This chapter seeks to contribute to the academic discourse by offering a fresh perspective, combining historical phases with theoretical sub-dimensions of the concept of energy security. Consequently, its aim is twofold. On the one side, it aims to discuss the historical evolution and current landscape of institutions, rules, procedures, and decision-making regimes that compose the European institutional framework in energy security. By providing the reader with a nuanced appreciation of its historical development, rooted in the two critical phases identified in the literature, it argues that energy security is a dynamic and multifaceted notion that has evolved in response to changing circumstances. On the other side, its objective is to provide a comprehensive understanding of the role of the Energy Community, often regarded as a unique case in the literature, in the broader context of European energy security and diplomacy. By examining the institutional mechanisms of the EnC, it draws parallels and illustrates existing ties with the EU while highlighting the distinctive features that differentiate the two organisations.

This chapter is structured as follows. The first part undertakes a comprehensive analysis of the institutional framework governing energy security within the EU. Firstly, it illustrates the critical moments of the historical evolution of energy security as a substantive policy domain within the EU, spanning from the origins of the European Coal and Steel Community to the period immediately preceding the energy security crisis. Secondly, it critically examines the allocation of energy policy competencies between Member States and EU institutions,

evaluating the equilibrium between intergovernmentalism and supranationalism. Thirdly, it assesses the roles of specific EU institutions and actors involved in shaping the landscape of energy security, unveiling their intricate interplay of responsibilities and prerogatives.

The second part of this chapter applies the same approach to analysing the Energy Community. First, we shall review the historical background explaining the milestones that led to the creation of the Energy Community and how this has changed over time, according to dynamics of institutional broadening, widening, and deepening. Second, we will discuss how the organisation can be looked at through the inter-governmental and supranational continuum. Thirdly, we will analyse the composition and function of its crucial decision-making institutions, highlighting also the role the EU plays in it through the European Commission.

## **1.2. Energy security policymaking in the EU**

### *1.2.1. EU energy security: a historical overview*

The following section argues that it is possible to combine the historical developments of EU energy security policy with two sub-dimensions identifiable in the definitions of 'energy security' in the literature. The evolution of energy security policy before the energy crisis can be divided into two distinct phases (Mišík, 2019), which can be associated with two different but complementary dimensions that together define energy security (Herranz-Surrallés, 2015). The first phase, spanning from the first initiatives of EU integration until the beginning of the 2000s, saw the development of EU energy security intertwined with the development of the internal energy market. The first dimension, intricately tied to the idea of 'energy governance' (Goldthau & Witte, 2009), revolves around the establishment of a shared energy regulatory framework, both among Member States and with third countries. The market and its accompanying mechanisms are regarded in this sense as a playground in which to find solutions to energy security challenges. This concept is grounded in the belief that fostering a liberalised and non-monopolistic energy sector serves as a foundation for ensuring the efficiency and reliability of energy supplies (Herranz-Surrallés, 2015).

In contrast, the second dimension of EU energy security, developed after the 2004/2007 Eastern enlargement and the 2006/2009 gas crises caused by disputes between Russia and Ukraine, conceives energy security as a 'foreign energy policy' (Herranz-Surrallés, 2015). It is intrinsically tied to the concept of 'energy diplomacy', It is inextricably tied to the concept of 'energy diplomacy,' which is the use of foreign policy to secure access to foreign energy supplies and to foster cooperation with other countries (Goldthau, 2010). It demands a certain degree of political involvement through diversification initiatives, coordination in crisis responses, and solidarity mechanisms when faced with potential supply disruptions or other energy security threats (Herranz-Surrallés, 2015).

Energy has been part of European integration from the very beginning, as two of the founding treaties of the European Communities concerned this policy area: the European Coal and Steel Community (1952) and the European Atomic Energy Community (1958) (Erbach et al., 2016; Renner, 2009). Bocse (2021) goes so far as to define energy as the centre of the beginning of the integration process, as well as a sector with the highest potential to drive



integration in the 1950s. Nevertheless, energy security has long remained a national core competence, and it has become part of EU prerogatives only in recent times (Thaler & Pakalkaite, 2021). Energy security did not emerge as a policy area allocated to the EU 'by design' by its Member States; instead, it was the result of spill-over effects of other adjacent policy areas which were already considered among EU competencies, such as the internal market or the environment (Morata & Solorio, 2012; Yafimava, 2011). Notably, a significant leap in the development of European energy policy occurred through the implementation of reforms aimed at establishing an internal energy market after the enactment of the 'Single European Act' (Bocse, 2021; Natorski & Herranz-Surrallés, 2008). This phase marked notable progress with the introduction of the First Liberalisation Package, incorporating Directives 96/92/EC and 98/30/EC, and the subsequent introduction of the Second Liberalisation Package, featuring Directives 2003/53/EC for electricity and Directive 2003/55/EC for gas.

In the 2000s, two pivotal events played a crucial role in the transition to the subsequent phase of energy security: the 2004/2007 Eastern enlargement, along with the 2006/2009 gas crises. On the one side, the two waves of enlargement had a pronounced impact on the EU's energy landscape. With the 2004 enlargement (1 May 2004), the largest in terms of number of states and population, the EU welcomed ten Member States (Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia). Among these ten, seven were part of the former Eastern Bloc, of which three were part of the former USSR, and four were still members of the Visegrád Group. Part of the same wave of enlargement was the accession of Bulgaria and Romania (1 January 2007). While extending its borders, the EU augmented its overall reliance on gas imports, concurrently increasing its vulnerability to potential disruptions in gas supplies due to the susceptibility of Russia as a partner (Bocse, 2021). Underpinned by energy security concerns, the post-socialist countries of Central and Eastern Europe strategically sought to interweave external energy policy matters into the EU discourse.

An illustrative example of this is Poland's failed proposal to establish an 'Energy NATO' (Roth, 2011). Poland envisioned the creation of a framework akin to NATO's Art.5 (referred to as collective defence) but with the primary objective of fostering a legally binding sense of solidarity within the EU to address energy-related challenges. Although unsuccessful, this initiative demonstrates the intent to move energy security up the EU's political agenda.

The sequence of the 2006 and 2009 gas crises takes on even greater significance (Bocquillon & Maltby, 2017). While the 2006 crisis, often termed the ‘small crisis’, acted as a catalyst propelling the development of an energy security agenda at the EU level (Mayer, 2008), it was the 2009 crisis that bore the pivotal impact of reframing Member States’ positions on energy security issues (for a more detailed analysis of these crises, see the section “Reviewing Previous Energy Crises”). Confronted with significant supply disruptions across Europe, especially in the newest Member States, the EU showed a lack of preparedness. Internal divisions concerning pipeline projects emerged, as evidenced by the intensification of the complex network of bilateral agreements between Member States and foreign producers to ensure energy security (Herranz-Surrallés, 2015). However, the two crises served as a ‘wake-up call’ for the EU and prompted the adoption of several measures to improve energy security and reinforce crisis response mechanisms (Maltby, 2013). The Commission adeptly redirected its focus towards interactions with third countries involved in energy supply and transit, notably Russia (Mišík, 2019). It accentuated its emphasis on relations with these external partners and the realm of energy security. It started advocating for the integration of energy-related concerns within the scope of EU foreign policy (second dimension of energy security) (Buschle & Talus, 2015). We can, therefore, claim that thanks to the changes brought about by the Eastern enlargement and the gas crises of the 2000s, energy security definitively started to be an essential driver in the new narrative of European integration.

Subsequent manifestations of these changes emerged with the Lisbon Treaty (2007), which was highly affected by the ‘securitisation turn’ in EU energy policy. Even if the treaty did not introduce a fully-fledged Common Energy Policy (CEP) (Eberlein, 2012), it notably propelled the advancement of this policy realm, formally placing energy policy among the competencies shared between the EU and its Member States (Youngs, 2009). This pivotal treaty bestowed formal competencies upon the EU for the first time, establishing a specific energy title, Title XXI ‘Energy’ of Part Three “, Union policies and internal actions” in the TFEU. Nevertheless, it is paramount to acknowledge that ultimate legal authority remains resolutely vested within the sovereignty of Member States, particularly in crucial domains like the prerogative to determine the national energy mix and taxation matters (Jewell & Brutschin, 2019). Embedded within the Lisbon Treaty are provisions dispersed across multiple sections that directly address energy security. In the second and third sections of this chapter, we will focus on an exhaustive examination of the nuanced implications of the legal framework that it created.

Since the Lisbon Treaty, significant pieces of secondary legislation related to energy security have emerged in more detail. The 2009 Third Energy Package consists of two Directives, Directive (2009/72/EC) and Directive (2009/73/EC) and three Regulations: Regulation (714/2009), Regulation (715/2009), Regulation (713/2009), aimed to create a liberalised and integrated energy market to keep prices as low as possible and increase standards in the supply security (EU, 2009c, 2009b, 2009e, 2009f, 2009d). Concerning oil, the 2009 Oil Stocks Directive (2009/119/EC) requires EU countries to have enough oil in storage to cover at least three months of net imports and two of consumption (EU, 2009a). The 2011 Communication (COM/2011/0539) titled "EU Energy Policy: Engaging with Partners Beyond Our Borders" by the Commission asserted the necessity of assuming a robust and equitable international position to safeguard its energy requirements (European Commission, 2011)

In April 2014, the Polish Prime Minister and then president of the European Council, Donald Tusk, proposed the initiative of the 'Energy Union' as a direct consequence of the annexation of Crimea by Russia (Boersma & Goldthau, 2017; Szulecki et al., 2016). (Russell, 2020). This Energy Union, driven by energy security concerns, was supposed to feature a joint gas purchase mechanism to strengthen Member States' position vis-à-vis external suppliers, notably Russia. Its subsequent launch in the following year marked a significant stride towards reinforcing EU collaboration in energy security. Notably, one of three pillars is titled 'Security, solidarity, and trust', emphasising diversifying energy sources among EU Member States and ensuring overall energy security. As proof of the Commission's commitment to energy security, the Energy Union was led by one of the six vice presidents of the European Commission, Maroš Šefčovič. The Commissioner aptly defined the Energy Union as the "most ambitious energy project since the Coal and Steel Community" (European Commission, 2015b, p. 1); however, its most significant accomplishments were principally limited to climate and energy objectives. In the 2015 update to "The European Energy Security Strategy", first published in May 2014, on which the Energy Union is based, energy supply security has evolved into a constant priority rather than an issue solely considered during times of supply crisis (Malmersjo, 2016).

Responding to Russian aggression, the EU also adopted severe restrictive measures (sanctions), estimated in 2018 to have cost Russia 6% of its GDP: these included restrictions on participation by EU companies in potentially lucrative Russian oil projects, though not on the country's oil trade as such; for five years, the EU has maintained a united position on sanctions, which (despite reservations expressed by some countries) has been followed by the 28 Member States, including those most dependent on Russian energy) (Russell, 2020).

In 2014, the EU stressed the importance of reducing reliance on a single energy source and ensuring a stable energy supply in the European Energy Security Strategy (COM/2014/0330) (European Commission, 2014). To prepare for a potential disruption in Russian gas supplies during 2014/2015, the document proposed conducting ‘stress tests’ during the summer of 2014 in EU Member States and a number of EnC Contracting Parties, together with Georgia, Switzerland, and Turkey. Even if this scenario was not fulfilled, as there was no gas crisis during the winter of 2014/2015, the tests helped demonstrate the pivotal role of energy security for both EU Member States and the EnC Contracting Parties (Mišík, 2019). In the Communication (COM/2015/80) ‘A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy’, the European Council Conclusions (10995/15) on Energy Diplomacy of 19-20 March 2015, and notably in the annexed EU Energy Diplomacy Action Plan jointly presented by the HR/VP and the Commission, the EU recognised the importance of the external dimension of the Energy Union, (Council of the European Union, 2015; European Commission, 2015a).

Regulation (2017/1938), known as the Security of Gas Supply Regulation, created mechanisms for sharing gas between Member States in the event of a crisis Regulation It also contains a provision known as the “N-1 rule,” under which Member States are mandated to establish emergency stockpiles of natural gas capable of meeting the demand for a specific duration in the event of a significant failure in the primary gas infrastructure (EU, 2017). Since 2017, Member States have also been obliged to notify the European Commission of the intergovernmental gas and oil agreements that they intend to conclude with non-EU countries, and the Commission oversees proactive compliance with EU law by conducting ex-ante checks (EU, 2017).

In 2019, gas imports reached their highest level in the past three decades (Somosi & Megyeri, 2022). This trend coincided with a notable shift in the European energy policy landscape with the launch of the European Green Deal (EGD) by the Commission in December 2019. This package of policy initiatives signalled a significant reorientation from energy security and competitiveness to climate-related priorities. Furthermore, the EU adopted Regulation (2019/941) on 5 June 2019 to increase risk-preparedness in the electricity sector, setting critical rules for Member States' collaboration in preventing, preparing for and managing electrical crises (EU, 2019a). Notably, it created standard provisions for risk assessment, risk mitigation, crisis management, evaluation, and monitoring. It also required

responsible authorities in each Member State to develop a risk-preparedness plan based on regional and national electrical crisis scenarios (EU, 2019a).

Finally, it is worth mentioning that the EU has enhanced many other policy fields related to energy infrastructure to increase its energy security, such as the Cohesion Policy with the financial instrument of the Cohesion Fund, the EU regional policy with Structural Funds, the budgetary policy with the European Investment Funds, the European Economic Recovery Plan, as well as the European Neighborhood Policy, the Neighborhood Investment Facility, and the Connecting Europe Facility, all of which can have an energy component (Landry, 2020).

The development of EU energy security policy unfolds in two distinct phases, which are linked to two dimensions of energy security. The initial phase, spanning 1952 to 2004, focused on integrating the internal energy market and establishing shared energy regulations. Instead, the subsequent stage from 2004 to today framed EU energy security also as a ‘foreign energy policy’, as it emphasised the importance of the EU’s external energy relations with third countries. This shift stems from several events in the 2000s, including the 2004/2007 Eastern enlargement and the 2006/2009 gas crises, highlighting the need for EU-coordinated responses to supply disruptions. The Lisbon Treaty in 2007 marked a step towards the Europeanisation of energy security, granting the EU energy policy competencies while preserving Member States' ultimate authority. Policy initiatives like Regulation (994/2010) and Regulation (2017/1938) address preparedness and collaboration with third countries on energy security matters (EU, 2017). Several policy documents and the 'Energy Union' initiative were formulated to respond to external challenges like the Crimea annexation in 2014, focusing on diversification and security, while more recent initiatives like the European Green Deal shifted the spotlight towards climate goals.

### *1.2.2. Supranational versus intergovernmental logics*

The two dimensions of energy security, energy governance and energy diplomacy, are subject to varying degrees of integration depending on their mode of governance, whether intergovernmental or supranational. Intergovernmentalism is based on the assumption that integration should proceed through voluntary or consensual policy coordination between national governments represented in the European Council and the Council, while

supranationalism is characterised by the sharing of decision-making power among the four institutions (European Council, Council of the European Union, European Parliament and European Commission) (S. Fabbrini, 2015). This second section is aimed at analysing how the scope and share of responsibilities for energy security policy are divided and shared vertically between the EU and its Member States. It is important to note that energy security is an evolving field, and the balance between supranational and intergovernmental cooperation shifted over time in concomitance with changes in the EU's energy landscape and policy priorities. Hence, the interplay between supranationalism and intergovernmentalism goes beyond what is enshrined in the treaties.

The EU is characterised by a separation of powers on two axes, which persists both at the vertical level (between the EU and its Member States) and at the horizontal level (between the EU institutions). Concerning its vertical separation of powers, it is possible to observe that energy security policy is currently a hybrid area, combining both intergovernmental and supranational modes of governance. It can be easily observed that the very use of the supranational and intergovernmental paradigms has changed during the evolution of the European Union thanks to the Treaty of Maastricht and the Treaty of Lisbon. Firstly, with the Maastricht Treaty, the EU developed two distinct decision-making paradigms (supranational and intergovernmental), which matched different policies to specific institutional frameworks (S. Fabbrini, 2013). Instead, the Lisbon Treaty dissolved this institutional divide between pillars by presenting a dual constitution in which the two separate frameworks each combine multiple decision-making processes (S. Fabbrini, 2013). It established a new balance between national sovereignty and EU-level energy policymaking (Bocquillon & Maltby, 2020).

The following section provides an insight into how the Lisbon Treaty divides competencies in the field of energy security (EU, 2007). First, Art.194(1) TFEU situates the Union's policy on energy explicitly "in the context of the establishment and functioning of the internal market" and "with regard for the need to preserve and improve the environment". It defines energy security as one of the four objectives of EU energy policy, together with functioning energy markets, energy efficiency and renewable energy, and the interconnection of energy networks. The legal architecture provided by Art. 194(2) TFEU can be considered as a constraint on the integration of the second dimension of energy security, foreign energy policy, as it secures the right of Member States to determine the conditions for exploiting their energy resources, letting them retain sovereignty over their energy mix.

Second, Art. 122(1) TFEU provides that “Without prejudice to any other procedures 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 the measures appropriate to the economic situation, in particular, if severe difficulties arise in the supply of certain products, notably in the area of energy”. This echoes an idea of mutual assistance in the face of supply disruptions in the energy security domain (Roth, 2011). This clause was presented in light of the Ukraine-Russia conflict to confirm the Union's competence to implement preventative actions to avoid security concerns, and it acted as a foundation for support for more far-reaching preventive measures introduced by the EU (Braun, 2011). Before the most recent emergency measures to address the energy supply shock of 2022, Art. 122 TFEU was used as a legal basis in Council Directive (2009/119/EC) and Council Directive (2006/67/EC) on minimum oil stocks in 2006 and 2009, as well as in Council Directive (2004/67/EC) on the security of gas supply in 2004 (EU, 2004, 2006, 2009a).

Third, concerning the external dimension of energy security, several provisions are relevant (Art 17-21 and 216-218 TFEU). Most crucially, the Treaty established new mechanisms of external representation to improve the Union's collaboration and engagement with non-EU countries and regions. It consolidated the role of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP), rendering him/she the permanent chairperson of the Foreign Affairs Council and the vice-president of the Commission at the same time, with the assistance of the Union's External Action Service (EEAS) (Art. 21 TEU). Energy security may fall under the remit of the HR/VP insofar that it constitutes a Common Foreign and Security Policy (CFSP) concern (Schunz & De Jong, 2012). This represents a likely situation if a gas interruption induces not purely economic but also political and security issues, as in the case of the 2022 energy crisis analysed in this thesis. According to CFSP, the Commission is authorised to adopt a mandate to negotiate trade contracts related to energy infrastructure on behalf of Member States with outside partners, such as it did with the Trans-Caspian Gas Pipeline (Landry, 2020).

Articles 122 and 194 TFEU are the two legal bases which can be used to adopt legally binding legislation in the energy sector, but they correspond to two different decision-making processes. The legal basis for actions in energy security most commonly falls under Art. 194

TFEU, which makes laws in this domain subject to the Ordinary Legislative Procedure (OLP), known as ‘co-decision’ before the Lisbon Treaty. The OLP essentially consists of three stages: the Commission's proposal (generally for a Regulation, Directive or Decision), negotiations up to three readings between the Parliament and the Council to reach a common position, and the adoption or rejection of the legislative text by both institutions (as co-legislators), as delineated in Art. 289 TFEU (Erbach et al., 2016).

However, practice shows us that energy security laws were not adopted using this procedure alone, as the Lisbon Treaty allows considerable room for interpretation (Braun, 2011). Art. 122(1) TFEU has a general scope of application and may become a *lex specialis* in energy security if severe difficulties arise concerning energy supply. In this case, after the Commission's proposal, the Council is empowered to approve specific measures, including Regulations, based on Qualified Majority Voting (QMV). This procedure considerably reduces the role of the European Parliament in the decision-making process, as it loses its role of co-legislator. Interestingly, it was this very provision, Art.122 TFEU, that was used as the legal basis for the adoption of measures to tackle the energy crisis of 2022, as the EU needed to act in a shorter time frame.

Finally, energy security can be subject to a decision-making procedure different from that prevailing in the OLP because it may fall within the scope of the CFSP. Art. 24 TEU explicitly states that CFSP policy is subject to unanimity rule, reducing the autonomy of the HR. The dominant feature in this policy field is a more substantial component of intergovernmental cooperation. Following a proposal formulated by any Member State, the HR/VP, or the Commission, the European Council and the Council unanimously define and implement the CFSP, which is then put into effect by the HR/VP or the Member States.

As Youngs (2009) emphasises, energy security is essentially an intergovernmental matter, with national governments still being the most powerful actors in energy security. However, the distribution of competencies still needs to be settled (Haghighi, 2008). This is why it is of fundamental importance to analyse the cases in which energy security policymaking happens at the national level or within the context of the EU's institutional environment, according to the two dimensions of energy security considered in this thesis. While analysing energy security, a complex pattern of distribution of competencies between the two dimensions emerges, structured as follows: whereas the EU plays a more powerful yet still restricted role



in the external dimension of the energy markets (first dimension of energy security), foreign energy policy (second dimension of energy security) has typically been dominated by its Member States.

On the intergovernmental side, Member States have traditionally been “in the driving seat” concerning the foreign policy dimension of energy security, especially concerning the geopolitics related to the security of supply (Belyi, 2016, p. 204). Within the EU institutions, Member States have two venues to articulate their interests: the Council, also known as the Council of Ministers, and the European Council, reuniting the heads of state and governments. While it may not look different from other policy fields in shared competencies, energy security can be considered unique due to the strategic importance that Member States attribute to it: it is perceived as paramount to the sovereignty and even security of the state because of its direct and significant consequences for the well-being of citizens (Judge & Maltby, 2017). Several authors mainly attribute this to divergent energy interests among Member States, which in turn depend on a variety of relatively unchangeable factors such as size, geography, energy mix, degree and nature of energy dependence or vulnerability, long-established political relations with foreign suppliers, geopolitical priorities, and so on (Glachant et al., 2012; Herranz-Surrallés, 2015; Schmidt-Felzmann, 2011).

This enhanced role of Member States in the second dimension of energy security, foreign energy policy, explains the slow progress of European integration. However, it is worth remembering that Member States still prefer to act outside the EU framework in some aspects of foreign energy policy, making these areas considerably lagging when it comes to European integration. This is the case of energy negotiations for concluding international agreements aimed at increasing national energy security. As Member States still retain the right to conduct their bilateral energy relations in an uncoordinated manner with non-EU countries as they see fit, scholars agree, observing that Member States have traditionally been at the forefront in this field (Buchan, 2009). Several times in the past, the lack of openness and transparency in these bilateral supply contracts has even harmed the EU energy integration (Andoura, 2015), resulting in a situation in which the EU's energy external policy integration path has been severely questioned (Glachant et al., 2012).

In contrast to the Member States, the EU can only act if the Member States have transferred competencies to it according to the principle of conferral (Art. 5 TEU). As was shown in the

historical overview preceding this section, the EU treaties did not transfer any energy security competence at the supranational level before the Lisbon Treaty. Despite this lack of formal competence in primary law for several years, the EU gained considerable responsibilities when analysing the first dimension of energy security, thanks to the integration of the internal energy market (Orbie, 2009). The principle of subsidiarity (Art. 5 TEU) served as a political and legal framework for the development of a liberalised internal energy market, as it can be used when the Member States cannot sufficiently achieve a “proposed action” and can “therefore be better achieved by action on behalf of the Community”. Therefore, the European Commission was able to initiate legislation to shape the energy security agenda, mainly through regulations about the establishment of the single market (Art. 114 TFEU), the flexibility clause (Art. 352 TFEU) and general competition law (Art. 101-106 TFEU). The secondary legislation produced concerning the external dimension of the internal market increased a lot over the years (Pollak et al., 2016).

One example of the EU’s growing involvement in the area of security of supply resulting from this strategy is the creation of the Gas Coordination Group (GCG) (Herranz-Surrallés, 2015; Jong & Sterkx, 2010). Standing as an advisory group, it coordinates security of supply measures, especially in times of crisis. It serves both as a platform for the exchange of information on the security of gas supply among relevant stakeholders and as an auxiliary for the Commission in monitoring the adequacy and appropriateness of implementation measures. The GCG considerably contributes to the EU integration with its neighbourhood countries, as its Members include not only national authorities but also the Agency for Cooperation of European Regulators (ACER), the European Network of Transmission System Operators for Gas (ENTSOG), the Energy Community (which is composed of non-EU Member States) and several representatives of European industry and consumer associations.

In conclusion, rather than reflecting a rigid divide, the interaction between supranational and intergovernmental logic and the two dimensions of EU energy security accommodates varying degrees of integration. The Lisbon Treaty's dual constitution strives to combine national sovereignty with EU-level policymaking, creating an equilibrium in the EU's vertical separation of powers between the Union and its Member States. The EU's role in energy security policy-making spans from the vigorous management of single market policies (first

dimension of energy security) to its increasing but still weak engagement in foreign policy objectives (second dimension of energy security), particularly concerning the security of supply. While Member States still retain their strategic role in determining their energy mix, the EU progressively leverages its competencies in shaping integrated energy security with its neighbourhood, as demonstrated by initiatives such as the Gas Coordination Group. The Lisbon Treaty presents three sources of the legal basis for energy security policymaking: both Art. 194 and Art. 122 TFEU allow the EU to make binding laws, but whereas the former is associated with the OLP, the second involves a derogatory legislative procedure that allows the EU to act in shorter time. If energy security falls instead within the scope of CFSP, we will observe a limited role of EU supranational institutions, still far from superseding national foreign policies.

### *1.2.3. Key actors in EU energy security decision-making*

Energy security governance involves a complex network of institutions, actors, and decision-making mechanisms. At the heart of this framework lies the Lisbon Treaty, which delineates the roles and responsibilities of various EU bodies in shaping and implementing energy security-related policies. The intricate interplay between these entities, including the European Commission, the European Council, the Council of Ministers, the European Parliament, the HR/VP, and ACER, underscores the EU's commitment to addressing energy security and integration. The third section delves into the roles played by these actors in EU energy security governance, exploring how these institutions collaborate, navigate challenges, and collectively work towards fostering a coherent energy security policy for the Union.

According to the Lisbon Treaty, the Commission serves as the EU executive branch (Pollak et al., 2016). It has considerable competencies in competition policy, an area in which it can levy fines for violations of EU law (Art. 101 TFEU). It is in charge of promoting internal energy market rules abroad, as well as more vigorous enforcement of competition rules on third countries' energy companies operating in the EU (Riley, 2012). Among its Directorate-Generals (DGs), we find of most significant relevance the DGs for Energy (ENER), Climate Action (CLIMA), Competition (COMP), Mobility and Transport (MOVE), Enterprise and Industry (ENTR) and Environment (ENV), European Community Humanitarian Aid Office

(ECHO). Most DGs with crisis experience, thus also DG MOVE, DG ENER and DG ECHO, have mechanisms in place to speed up the decision-making process. These vary widely, but in general, they set out the steps to be taken in the event of an unforeseen and urgent event, such as a crisis, requiring a rapid response by the DG (Rhinard, 2019)

Braun (2011) sustains that the Commission creates increased synergies with other actors in cross-cutting energy dossiers, like the ones related to energy security. Furthermore, a number of authors argue that the Commission plays the role of a ‘policy entrepreneur’, as it steadily and persistently pushed forward its policy agenda, with incremental steps influenced by path dependence (Eberlein, 2012; Goda, 2017). This phenomenon can be attributed to a number of factors, such as its increasing technical expertise, spill-over effects coming from internal policies, or external events like gas supply disruptions (Herranz-Surrallés, 2015; Maltby, 2013; Mayer, 2008; Thaler & Pakalkaite, 2021).

The European Council can be regarded as a provider of strategic direction, especially when it comes to external action matters and in specific thematic areas such as energy security (Art. 15 and Art. 22 TEU). The role of the European Council in energy dossiers has considerably strengthened in recent years (Christoffersen, 2009). Thaler (2016) emphasises its significance in the development of energy policies, as it is essential to fostering integration by overcoming dissensus among Member States. This frequently occurred in the midst of internal and foreign crises affecting the EU, such as the 2008 recession or the annexation of Crimea by Russia (Pollak et al., 2016). Given the sensitive nature of energy security problems that influence security supply interests, reaching a consensus in the Council is often challenging (Pollak et al., 2016).

Member States are also able to voice their opinions in the Council of Ministers, where relevant ministers from member countries convene on a regular basis, with the frequency varying based on the sort of configuration in which they meet. Energy issues are addressed mainly by the Transport, Telecommunications, and Energy Council (TTE), which was founded in 2002 and meets three to four times a year. The TTE's expertise places it at the crossroads of all dimensions of energy security. Prior to the TTE debating or voting on items on its agenda, preparatory bodies known as working parties (or groups) run through policy proposals. The

High-Level Working Party of Energy (or Working Party on Energy, depending on its configuration), which is considered to be one of the most influential bodies but also one of the least transparent (Pollak et al., 2016), is the most significant for the scope of our investigation. Both the European Council and the Council of Ministers' attention to energy security issues tends to peak after an energy crisis (Alexandrova & Timmermans, 2015).

Following the Maastricht Treaty, the European Parliament's importance grew significantly, and it was further strengthened by the Lisbon Treaty, which granted it the same weight as the Council in the Ordinary Legislative Procedure. Art. 218 TFEU on the conclusion of international agreements was crucial in enhancing the Parliament's role when it comes to energy issues (Braun, 2011). Within the Parliament, the majority of the daily work on energy policy is done in the following specific Committees. It is not uncommon that problems of coordination may arise between them: the Committee on Industry, Research, and Energy (ITRE), the Committee on Foreign Affairs (AFET), and the Committee on Environment, Public Health, and Food Safety (ENVI). As highlighted in the previous section, the role of the Parliament varies considerably according to the legal basis used to act in EU energy security. In contrast, it plays the role of co-legislator in the OLP connected to Art. 194 TFEU, its influence is drastically reduced when considering the second and third options (Art. 122 TFEU and CFSP).

As energy security is increasingly seen as a foreign policy priority, it is deemed that also the HR/VP is entitled to represent the EU in this area, negotiating on behalf of the Member States and raising high hopes for a more coherent EU external energy policy. The HR/VP is assisted by its diplomatic service, the European External Action Service (EEAS), which has gradually developed some autonomy as an agenda-setter beyond the control of Member States and brought more far-reaching convergence than that achieved through intergovernmental bargaining alone (Morillas, 2020). However, a number of scholars notice that it seems to have little or no authority to change the state of affairs in this field (Schunz & De Jong, 2012). In particular, Braun (2011) argues that the Commission has more power than the High Representative on projects of 'European interest', with the Commissioner for Energy taking the lead, while the High Representative plays second fiddle.

Finally, among the most relevant actors in energy security, we should not neglect the Agency for the Cooperation of Energy Regulators, created in March 2011 by the Third Energy Package legislation with Regulation (713/2009) (EU, 2009d). Established as a juridical person through secondary EU legislation, it is not an EU institution but a decentralised independent body. Despite the lack of an explicit legal basis in the Treaties for this organisation to formulate policy, it gained considerable formal powers (Fresa, 2015). ACER has a multi-faceted role within the European energy security landscape: it integrates and coordinates the work of national authorities, contributes to the creation of European standards, takes individual binding decisions on terms and conditions of access and operational security for cross-border infrastructure, advises European institutions, monitors markets and reports on its findings to detect and deter market abuse (Fresa, 2015; Scholten & Rijsbergen, 2014). Its most remarkable competence is being able to make individualised binding decisions on terms and conditions of access and operational security for cross-border infrastructures (EU, 2019b). Its scope extends also to the EnC Contracting Parties, as the EnC incorporated Regulation (2019/942), confirm the powers of ACER (Ministerial Council, 2022b). Hence, it is among the European agencies that have a regional scope extending to neighbouring countries (Bulmer, 2015). ACER, like other regulatory agencies, is managed by a Board composed of Member States' representatives along with members representing the Commission, representing a sort of compromise between supranationalism and intergovernmentalism rather than a full-fledged choice between the two paradigms.

To summarise, according to the Lisbon Treaty, there is no actor with unequivocal and unchecked responsibility for energy security within the EU. Instead, various actors deal with different aspects of this multivariate issue: the European Commission (DG ENER, DG CLIMA, DG COMP, DG MOVE, DG ENTR, DG ENV), the European Council, the Council of Ministers (TTE Council, High-Level Working Party of Energy, Working Party on Energy), the European Parliament (ITRE, AFET, ENVI), the HR/VP and the EEAS. The extent to which energy policy is integrated is, therefore, not only a matter of formal competence but also the consequence of a tug-of-war between this constellation of stakeholders depending on the subject at hand, the most influential being the European Commission and fluctuating majorities in the Council (Herranz-Surrallés, 2019).

### **1.3. Energy security policymaking in the Energy Community**

#### *1.3.1. The evolution of the Energy Community*

In Section 1.2.1, we saw that EU energy security policy was developed in two distinct phases, each relating to one of the two dimensions of energy security: the first (1952-2004), relating to the external dimension of the internal energy market, and the second, relating to foreign energy policy (2004-today). What follows in this section is a historical overview of the milestones that led to the creation of the Energy Community by the EU, which Tangör and Sari (2022, p. 707) define as “the most concrete example of the EU’s aspirations to Europeanise the energy structures of the South-East European and Black Sea countries according to EU rules and principles”. With respect to these considerations, this section aims to explain the rationale behind the Energy Community, asserting that it is relevant to both energy security dimensions: energy governance (first dimension) and energy diplomacy (second dimension).

In the 1990s, many European countries underwent significant changes revolving around the collapse of the communist regime, and the Western Balkans also experienced years of war and conflict. Enabling regional integration and reconciliation in the Western Balkans pushed the EU to take action to promote stability in the region (Blockmans, 2014; Göler & Kurze, 2020). This was also done by acting in the energy sector, which was considered critical to the region's economic growth, development, stability, social welfare, industrialisation, and prosperity (Prisecaru, 2022). The adoption of a liberal market paradigm implied a highly complex transformation due to the legacy of a centrally planned economy (Bouzarovski, 2010).

The European interest in this area needs to be contextualised within the broader landscape of EU initiatives, as the EU is in the process of setting its vision for a wider European energy market (Herranz-Surrallés, 2019). In 1999, the creation of the Stability Pact for South-Eastern Europe had a dual purpose: to foster regional cooperation and to facilitate the integration of South-Eastern countries into European and Euro-Atlantic frameworks (Batzella, 2018). In alignment with this trajectory, the Commission's plan for establishing the Southeast Europe Regional Energy Market (2002) laid the cornerstone for what would later be recognised as the Athens process, leading to the creation of the Energy Community (Renner, 2009). With the aim of fostering energy security integration with its neighbouring countries, the EU formulated several external energy policy initiatives. These include the European Neighbourhood Policy

(ENP), the Energy Charter, the Black Sea Synergy, the EU Strategy for Central Asia and the Energy Community (Tangör & Sari, 2022), the latter being the focus of this analysis. It can be inferred that the EU Member States' endorsement of the Energy Community project was likely motivated by the anticipation that it would serve as a means to ensure energy security (Batzella, 2018) due to the critical role of the EU's neighbouring regions in facilitating the transportation of natural gas (contingent upon pipeline infrastructure), fundamental for its energy security (Mavrakakis et al., 2006).

It was in this framework that the first Athens Memorandum was signed in November 2002, with the themes of security of supply and external energy policy being pivotal during the meetings, according to Dirk Buschle (2015), Deputy Director and Legal Counsel of the Energy Community. Signatories encompassed Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Romania, Turkey, the Federal Republic of Yugoslavia, and the Former Yugoslav Republic of Macedonia, along with some 'Participants' (namely Austria, Hungary, Italy, Moldova, and Slovenia), with the Commission and the Stability Pact acting as donors. The Memorandum established four institutions collectively known as the 'Athens Process' to oversee the region's energy market: the Ministerial Council, the Permanent High-Level Group, the Southeast Europe Electricity Regulation Forum (also known as the Athens Forum), and the Secretariat. This institutional framework served as a blueprint, ultimately shaping the subsequent formation of the Energy Community in 2006. The guiding principles underpinning the architectural configuration were explicitly inspired by the initial lessons gleaned from the EU integration, so much so that the European Commission acknowledged that "[t]he Energy Community Treaty was consciously modelled on the European Coal and Steel Community that is the basis of the European Union" (European Commission, 2005b, p. 2). Buschle (2015) recognises the Energy Community project as a renaissance of the European integration paradigm in the 21st century.

A second Memorandum of Understanding was signed in December 2003, with the goal of expanding collaboration beyond electricity to the gas sector. The Athens Process was transformed into the Energy Community Treaty (EnCT) on 25 October 2005 by the EU Member States and nine Contracting Parties from Southeast Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, the Former Yugoslav Republic of Macedonia, Romania, Serbia, and the United Nations Mission on behalf of Kosovo) (Energy Community Treaty, 2005). After the ratification and notification process, the Energy Community Treaty



became effective on 1 July 2006. The agreement was initially designed for ten years from the date of entry into force but was extended by the Ministerial Council unanimously twice for ten years, currently expiring in 2026. With the entry into force of the Treaty in 2006, the Energy Community (previously also referred to as the ‘South East European Energy Community’ and the ‘European Energy Community’) became an international organisation under international law (Cambini & Rubino, 2014).

By requiring its signatories to approve a variety of acts pertaining to energy security, competition, and the environment, the EnC explicitly encourages the adoption of the *acquis communautaire*. Adopting this *acquis* enables countries wishing to obtain the candidate status to fulfil the conditions necessary to conclude the energy chapter of EU accession negotiations (Wilson, 2015). This is accomplished through the highly institutionalised structure, the broad regulatory framework, and the sanctioning powers of which the Energy Community disposes (Deitz et al., 2008). This Energy Community is therefore instrumental in promoting energy security integration between EU Member States and its neighbouring countries that decided to be ‘Contracting Parties’.

The Energy Community has undergone a series of processes that can be described as instances of institutional widening, broadening, and deepening, as explained by Göler and Kurze (2020). First, we are able to identify the dynamics of institutional widening within the Energy Community. South-Eastern European countries responded relatively promptly to the Energy Community initiative and became members of the EnC one after the other, as the EnC assistance in implementing the energy *acquis* and the prospect of EU investment are critical motivating factors (Prange-Gstöhl, 2009). Since its foundation, the Energy Community has welcomed three new Contracting Parties: Moldova in 2010, Ukraine in 2011 and Georgia in 2016 (Göler & Kurze, 2020). The inclusion of these new members changed not only the size of the Energy Community but also its overall character. If the founding members all had a formal prospect of EU membership (indeed, three of them, Romania, Bulgaria and Croatia, have already become Member States since the creation of the EnC), the new members extended the Energy Community to the broader European Neighbourhood area, transforming the EnC from an interim arrangement to an organisation in its own right and with higher objectives than sole accession (Buschle, 2015).

Secondly, we can observe that there have been several reforms of the institutional framework of the EnC, which created an institutional broadening. Among many, we can

mention the introduction of new Fora: the social forum in 2007, the oil forum in 2008, the legal forum in 2013, the sustainability forum in 2017, and the dispute resolution forum in 2018. In addition, the EnC has appointed coordination groups on several topics, among which we find the Security of Supply Coordination Group (SoSCG), established in 2008 by the Ministerial Council. The group provides an institutional and procedural framework for the coordination of national security of supply measures at the Energy Community level. It has two subgroups or compositions: one for electricity and one for gas. Finally, several reforms in procedural and legal practices have been implemented, aiming at more efficient decision-making and better implementation, such as the introduction of a cooperation mechanism between national authorities or courts and the Secretariat regarding the interpretation and application of Energy Community law (Göler & Kurze, 2020).

Thirdly, as far as institutional deepening is concerned, the Energy Community has succeeded in transposing an increasing number of European acts concerning energy policy and, more specifically, energy security (although it should be noted that not all of them have been transferred). This keeps the Contracting Parties in pace with EU developments, continuously aligning their regulatory frameworks with those of the EU in energy and related sectors and achieving further integration. In the field of security of supply, the Energy Community adopted two Regulations relating specifically to the security of supply *acquis*: Regulation (2019/941) of 5 June 2019 on risk-preparedness in the electricity sector and Regulation (2017/1938) of 25 October 2017 concerning measures to safeguard the security of gas supply (EU, 2017, 2019a). Contracting Parties are also developing integrated national energy and climate plans (NECPs) for the period 2021 to 2030, addressing five dimensions in line with the pillars of the EU's Energy Union, which also includes "Energy security, solidarity and trust". Furthermore, the EnC has had an essential role concerning energy security in the Ukrainian-Russian conflict since the first gas crisis in 2006. For instance, it played a vital role in Ukraine's gas market reform by enabling Ukraine's adoption of EU gas unbundling rules, which is crucial for renewing the transit contract with Russia amid a dispute (Sánchez Margalef & Franza, 2021). We will discuss in more detail in the central part of this thesis the role it played after the invasion of Ukraine in 2022.

In summary, the evolution of the Energy Community testifies to the EU's commitment to promoting energy security, stability, and prosperity in its neighbouring regions. The Energy Community emerged from the EU's strategic vision to create a pan-European energy market

and integrate the countries of South-Eastern Europe and the Black Sea into a unified energy framework. Rooted in the aftermath of the Balkan wars and the collapse of communist regimes, it was established as a response to the urgent need to rebuild damaged energy infrastructure and promote economic growth and regional stability. The Community's institutional architecture, strongly inspired by the EU integration model, facilitated the integration and liberalisation of the electricity and gas sectors between the EU and the countries of its neighbourhood willing to be 'Contracting Parties' in the Energy Community. Over time, the Energy Community has expanded both in terms of membership and institutional framework, welcoming new Contracting Parties and introducing several reforms. It constantly broadens its scope by transposing numerous acts of the energy *acquis communautaire*, including the ones related to energy security. The Energy Community embodies the EU's pursuit of energy security along its two dimensions, thus contributing to a more interconnected and secure energy landscape in the broader European context.

### *1.3.2. Institutional mechanisms of the EnC*

This section delves into the intricate institutional arrangements that underpin the functioning of the EnC, drawing parallels with the EU when similarities are present between the two organisations. An analysis of the vertical separation of powers along the supranational-intergovernmental continuum provides insights into how the EnC has embraced some of the EU's integration mechanisms while showing particular deviations that underline its distinctive nature. By exploring the EnC's decision-making processes within the concentric circles of its treaty structure, we shall uncover the complexities of policy formulation and cooperation, shedding light on the role of the Commission and the power dynamics between Contracting Parties and EU Member States.

The Energy Community possesses a highly institutionalised framework (Göler & Kurze, 2009) with some particularities: it is an international organisation inextricably linked to but separate from the EU (Göler & Kurze, 2020). One needs to think that it was the Commission that proposed the creation of the EnC and was among its original signatories (Buschle, 2015). The EnC closely resembles the Union not only in its historical evolution but also in its decision-making processes. Since the EU had benefited from specific institutional mechanisms within

itself, according to some, it has actually attempted to replicate and extend its integration mechanisms in the Energy Community (Tangör & Sari, 2022).

Analysing the EnC along the supranational-intergovernmental continuum, we note that it has also followed the EU integration path in its tendency to replace intergovernmental relations with supranationalism (Cambini & Rubino, 2014). Having been established by a treaty under public international law, the organisation is rooted in intergovernmental cooperation; however, its institutional framework also reflects the 'Community method', as the commitments of the Contracting Parties are enshrined in EU legislation, and EU rules have primacy over national rules in the energy sector (Sánchez Margalef & Franza, 2021).

It is interesting to note that there are certain divergences between the two organisations in terms of institutional mechanisms, which are analysed according to the supranational-intergovernmental continuum, which is more complex in the case of the EnC. While the EU is only composed of nation-states, the EnC is composed of both nation-states and the EU itself, represented by the European Commission. In fact, the EU is represented in two of the decision-making bodies set up under the EnCT, i.e., the Ministerial Council and the Permanent High-Level Group. These cannot be adequately considered supranational bodies because they also involve the Contracting Parties: the power is therefore shared within the same institutions, with the EU having more weight (because the Commission has two representatives, while the Contracting Parties only have one). (Buschle, 2015). The only genuinely supranational institution which pertains to the EnC is the Secretariat, composed of the EnC Director and the EnC's own staff. However, the Secretariat was not able to obtain supranational competencies even remotely comparable to those of the European Commission in the EU. We will further discuss the precise functioning of each institutional actor in the last section of this chapter. However, for now, we can interestingly note that within the same organisation, the supranational level is twofold: in connection with either the EnC (in the Secretariat) or the EU (because of the presence of the European Commission).

On the inter-governmental level, we can also observe interesting dynamics, as there is a hierarchical order among the nation-states in the EnC. Contrary to the Participants (EU member-states), the Contracting Parties (non-EU member-states) cannot participate in the policy-making process to shape EU energy legislation. This means that they are mostly policy receivers, as EnC must play the game using rules set by the EU. This situation is compatible with the power asymmetry emphasis of historical institutionalism, which recognises that actors

with different levels of power shape institutions but also that these institutions allocate different amounts of power to actors (Tangör & Sari, 2022).

We will now go on to analyse the three main decision-making processes present in the Energy Community in order to understand the institutional configurations of the EnC. Art. 3 of the EnCT establishes a ‘three-tier structure’ also referred to as the Treaty’s concentric circles (Nowak, 2012). Each tier deals with a specific area of the purpose of the Treaty, foreseeing a different decision-making process for each one of them. The decision-making process differs considerably in relation to the area of the Treaty that is being decided.

The first circle, Title II, refers to the “Extension of the *Acquis Communautaire*” and addresses only the Contracting Parties that have committed to implement core parts of the EU *acquis communautaire*. Starting from an initiative by the Commission, which can be withdrawn anytime, each Contracting Party has one vote, and the three institutions act by a majority of the votes cast (Art. 79-81 EnCT). It stipulates the Standard procedure to make EU rules binding on the Contracting Parties (Sánchez Margalef & Franza, 2021).

The second circle, Title III, refers to the “Mechanisms for the operation of network energy markets” and is often used in the area of security of supply (Batzella, 2018). The rules under this Title are proposed by a Party or the Secretariat (Art. 82 EnCT) and require a two-thirds majority, with a favourable vote from the EU (Art. 84 EnCT). These rules are binding not only for Contracting Parties but also for selected EU member-states, typically those located in Central-Eastern Europe that share borders with Contracting Parties: Austria, Bulgaria, Greece, Hungary, Italy, Romania, and Slovenia (Art. 27 EnCT).

Finally, the third circle, Title IV, is related to the “Creation of a Single Energy Market” and addresses both the Contracting Parties and the EU member-states. It provides for the free movement of network energy and aims to create a single energy market through the adoption of further measures. Measures are taken from a proposal from a Party (Art. 84 EnCT) and require unanimity (Art. 85 EnCT).

In conclusion, the EU's approach highly influences the EnC's framework, integrating specific aspects of the EU's decision-making processes, but with distinct differences due to its unique structure and focus on the energy sector. The EnC presents both supranational and intergovernmental elements, as its decision-making bodies involve Contracting Parties (non-

member States) and the EU, represented by the European Commission. Decision-making power is shared, with the EU having more weight in certain instances. When the decision to be taken falls within the first circle, the decision is taken on a proposal from the European Commission. By contrast, when the decision to be taken in the EnCT has legal implications and is not covered by existing EU legislation, an EU position needs to be defined, and member-states are also asked to take a position (Batzella, 2018). In both cases, the balance between intergovernmentalism and supranationalism is flexible but adapts based on the specific policy areas and contexts.

### *1.3.3. Key actors within the EnC*

The EnC stands as a remarkable example of an international organisation that uniquely extends both EU legal provisions and institutional frameworks within a specific sector. With its institutions closely mirroring those of the EU, the EnC represents an intriguing case of institutional transfer (from the EU to the EnC) (Tangör & Sari, 2022). As elucidated by Deputy Director Buschle (2014), the EnC is “the first multilateral agreement where both law and institutions are extended in one sector only” (Buschle, 2014, p. 18). This chapter delves into the institutional architecture of the Energy Community, drawing parallels to the EU, and examines the pivotal roles played by its various bodies in shaping energy policies. Notably, the European Commission emerges as a central figure, despite not being an institution but only a ‘Party’ according to the EnC Treaty. Through an exploration of the Ministerial Council, the Permanent High-Level Group, the Energy Community Regulatory Board, the Fora, and the Secretariat, this section sheds light on the interplay between these actors within the EnC.

Title V of the EnCT (Articles 47–75 EnCT) defines the five bodies composing the EnC, partially supported by the European Commission: the Ministerial Council, the Permanent High-Level Group, the Energy Community Regulatory Board (ECRB), the Fora, and the Secretariat. The Ministerial Council is the highest governing body of the EnC and the leading institution for decision-making (Buschle, 2016). It meets once a year and consists of two representatives of each Contracting Party, usually the high government officials in charge of ministries that cover energy issues and two representatives of the European Commission (Art. 48 EnCT). Its

presidency rotates on a yearly basis, while the vice presidency is permanently held by the European Commission (Art. 47–52 EnCT). The structure of the Ministerial Council clearly resembles the EU Council of Ministers limited to the energy sector but differs in the presence of the European Commission’s officials within the EnC. The Ministerial Council makes strategic decisions (such as on extension of the relevant *acquis* and membership), as well as gives directions or formally adopts legislative acts (decisions, recommendations, and procedural acts). Under precise conditions, the Ministerial Council can delegate specific tasks, powers, and obligations to carry out the policy of the EnC on the Permanent High-Level Group, the Regulatory Board, or the EnC Secretariat (Art. 47 EnCT). Moreover, the Ministerial Council is responsible for the adoption of the budget of the Energy Community every two years by Procedural Act (Art. 74 EnCT). As it detains authority on the enforceability of the implementation of the *acquis communautaire*, Wilson (2015) argues that it has a 'quasi-judicial role'.

Similarly to the Ministerial Council, the Permanent High-Level Group is composed of two representatives from the Commission and one from each Contracting Party. It performs numerous tasks, including carrying out detailed preparatory work for the Ministerial Council, ensuring the follow-up of decisions and giving its assent to requests for technical assistance submitted by international donors and financial institutions (Art. 53 EnCT). It meets on the initiative of either the Commission or the country that holds the chairmanship. The Permanent High-Level Group may be regarded as the counterpart of the European Commission, as it prepares Ministerial Council decisions and ensures their follow-up (Talus, 2015). The opinion on this, however, is not one-sided. For instance, Renner (2009) sees its role as closer to that of the *Conseil des Représentants Permanents* (COREPER) and other preparatory bodies of the EU institutional system.

The Regulatory Board is composed of representatives from both national and European energy regulatory authorities. While the Contracting Parties each have a national representative, the EU is represented by the European Commission, assisted by as many national representatives as there are Member States, and a representative of the European Regulators Group for Electricity and Gas (EREG) (Art. 59 EnCT). The role of the Regulatory Board is to advise the Ministerial Council, or in some cases also the Permanent High-Level

Group, on the details of statutory, technical and regulatory standards, to make recommendations on cross-border disputes, and (if authorised by the Ministerial Council) to adopt measures and procedural acts (European Commission, 2005a). Of all the bodies, the most intensive interaction takes place in this institution, where meetings are frequent and personal relationships are highly developed among the officials (Padgett, 2012).

The Secretariat consists of a Director, to be appointed by a Procedural Act of the Ministerial Council, and such staff as the EnC may need. Both the director and the staff are required to act impartially and promote the interests of the EnC (Art. 70 EnCT). The Secretariat provides administrative support to other institutions, manages day-to-day operations, reviews implementation and coordinates donors' activities. The Secretariat is also responsible for monitoring, assisting, and enforcing the implementation of the energy *acquis* in the Contracting States. Together with its more formal responsibilities, the Secretariat acts as the guardian of the EnCT (Talus, 2015). According to the Title IV of the EnCT, it also has a role in agenda-setting and policy formulation. In practice, it mediates almost the entire interaction between the Contracting Parties and the EU (Prange-Gstöhl, 2009). Without a clear parallel in practice in the EU, it c

it has fallen short of developing as a supranational institution such as the European Commission (Renner, 2009).

Chaired by one representative from the European Commission, The Electricity Forum, the Gas Forum, the Oil Forum, and the Social Forum are composed of representatives of all interested stakeholders, including industry, regulators, industry representative groups and consumers (Art. 63 EnCT). They advise the EnC by adopting conclusions to be forwarded to the Permanent High-Level Group (provided that they were adopted by consensus). They are the best example of how significant the influence of the contemporary EU institutions on the EnC, being a replica of the Madrid and Florence Fora (Talus, 2015). The similarity lies in the fact that these fora and regulatory networks were founded to remove the deficits of too much decentralisation without simultaneously being dependent on formal centralisation (Eberlein, 2012). Again, Renner (2009) has a different view and states that the ECRB is an equivalent of the EU ERGEG.



Finally, the European Commission is not an institution within the meaning of the Energy Community Treaty. However, it has a crucial role because it represents the external organisation from which the *acquis* originates (Sánchez Margalef & Franza, 2021). As the sole EnC entity authorised to propose policy initiatives in the EU, the Commission assumes a pivotal position. Its involvement in decision-making processes is central, not only through its support for other institutions but also as a leading ‘policy entrepreneur’ (Wilson, 2015)

In summary, Title V of the Energy Community Treaty orchestrates a meticulously designed set of institutions that regulate and guide the EnC. The Ministerial Council, the Permanent High-Level Group, the Regulatory Board, the Fora, and the Secretariat collectively manage policy formulation, implementation, and decision-making. These entities, each with unique functions and characteristics, intertwine to create a dynamic network of cooperation. At the centre of this whole, the European Commission emerges as the pivot, not as a formal institution within the Treaty, but as the power centre for policy formulation and orientation. Its role as a political entrepreneur underlines its indispensable contribution to the functioning of the EnCT, highlighting the intricate balance between national interests and collective energy governance. This institutional structure, reminiscent of EU models but adapted to energy issues, reflects a commitment to cross-border collaboration in a crucial effort for Europe's sustainable energy future.

## 1.4. Conclusion

To summarise, the evolution of the EU's energy security policy from 1952 to the 2022 energy security crisis is characterised by two distinct phases, which can be associated with two distinct dimensions of energy security: energy governance and energy diplomacy. The initial phase (1952-2004) focused on the external dimension of the EU internal energy market, including the EU's activity aimed at the creation of a common energy regulatory space with third countries, while the subsequent phase emphasised both internal and external security, shaped by foreign energy policy in response to critical events. The Lisbon Treaty of 2007 played a pivotal role in granting the EU energy policy competencies while respecting Member States' authority: the dynamic interplay between supranational and intergovernmental logics, rather than presenting a rigid dichotomy, created a fluid continuum, with the EU's role ranging from managing single market policies to active engagement in foreign policy objectives. The absence of a singular policy-making process for energy security within the EU led to a complex constellation of actors dealing with different aspects of the two dimensions of energy security. Among these actors, energy security is often the result of a tug-of-war between the Commission and fluctuating majorities in the Council.

The Energy Community, stemming from an initiative of the Commission, further exemplified the EU's dedication to energy security, fostering integration with some of its neighbouring countries, i.e., the Contracting Parties to the Energy Community Treaty. Including both the EU, represented by the European Commission, and South-East European Contracting Parties, it aims to integrate their energy markets by transferring the energy *acquis communautaire* to non-EU Member States. Additionally, this helps candidate and neighbouring countries fulfil conditions for EU accession negotiations. The Energy Community underwent several changes, including institutional widening by adding new Contracting Parties (Moldova, Ukraine, and Georgia), institutional broadening through the introduction of new fora and coordination groups (including the SoSCG), and institutional deepening by transposing new acts, including two Regulations related to energy security before the energy security crisis.

## **Ch. 2: The energy security crisis as a critical juncture**

### **2.1 Introduction**

The energy landscape of the 21st century is marked by its complexity and vulnerability, with events on the global stage having far-reaching consequences for European energy security. EU energy policy, especially its energy security dimension, is often driven by external events, such as crises (Buchan, 2009). In 2021 and 2022, Europe witnessed a series of critical developments in its energy sector, culminating in what can be aptly described as an “energy security crisis”. It is crucial to emphasise here that the crisis's impact is global. Although some of the most significant disruptions have been noticed in Europe and have received much attention, considerable effects are being felt in many emerging and developing economies (Biro, 2023).

A crisis can be described as a situation characterised by a sense of urgency and uncertainty, which presents an immediate threat to the effective operation of the policy domain within one or more EU Member State (Ferrara & Kriesi, 2022). Crises pose an immediate threat to the proper functioning of an area of policymaking (Zachová, 2022). In accordance with Schimmelfennig (2018), crises are “open decision-making situations”. Within the context of integration, they carry a tangible risk of disintegration, which is both evident and widely acknowledged while also potentially serving as catalysts for reform efforts that ultimately result in increased integration. In most cases, scholars analyse the impact of a crisis event without defining its relationship with another term widely used in the literature, 'shock'. According to Falkner (2016), several interconnected crises can equal a shock to the EU. However, most scholars regard the terms shock and crisis as interchangeable. Hence, for our analysis, we will consider them interchangeably.

This second chapter provides a comprehensive and multifaceted analysis of the energy security crisis, with a specific focus on its origins and contextualisation in the crisis literature. Its objective is twofold. On the one hand, it attempts to provide the reader with a thorough account of the current crisis. On the other hand, it explores the crisis in the context of crisis literature to illustrate how it acted as a driving force for European integration. It also contributes with new ideas such as an in-depth comparison between the EU and the EnC energy landscapes, a formal distinction between the energy crisis (pre-invasion) and the energy security crisis

(post-invasion), the observation of the energy crises that affected Europe through explanatory values, and the application of a critical juncture analysis to the recent energy security crisis.

This chapter is structured as follows. First, it conducts an in-depth investigation into the intricate web of factors that led to the 2021 energy crisis, analysing European threats and vulnerabilities, economic reverberations of the Covid-19 pandemic, the dynamics of global energy prices, and the geopolitical intricacies involving Russia and Ukraine that preceded the 2022 energy security crisis. Second, after having explained the features of the current energy security crisis, it compares it to the previous 2006 and 2009 energy crises and argues that the 2022 energy security crisis can be considered a critical juncture in European integration.

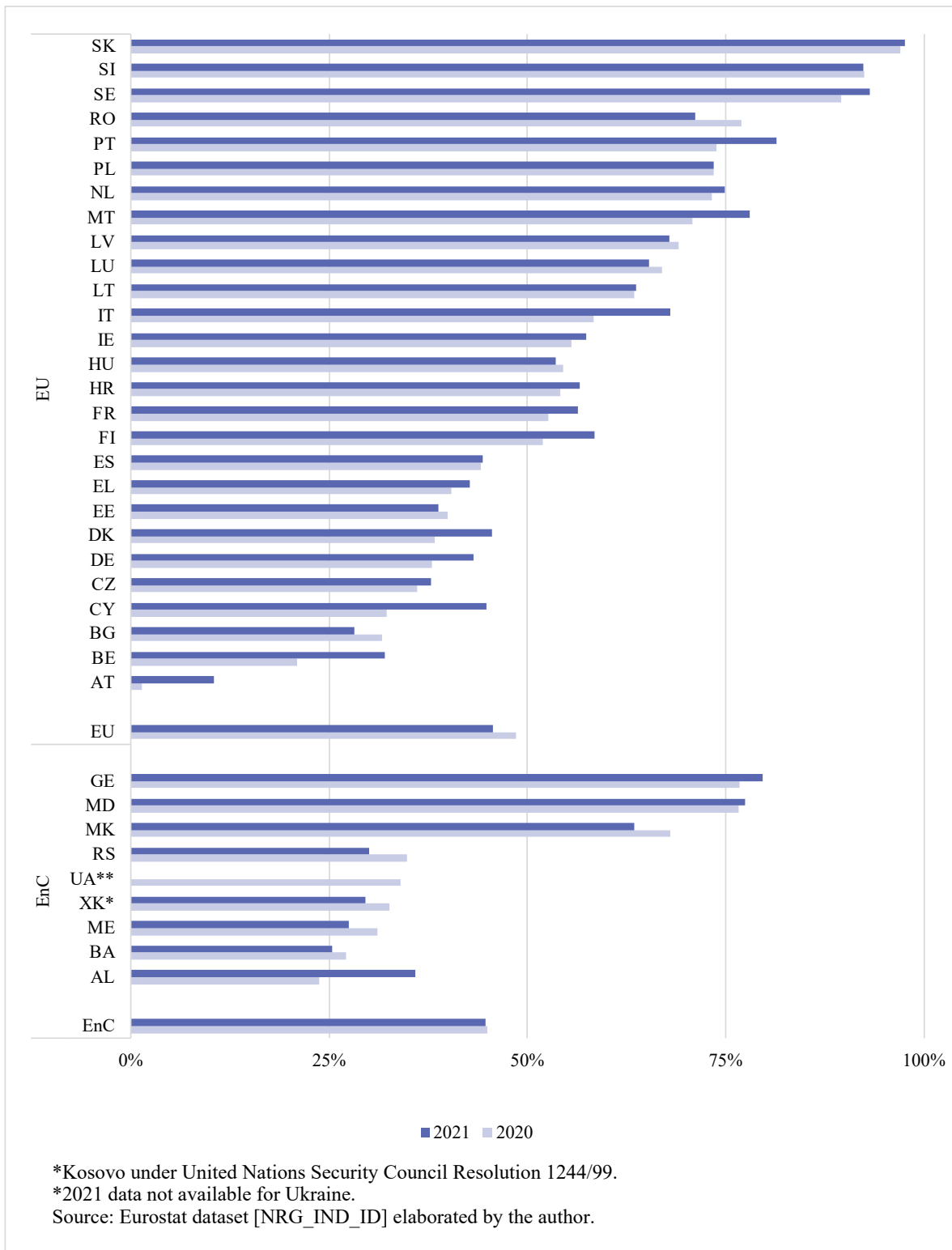
## 2.2. The 2022 energy security crisis

### 2.2.1. Threats and vulnerabilities

The Russian invasion of Ukraine has revived concerns that overdependence on a single energy supplier and its control over critical energy infrastructure can be used much in the same way as military coercion for an adversary to achieve strategic objectives (Calanter & Zisu, 2022). Before jumping to the events that led to the energy crisis, it is first of all worth making a few remarks on the European energy landscape. It is necessary to understand why both EU Member States and EnC Contracting Parties were so severely affected by the crisis. We will, therefore, consider key indicators representing crucial long-standing structural conditions, pinpointing the difficulty of isolating joint regional deliberations from the context of an exogenous dependence (Dekanozishvili, 2023).

Figure 3 in the Annex illustrates the energy balance by country in 2021, both in the EU and the EnC (Eurostat, 2023e). The 2021 EU energy balance was made up of oil and petroleum products (34,2%), natural gas (23,3%), renewables (17,2%), nuclear heat (12,8%) and solid fossil fuels (11,1%). As for the Energy Community, its energy mix in 2021 was composed of solid fossil fuels (28,9%), natural gas (23,7%), oil and petroleum products (20,3%), nuclear heat (15,7%) and renewables and biofuels (10,6%). This data indicates that both organisations relied on a mix of fossil fuels, natural gas, and nuclear energy, but the EU has a greater emphasis on renewable and biofuel sources. The Energy Community, on the other hand, presents a higher proportion of solid fossil fuels and a smaller share of renewables and biofuels. Leaving the particularities of each country aside, considerable differences are present among countries within both organisations, reflecting factors such as national energy policies (Member States remain responsible for managing energy resources and choosing their energy mix according to Art. 194 TFEU), resource availability, and historical energy infrastructure.

Figure 1: Energy import dependency in 2020 and 2021



Aggregate energy import dependency rates, indicating the ratio of net imports to gross available energy, show the extent to which a country relies upon imports in order to meet its

energy needs (Eurostat, 2023b). The EU, being mainly an import-dependent region for energy, is particularly vulnerable to events affecting supply and energy prices in the international energy markets (Dekanozishvili, 2023; Tangör & Sari, 2022). It is possible to observe that the EU had a higher average import dependency rate (55.5%) compared to the EnC (44.9%) in 2021 (see Figure 2). Since 2013, all 27 Member States of the EU have been net importers of energy. However, their country-specific rates varied considerably: Malta (97%) and Luxembourg (92.5%) were the most import-dependent countries, while Sweden (21%) and Estonia (1,41%) were the most self-sufficient. Among the EnC countries, North Macedonia (68.04%) and Moldova (76.64%) exhibited relatively high import dependency rates; conversely, Albania (23.77%) suggested the most self-sufficient energy profile within this group. In line with its energy security objectives, the EU experienced a decrease of about 1.94 percentage points in its average import dependency rate from 2020 to 2021. In contrast, the EnC had a slight increase of approximately 0.22 percentage points in their average import dependency rate during the same period.

The countries' differences in energy balances and energy import dependencies also generate different country-specific dependencies on Russia, the largest exporter of oil and gas to world markets. Figure 4 in the Annex provides a comprehensive overview of energy import dependency from Russia by fuel type in 2021, prior to the energy security crisis (Eurostat, 2022c). Both the EU and EnC Contracting Parties include countries with varying degrees of dependency on Russian natural gas, with EnC countries showing higher values on average. In particular, the EU had an average natural gas import dependency on Russia of approximately 49.21%. Three EU Member States, i.e., the Czech Republic (100%), Latvia (100%), and Lithuania (100%), had the highest natural gas import dependency on Russia, indicating complete reliance on Russian natural gas supplies.

In contrast, others like Ireland (0%) and Malta (0%) were not dependent on Russian natural gas at all. Similarly, four EnC Contracting Parties, i.e., North Macedonia (100%), Serbia (100%), Bosnia and Herzegovina (100%) and Moldova (100%), displayed a total natural gas import dependency on Russia, in contrast to Georgia (0%). Similar to natural gas, some EnC countries, particularly North Macedonia, Ukraine, Moldova, and Serbia, displayed varying levels of dependency on Russia for oil and petroleum products. However, they generally had lower average dependencies in this category compared to the EU.

Russian energy companies not only used to export to Europe but also controlled crucial European energy infrastructure. The largest share of gas used to be delivered via several distinct corridors which, then became the centre of geopolitical tensions: Nord Stream (NS1 and NS2 to Germany under the Baltic Sea), Yamal (to Germany, via Poland and Belarus), the Trans-Balkan Pipeline (to Turkey and South Eastern Europe via Ukraine, Romania, and Bulgaria), Bluestream (to Turkey, under the Black Sea) and Turkstream (via Turkey and Bulgaria). While it is not the primary focus of this study, it is worth noting that there are grounds for inquiry into the economic sustainability of NS2, given its uncertain economic foundation (European Parliament, 2018). Russia's development of a diversionary pipeline that bypasses Ukraine fits within this picture, particularly when considering it alongside the concurrent disruption of gas transit through Ukraine. Furthermore, through the enterprises Gazprom and Rosneft (vertically integrated natural gas corporations controlled by the state), Russia has shown several times in the past a willingness to abuse its dominant market position in support of foreign policy goals, primarily in its immediate neighbourhood but also in the whole European continent (European Parliament, 2018). These companies' ownership of European storage facilities, as well as their investments and subsidies aimed at monopolising gas supply activities in the host states, generated profound energy security implications (Boute, 2022).

The transit status of a country has also always been an instrument for the Russian pressure (Kleinschnitger et al., 2022); helping transit countries for gas supplies to become more energy-resilient also serves the EU's own interests (Russell, 2020). Most experts agree that Ukraine was the most essential transit territory when it came to natural gas from Russia to Europe. Having the most significant gas transit infrastructure in the world, Ukraine used to transport 82 bcm to 93 bcm of Russian gas per year to Europe in 2021, benefitting from substantial transit revenues (International Energy Agency, 2021). This country has long been a battleground between the EU and Russia due to its abundant energy and mineral resources, as well as fertile lands, holding significant economic value for both blocs (Costantini et al., 2022). Transit states raise further issues which are not touched upon here but which certainly merit much attention (Aalto & Korkmaz Temel, 2013).

Similar to Ukraine but with a more minor role, the Republic of Moldova is also a transit country through Ukraine to Turkey and the Trans-Balkan Corridor (Kleinschnitger et al., 2022). The Western Balkans are also a transit region located along Russian and Turkish energy projects running to Western Europe. Diversification efforts away from Russia and Ukraine



strengthened the position of Albania as an energy transit country, thanks to the Trans Adriatic Pipeline from Azerbaijan to Italy via Greece and Albania, which constitutes the Southern Gas Corridor, together with the South Caucasus Pipeline and the Trans-Anatolian Pipeline. In 2021, Bosnia and Serbia started importing natural gas from Russia through the TurkStream, which was strategically important for Russia to bypass Ukraine as a transit country (Ćetković, 2022).

Finally, two indicators for the Energy Union dimension, “Energy security, solidarity and trust”, provide additional information on energy security in the EU Member States before the crisis. Firstly, the Supplier Concentration Index (SCI) calculating the concentration of main energy carriers imports from suppliers outside of the European Economic Area provides valuable insights into the resilience of each country's energy supply and their exposure to potential energy supply disruptions from specific suppliers, as illustrated in Figure 5 in the Annex (European Commission, 2020a). A SCI of 31,9 suggests that a substantial portion of the EU's energy comes from a relatively small number of supplier countries or entities, consistently with its energy import dependency rates. Eastern European countries generally have higher SCI values, indicating a higher level of supplier concentration and potentially a higher risk of energy supply shocks compared to Western European countries.

Annex II of Regulation (2017/1938) introduced the N-1 indicator, which quantifies the percentage of total gas demand that can still be met in the event of a disruption to the most significant gas supply infrastructure (EU, 2017; European Commission, 2020b). The results for the N-1 indicator can be seen in Figure 6 in the Annex. This standard is considered fulfilled where the member state displays a value over 100%. In 2020, this criterion was met by 23 out of the 27 EU Member States, with Sweden, Slovenia, Luxembourg, and Bulgaria being exceptions. However, it is crucial to acknowledge that these figures can be misleading and overly optimistic, suggesting that the gas infrastructure is more resilient than it actually is. In fact, this obligation has been highly criticised, as the formula does not consider in its assessment of the remaining infrastructure technical capacity the natural gas already in transit and contractual quantities or internal bottlenecks, leading to unharmonised and potentially skewed results (Fleming & Guérin, 2023; Noël, 2010).

To summarise, EU Member States and EnC Contracting Parties were facing several threats and vulnerabilities concerning energy security due to their energy balance, energy import dependency, reliance on Russian energy, control of energy infrastructure by Russian

companies, instability of transit zones, and varying levels of gas infrastructure resilience. In this scenario, it is possible to identify major internal threats linked to its energy mix, resource depletion and resource scarcity linked to its import patterns, and a significant threat of dependency on a single large supplier (Landry, 2020). These internal threats were further bounded up in the presence of a potentially unstable transit zone, in this case, Ukraine, representing an external threat. Systemic vulnerabilities arose due to the European gas system's lack of complex interconnectedness and diversification in terms of external supply routes, gas system infrastructures, and interconnectors (Landry, 2020). These were compounded by the lack of cooperation at the EU and EnC level in creating reduction, substitution, prevention and safeguard measures to mitigate the effects of a potential gas supply shortage (as seen in Chapter 1, Member States are holding on to power in this area). These vulnerabilities left EU Member States and EnC Contracting Parties considerably exposed to potential supply disruptions and geopolitical pressures.

### *2.2.2. From the energy crisis to the energy security crisis*

This section delves into the critical 2022 energy security crisis, a pivotal event that had not only a European but also a global impact on energy dynamics. While the war in Ukraine played a crucial role in exacerbating this crisis, its roots can be traced back to a complex web of factors that had been unfolding since the COVID-19 pandemic in 2020. This chapter examines the various elements that converged to create a shock in the energy sector, from the early stages of rising energy prices intertwined with the pandemic to Russia's strategic manoeuvres in the lead-up to its invasion of Ukraine. These events had profound implications for Europe's energy landscape, spurring discussions on energy security integration. As we delve into the details of this multifaceted crisis, we gain insight into the challenges and uncertainties that the European Union faced during this tumultuous period.

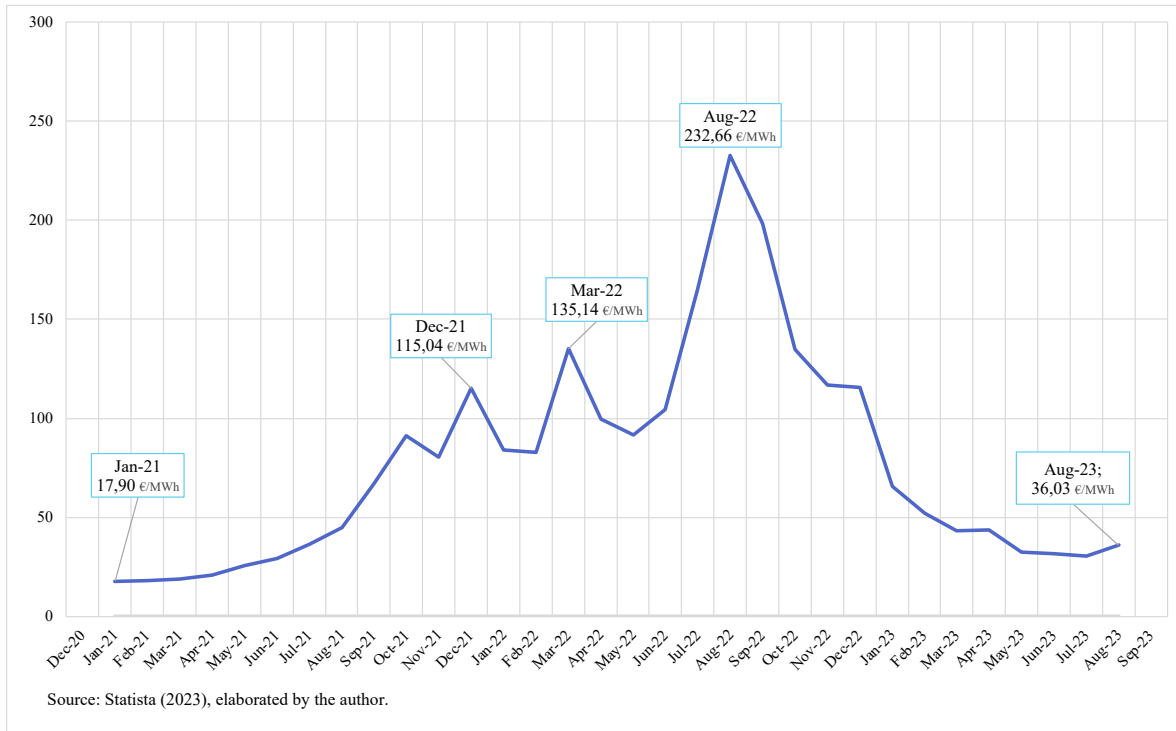
The war in Ukraine certainly exacerbated the crisis, but the strains did not begin with Russia's invasion in February 2022. Energy prices have been rising since early 2020, in concomitance with the Covid-19 pandemic (Murphy et al., 2022). The decline in global consumption during the pandemic drove fuel prices down to their lowest levels in decades. Successively, the world experienced the fastest post-recession economic recovery in 80 years,

fuelled by strong growth in energy demand (Fernández Alvarez & Molnar, 2021). China also experienced an economic recovery and thus increased its LNG demand by 8.4% in 2021 (Sturm, 2022). As its aggregate energy demand is a crucial determinant of energy prices on the global market, its imports from the Middle East led to a consequent 20% reduction in gas shipments available for Europe in 2021 (Ambrose, 2021; Tsafos, 2022). This happened in conjunction with unexpectedly low supplies: unplanned outages mainly occurred due to deteriorating weather-related conditions in various parts of the world and postponed maintenance works due to the COVID-19 lockdowns (Fernández Alvarez & Molnar, 2021). Additionally, EU carbon prices increased, which encouraged a shift from coal to gas as a fuel (Blenkinsop, 2022). By the start of the winter season in 2021, European gas storage levels were at 74.6%, which was 20% less than the year before, while Gazprom-run storage was only at 22% (European Commission, 2022e).

These events were instrumental in creating a volatile situation, but the primary reason for the surge in gas prices in Europe was a reduction of Russian gas supplies. Russia began to exploit its market power in the summer of 2021. As a first step, it considerably reduced its gas exports via pipelines running through Ukraine and Poland (Zaniewicz, 2022). Notably, the natural gas market experienced what the International Energy Agency calls 'artificial tightness', caused by Gazprom's slowness to supply its gas deposits in Europe in the Q3 of 2021 (the Russian company owns about 12% of EU storage capacity), a strategic choice when viewed retrospectively in the context of Russia's invasion of Ukraine a few months later (Fernández Alvarez & Molnar, 2021). Gas transit dropped through Ukraine from about 39% of the standard amount to 19%, but also to zero through NS1 and the Yamal pipeline running through Poland (Zaniewicz, 2022). The pretext for reducing gas supplies was the shutdown of a turbine at the Portovaya compressor station near Vyborg due to alleged engine wear (Menkiszak & Wiśniewska, 2022).

In concomitance with these decisions, Russia also used its power to force other countries to relax sanctions on financial transactions and technology (McWilliams et al., 2022). This situation triggered questions regarding the EU's security of supply due to the interplay between prices, lower-than-usual storage filling levels and the consistency of availability of gas supplies for the gas system (Bocse, 2021). Furthermore, it induced national leaders to invoke repeatedly the notion of 'weaponisation of energy', which is a recurring behaviour in the case of Russia if we look at episodes such as the increase in gas prices for Ukraine before cutting off supplies in 2014 (Boute, 2022; Collins, 2017; Lehne, 2023; Russell, 2020; Schramm, 2023).

Figure 2: Evolution of monthly TTF average prices for natural gas between January 2021 and August 2023



As a result, natural gas prices experienced a considerable rise, as can be seen in Figure 4 (Statista, 2023). The monthly average of the European wholesale price gas at the Dutch Title Transfer Facility (TTF), the reference for gas prices in Europe, increased by 542% in 2021 (between 17,90 €/MWh in January and 115,04 €/MWh in December). This drove a shift towards coal rather than natural gas for electricity generation in several critical markets on all continents (Sturm, 2022). Rising gas and coal prices, combined with rising carbon prices in Europe, also resulted in higher electricity prices, with, in some respects, worrisome inflationary pressures (Fernández Alvarez & Molnar, 2021). We can thus assert that the high prices of 2021 were not the result of a single supply or demand shock; instead, they were the outcome of a combination of supply and demand pressures that gradually tightened the markets over several months and even years, if we consider that they ‘topped’ the effects caused by the Covid-19 pandemic. What was considered an energy crisis appears retrospectively as a prelude to the subsequent security crisis after the invasion of Ukraine in February 2022. This allows us to refer to the post-invasion energy crisis as an ‘energy security crisis’. This new bundle was crucial in placing energy security back at the centre of EU policy.

The gas market seemed to relax at the beginning of the year when the monthly average price dropped to 83,94 €/MWh in January 2022 and 82,88 €/MWh in February 2022. However, the Russian invasion on 24 February 2022 tightened the markets even more, exacerbating the energy crisis (Goldthau & Youngs, 2023). The attack marked the beginning of the most significant land conflict in Europe since the end of World War II, causing a staggering loss of life, a vast displacement of the Ukrainian population, and the severe devastation of Ukrainian cities and vital infrastructure (Allison, 2023). The price for natural gas increased again in response to the invasion, reaching a 135,14 €/MWh monthly average in March 2022, the equivalent of a 63% increase within one month. It is important to remark that the war in Ukraine was not primarily about gas and oil, and the physical operations of the energy trade were not initially altered after the invasion, meaning that oil and gas continued to flow even through the pipelines crossing Ukraine (Butler, 2022). Instead, several policy announcements triggered uncertainty related to the future, such as Germany's refusal to certify the NS2 pipeline, Russia's demand to receive payments in rubles, and the EU's refusal to meet this demand (Sturm, 2022). Prices initially rose due to a fear that Europe might run out of gas in February or March: it was anxiety that drove prices so high, not an actual physical shortage (Tsafos, 2022).

Only in a second moment, the increase in gas prices was also caused by the fact that Russia curtailed its gas deliveries to Europe as retaliation against the EU's sanctions (McWilliams & Zachmann, 2022). There was a massive fall in Russian pipeline gas exports to Europe between July and September 2022, amounting to a 74% decrease as compared to the previous year. Notably, the gas supply was nearly wholly halted in the Yamal pipeline (through Belarus to Poland). Simultaneously, the transit of gas through Ukraine, arriving in Slovakia and Romania, was reduced by 63% (European Commission, 2022e). Russian gas supplies to Europe via Nord Stream were halted at the end of September 2022 due to sabotage of the pipeline through the Baltic Sea. Gas exports have decreased to negligible levels by the end of 2022, demonstrating that the energy crisis turned into a systemic one (Simon et al., 2022).

Wholesale prices continued in 2022, their overall upward trend. Prices rose so sharply that in early April 2022, EU foreign policy chief Josep Borrell affirmed that imports from Russia have been costing Europe at least €1 billion a day (Butler, 2022). A record was reached in August 2023 when the average gas price hit 232,66 €/MWh. Unusually, for the first time in history, LNG import prices turned lower than TTF wholesale prices. This phenomenon was also caused by infrastructure bottlenecks that hindered the distribution of LNG imports within

the EU to the Member States in need (McWilliams & Zachmann, 2022). Oil and coal prices followed similar patterns. Firstly, concerning oil, prices rose mainly due to the sanctions imposed on Russian oil by Western countries (not only the EU but also the US and the UK) and the expectation that extraction sites would not increase production to avoid a shortage on the global market (Sturm, 2022). The Brent crude oil price went from 70 €/barrel at the beginning of January 2022 to 92 €/barrel by the end of February, peaking on 8 March 2022 at 126 €/barrel, its highest value since 2008 (Sturm, 2022). Secondly, high coal prices reflected the increased demand for fuel as a substitute for natural gas from Russia in electricity generation. Coal spot prices increased from 120 €/MWh to 200 €/MWh in January and February 2022, reaching a peak of 360 €/MWh (the highest coal price ever noted) in the first week of March 2022 (Sturm, 2022). Finally, because the European power market is inextricably linked to gas (gas set the price as the marginal fuel according to the so-called merit order principle, explained in Section 3.2.1.), electricity markets were in turmoil as well. Power benchmark prices averaged 339 €/MWh in the third quarter of 2022, up 222% over the same period in the previous year (European Commission, 2023d).

With energy prices at record-high levels, inflation rates in several member states exceeded 20% (Pisani-Ferry, 2022). There was a severe macroeconomic impact as energy-intensive sectors (like chemicals, paper, and steel) reduced production, making European industrial competitiveness a policy concern in the long term (Albert et al., 2022; Blenkinsop, 2022). Rising energy prices became a social concern because they disproportionately impacted vulnerable households. The crisis did not only affect low-income households but also lower-middle-income households, small and medium enterprises, and industries (European Commission, 2022i). An increased number of private consumers could not pay their energy bills, leading to energy poverty (Damen, 2023). Small consumers, which generally have price adjustments on a yearly basis, felt the increase in energy prices during the 2022 winter. According to Eurostat's figures, about 35 million EU citizens (approximately 8% of the population living in the EU) were unable to keep their homes adequately warm in 2020 (European Commission, 2022i). In contrast, large consumers with long-term contracts were in a more privileged situation, as far as their suppliers could not interrupt these contracts (Sturm, 2022). However, many energy-intensive industries closed or reduced the scale of activity due to supply chain disruptions, increased energy costs and reduced availability (Dunford, 2023).

Finally, a series of coincidences escalated the EU's already volatile energy situation, causing the European energy supply to struggle to meet increased levels of demand and contributing to energy scarcity. For instance, corrosion problems forced Electricité de France to close 10% of France's nuclear plants, increasing the country's need for gas in power generation (Morison & Starn, 2021). Moreover, climate change considerations increased the demand for LNG, such as droughts compromising hydropower generation, thermal plants requiring cooling, high water temperatures challenging nuclear production, and coal-fired power plants relying on waterways to deliver coal (European Commission, 2022i). We should not forget that the energy security crisis has unfolded at a crucial time for the implementation of the EU's climate-neutrality objective adopted in 2021: even if synergies between energy security and climate change policies exist, the likelihood of conflicts between them is acute when they are perceived as working at different timescales. While the energy security crisis has the characteristics of a fast-burning crisis, characterised by the urgency of political action, the environmental crisis has remained in the background as a slow-burning crisis, being more 'day-to-day business' for both politicians and the public (Seabrooke & Tsingou, 2019). As a result, short-term responses to sudden energy security crises might create inconsistencies with long-term climate objectives (Adelle et al., 2009; Butler, 2022; Giuli & Oberthür, 2023). Several works suggested that prioritising energy security has in the past come to the detriment of climate goals in the EU (Dupont & Oberthür, 2012; Strambo et al., 2015).

Between the second half of 2021 and the second half of 2022, gas prices increased in all 27 EU countries from the energy and supply component, mainly driven by the recent energy crisis. Nevertheless, there were considerable differences in how severely the Member States were affected by the crisis because of their energy mixes, dependency patterns, national contract structures, retail markets and regulatory policies, but also their interests and struggles in energy security (McWilliams et al., 2022; Somosi & Megyeri, 2022). In addition, several countries introduced policies such as tax breaks, retail price caps and reductions in levies to mitigate the pass-through of high prices to final consumers (McWilliams et al., 2022). The weight of taxes and levies differs significantly between EU Member States, from the lowest negative value in the Netherlands (-136.8 %) to the highest in Denmark (38%) (Eurostat, 2022a). The most significant increases in gas prices (in national currencies for comparison purposes) were registered in Czechia (+231%), Romania (+165%), Latvia (+157%), Lithuania (+112%) and Belgium (+102%). Only two countries, Croatia (+14%) and Slovakia (18%) were below 20%

(Eurostat, 2022a). Concerning electricity prices, all Member States registered an increase, except for Malta and the Netherlands. Romania (112.0%) experienced the most considerable increase in electricity prices, ahead of Czechia (96.5%) and Denmark (70.3%). (Eurostat, 2023a).

Considerable progress has been made since the beginning of the crisis. Electricity and natural gas prices have shown signs of stabilisation, slowly decreasing since August 2022, reaching a 30,618 €/MWh low in July 2023. Euro area inflation was expected to be stable at 5.3% in August 2023 (Eurostat, 2023c). This was partly due to policies and interventions by EU governments aimed at reducing the threats and vulnerabilities mentioned above. The average monthly value (9.2%) and quantity (-3.0%) of energy imports both fell in the first quarter of 2023. Russian gas currently continues to flow to Europe via pipelines running through Ukraine (based on transit agreements in place until the end of 2024) and through Turkey via the TurkStream pipeline in ever smaller quantities (Kardaś, 2023). Between Q1 (25%) and Q3 (15%) of 2022, Russia's overall proportion of energy imports into the EU decreased by more than ten percentage points (Eurostat, 2023d). As we saw in the previous part, Russia was the biggest supplier of oil and petroleum products in 2021, but in the first quarter of 2023, their proportion of deliveries was only 3.2%. Other suppliers had an increase in their shares during the same period, including Norway (+3.8 pp), Saudi Arabia (+3.4 pp), and the US (+2.7 pp) (Eurostat, 2023d). With a 38.8% share of the market for natural gas in the gaseous state in the first quarter of 2022, Russia was the largest supplier to the EU; however, in the first quarter of 2023, the Russian share fell by 21.4 percentage points, while Norway (+8.0 pp), Algeria (+7.4 pp), and the UK (+4.0 pp) all saw significant share increases (Eurostat, 2023d). In terms of LNG, Russia (18.1%) was the EU's second-largest supplier in the first quarter of 2022, after only the US (48.6%) (Eurostat, 2023d). Its share fell by 4.9 per cent in the third quarter of 2023, and the shares of Qatar (+6.5 pp), Algeria (+2.4 pp), and Norway all climbed at the same time (Eurostat, 2023d).

The 2021 energy crisis and the 2022 energy security crisis explored in this section represent together a critical moment in the history of European energy policy and global energy markets. This chapter has illuminated the intricate interplay of factors that led to this crisis, from the shockwaves of the COVID-19 pandemic to Russia's strategic manoeuvres and geopolitical tensions with Ukraine until its aggression in February 2022. The surge in energy prices,



particularly in the natural gas sector, triggered not only economic repercussions but also raised serious concerns about energy security within the EU. The outcome of the crisis remains uncertain and strongly dependent on the evolution of the conflict, the imposed trade restrictions, and the supply disruptions caused by Russian retribution measures (Sturm, 2022). The escalating brutality of Russia's invasion, as well as the massive loss of life and infrastructure in Ukraine, make it very unlikely that Russia will become a trading partner of the EU again in the near future.

Furthermore, this conflict has inflicted significant and enduring consequences upon Russia, including the loss of European oil and gas markets and the geopolitical leverage that this interdependence had previously afforded Russia (Allison, 2023). This raises concerns about whether the EU will be able to diversify its energy supplies sufficiently over the next 5-10 years to eliminate Russia as an energy supplier. Even if the mild weather of the 2022 winter has bought us a vital commodity, i.e., time to solve the threats and vulnerabilities, as well as to create new policies, Europe “is certainly not out of the woods yet” (Biol, 2023, p. 3).

## 2.3. Contextualisation in the crisis literature

### 2.3.1. Comparisons with the 2006/2009 energy crises

The 2000s and 2010s were characterised by multiple and polymorphic crises affecting the EU, which constituted ‘moments of truth’ in which the EU witnessed a ‘return of politics’ (Van Middelaar, 2019). The Euro-crisis, economic stagnation, the refugee crisis, the terrorist crisis, Brexit, the legitimacy crisis, and the COVID-19 pandemic demonstrate that both global and EU-specific crises are now a recurring element in European politics. Future historians are expected to label the present decade as a decade of crises in the context of European integration (Schimmelfennig, 2018). Not only has it become virtually impossible to discuss developments in European politics without constantly referring to the concept of ‘crisis’ (Rhinard, 2019), but the presence of different and often overlapping crises has also become normalised (Radaelli, 2022). This can be considered as the ‘way of doing integration’ in the EU. However, the rise of crises in Europe poses a significant challenge to the legitimacy of European integration in two key ways: firstly, some argue that integration itself has caused recent crises due to incomplete or ineffective policies (Dinan et al., 2017). secondly, there is concern that if the EU cannot effectively address pressing complex crises, regardless of their origins, it could lead to the failure of the entire European project (Zielonka, 2014).

Despite this permanent crisis mode, any argument that Europe is forged through a crisis is likely to tell us little about where Europe may be headed. Furthermore, as the effects of multiple crises overlap, it is harder and harder to interpret how these interact among them. For instance, Europe may have come out of the COVID-19 pandemic strengthened in principle. Still, it was in a weaker position to tackle the war in Ukraine because neither the ECB nor the member states had time to recover from the previous effort (Jones, 2022). For these reasons, it is crucial to define the features of the crisis taken into examination by comparing it to the previous crises observed in the past. We will compare the features of other similar crises within the crisis conglomerate, i.e., the 2006 and 2009 energy crises, with the energy security crisis. After briefly explaining the 2006 and 2009 energy crises, we will look at both functional and political conditions, which can be considered explanatory factors for different outcomes. We will argue that the type of crisis is crucial in determining the extent and the type of policy change (Ferrara & Kriesi, 2022).

The previous energy crises were a significant test for the EU's crisis management domain (International Energy Agency, 2021). For the first time, EU institutions were involved in the management and solution to an energy supply crisis, and energy supply security became a part of the new narrative of European integration (Buschle, 2015; Tangör & Sari, 2022). European institutions used both the 2006 and the 2009 crises to construct energy security as a European problem to be dealt with the acceleration of the internal energy market and more substantial involvement of the EU external energy policy (Herranz-Surrallés, 2015, 2019; Maltby, 2013).

After 2004, Russia began to put economic pressure on raising fuel prices for Ukraine and other peripheral countries (Estonia, Georgia, Moldova, Latvia and Lithuania) (Costantini et al., 2022). In the summer of 2004, the Russian government, Gazprom, and the Ukrainian government reached an agreement regarding the delivery of Central Asian gas (primarily Turkmen gas) to Ukraine, according to which Gazprom provided a loan to the Ukrainian gas company, Naftogaz, in a framework for gas deliveries and transit for a period of five years (2004-2009). Instead of using actual money for these transactions, the agreement was based on a barter system: Ukraine would receive Russian gas in exchange for allowing the transit of Russian gas through its territory to European customers. However, in subsequent years, this agreement was unable to ease the disputes between the two countries.

On 1 January 2006, a gas supply disruption by the Russian firm Gazprom affected Ukraine. Although it was justified economically by an unsolved debt and pricing dispute following the expiration of a gas contract, it was also seen as retaliation against the pro-Western Viktor Yushenko's desire for closer connections with the EU and NATO (European Parliament, 2018). Following Ukraine's reluctance to pay higher gas prices, the Russian reply was a reduction in supply to Ukraine, with the caveat that gas deliveries to the European core would not be affected; however, the drop in gas supplies was soon felt across the whole EU (Costantini et al., 2022). The decline in gas volumes delivered to Europe led to widespread concern, with Hungary losing up to 40% of its Russian supplies, while Austria, Slovakia, and Romania experienced one-third reductions, France suffered a 25-30% decrease, and Poland faced a 14% drop; Italy reported a 25% loss over 1-3 January 2006, and Germany was also affected, though details were unclear (Stern, 2006). Gazprom responded on 2 January 2006 by promising an additional 95 million cubic meters per day to compensate for Ukrainian withdrawals. This led

to a return to normal gas levels for Austria and Hungary by 3 January 2006 (Stern, 2006). Compared to the subsequent crises, the effects of 2006 were milder: the dispute lasted only four days, three of which resulted in shortfalls to European supplies, and no country had to interrupt supplies to customers, partly due to relatively mild weather conditions. On 4 January 2006, a preliminary agreement between the Russian Gazprom and Ukrainian Naftogaz was achieved, and the gas supply was restored. However, the text of the agreement shows clearly that many issues had not been resolved, including the gas price beyond June 2006 (which was not included in the agreement); this uncertainty was probably a product of the urgency to reach an agreement to resolve the ongoing crisis (Stern et al., 2009).

In 2008, Russia and Ukraine were again unable to agree on the price at which gas was to be sold to Ukraine, which was struggling to pay for its imports. On 30 December 2008, Gazprom insisted that late-payment fines and penalties by Naftogaz were still outstanding and cut supplies to Ukraine on 1 January 2009. Reported shortages and a cut in supplies were registered in other European countries, among which the first were Hungary and Bulgaria, a few days later (Russell, 2020). For three weeks (1-22 January 2009), the EU experienced one of the most extensive interruptions in its energy supply to date. Hence, it increased production in several Member States, withdrew from storage up to its maximum capacity in the most affected regions, diversified imports, and temporarily reduced consumption for industry in the most affected countries (Bulgaria, Slovakia and Hungary) (Jong & Sterkx, 2010). On 8 January 2009, the Council issued a Declaration, which stated: “Given the importance attached to solidarity within the EU, this is a problem for the EU as such” (Council of the European Union, 2009, p. 1). In sharp contrast to 2006, when by 4 January 2006, the crisis was over, and flows were returning to normal, in 2009, this was the starting point of a more severe conflict. In contrast to the 2006 crisis, when European Commission officials were severely criticised for only returning from a holiday in time to welcome the end of the crisis, Brussels was much better prepared (Stern et al., 2009).

The scope and depth of the EU’s responses to crises rest on several factors and their respective explanatory values, which can be divided into functional and political conditions. Firstly, regarding functional conditions, the availability and allocation of pre-existing national capacities determine the comparative advantage of the supranational level over the national level (Genschel & Jachtenfuchs, 2021). When sub-central capacities are weak and inadequate, the central EU authority has a functional advantage; conversely, when sub-central

capacities are more robust, the national government has a functional advantage (Genschel & Jachtenfuchs, 2021). During the 2006 and 2009 energy crises, energy security was not the partly communised policy field that it is today, meaning that the central EU authorities were weaker. Compared to the 2000s, European integration had progressed, also partially thanks to the 2006 and 2009 crises themselves, which acted as a ‘wake-up call’ for action in the energy security policy (Bocse, 2021). Hence, we can observe a different availability and allocation of pre-existing capacities, determining different comparative advantages, in so far as more integration was achieved beforehand.

Secondly, the immediacy of a threat affects the notion of loss aversion, according to which people react more strongly to losses than to ‘comparable’ gains (Hooghe & Marks, 2009, 2019; Kahneman & Tversky, 1979). Hence, if policymakers perceive a threat as close and immediate, they will favour fast action. The immediacy of the threat was high in all the energy crises. Primary concerns about high energy prices gradually replaced the initial fears that national gas storage was not sufficiently filled. Both concerns about sufficient energy availability and high prices were the expression of steady demand against the background of reduced energy supply in all cases (Schramm, 2023). However, the Russian military attack on Ukraine, the most significant war on the European continent since 1945, was a more vital trigger of loss-aversion in the continent, as many countries were close and immediate enough to make the risk of loss of life, liberty and wealth concrete for their citizens and governments (Genschel, 2022).

Thirdly, the exogeneity or endogeneity of the crisis origin is another relevant political factor. An exogenous crisis origin, characterised by the unprovoked aggression of an external actor beyond the control of the parties involved, tends to stimulate empathy and solidarity among the polity’s constituent parts (Schramm, 2023). By contrast, endogenous crises resulting from past political decisions or specific foreign-policy orientations are likely to trigger moral hazard concerns and lower the preparedness for supranational solidarity (Schramm, 2023). All the crises were triggered by exogenous events attributed to Russia and the identification of a ‘common enemy’ or ‘perpetrator’, namely Putin (even if while President Putin was in charge of Russian decision-making during the January 2006 crisis, Prime Minister Putin was clearly in charge in January 2009) (Stern et al., 2009). However, as we demonstrated, the origins of the energy security crisis were not entirely exogenous because energy prices had already been on the rise since the summer of 2021 from the Covid-19 pandemic recovery. To be sure, all the crises also share the presence of sudden gas disruptions depending on the political decision not to offer fuel on the market. However, in 2022, the energy crisis did not find a sudden gas

disruption in its first origins. The second political condition explaining the crisis response, the crisis origin, therefore shows mixed results in the case of the 2022 energy security crisis.

The fourth explanatory value taken into examination is the symmetry or asymmetry in terms of crisis affectedness. A symmetric crisis, affecting all member states mainly evenly, stimulates collective security guarantees and will hence have more explanatory power; by contrast, if member states are affected asymmetrically and have unequal means to counter the crisis, the incentives for standard measures will be much lower (Ferrara & Kriesi, 2022). To be sure, no such precise distinction exists in the real world, as most crises contain symmetric as well as asymmetric elements, such as the financial crisis, with the divide between Northern and Southern Europe amid the threat of the collapse of the euro (Lehne, 2022). On the one side, as we have shown in the section on “Threats and Vulnerabilities”, structural differences between countries in terms of energy balance and dependency patterns can be considered, and this means that the impact of any energy crisis is bound to be asymmetrical for Member States and Contracting Parties. Moreover, as the war rages on and the EU's collateral damage evolves, more asymmetries are beginning to become apparent: Northern and Eastern countries see Putin's Russian military aggression as a direct danger to their national security, while Southern and Western countries are more concerned about the war's impact in terms of energy scarcity and inflation (Lehne, 2022). These divisive and asymmetrical dynamics had the potential to hamper Europe's ability to forge standard solutions in every crisis; however, given the greater severity of the disruptions in the 2022 energy security crisis, there was not a single country that has not affected, a greater or lesser extent, by the energy shocks. Europe has approached what may be the most symmetrical of energy shocks, albeit asymmetrical, due to the absence of a common energy policy. This is what prompted two Commissioners, Breton and Gentiloni, to urge common measures in the face of the ‘symmetrical shock of energy prices’ (Breton & Gentiloni, 2022). This last political condition explains the crisis response; the symmetry/asymmetry, therefore, shows that all three crises were asymmetric, but the 2022 energy security crisis was more symmetric than the two previous ones.

Some final considerations, building on neo-functionalism, historical institutionalism and experimentalism, are worth mentioning. Remarkably, the EU has become able to react to crises in an increasingly short time: it needed years to create a governance architecture to overcome the Eurocrisis, and it needed months to respond collectively to the Covid-19 pandemic; it is striking that it only needed weeks to react to the energy security crisis (Radaelli, 2022). This

demonstrates that the EU has been learning from the several past crises that affected its integration path in the last 15 years. Hence, policy learning also presents considerable explanatory power when it comes to policy change (Radaelli, 2022). In the case of fast-burning crises, like the energy crises mentioned above, which were characterised by urgency and a demand for political action, contingent learning allows actors to learn in the context of quick stimulus-response episodes. Radaelli (2022) emphasises that this 'learning mechanism' is the nexus between the crises and the European integration process: integration results depend on how the EU learns in one crisis and how it approaches the next one.

After these examinations, we will reach a (perhaps not-so-surprising) conclusion: not every crisis has to be considered the same for European integration. Each crisis presents unique features, and it is essential to recognise these distinctions to grasp their influence on European integration. This qualification, although it may seem trivial, is often omitted in the literature, even though it is central to any argument that crises shape Europe. The 2022 energy security crisis differs significantly from the two previous energy crises in 2006 and 2009. While all three crises tested the EU's resilience, the 2022 crisis had distinct features. Unlike the earlier crises, it was not solely triggered by a sudden supply disruption but was rooted in broader economic and geopolitical factors, including a war on the European continent. This comparative analysis highlights the nature of the crisis and is crucial in explaining why the 2022 crisis led to more integration than the previous two energy crises.

### *2.3.2. A crisis-induced critical juncture*

This section sets out to test hypothesis *H1*, according to which, consistent with historical institutionalism, the 2022 energy security crisis is likely to act as a critical juncture in European integration. A critical juncture can be defined as a relatively short period in which the structural constraints on political action are relaxed, and there is an expansion of available choices for policymakers (Capoccia, 2015, 2016; Capoccia & Kelemen, 2007). In contrast, the impact of these choices is long-lasting, generating an institutional legacy (Capoccia & Kelemen, 2007). Critical junctures are expected to have 'lasting consequences' (Pierson, 2000). As we will see

in Chapter 3, the European response showed that institutions looked beyond emergency measures to explore long-term solutions to the energy security crisis (Taylor, 2023a).

According to historical institutionalism, policy-making is bound by institutional path dependence. Decisions taken by policymakers ‘lock’ the integration process into a particular ‘path’. Only when critical junctures occur can path dependency undergo a drastic change, as it legitimises the allocation of the needed significant investment of political resources (Pan et al., 2023). A variety of circumstances enhance path-dependence, including sunk costs, endogenous interdependence, exit costs, the autonomy of supranational institutions and decision-making procedures that make integration possible (Pierson, 1996).

In a path-dependent pattern, contingency is a defining element of critical junctures. Contingency can be considered as the inability of theory to predict or explain, either deterministically or probabilistically, the occurrence of a specific outcome (Mahoney, 2000). It is critical in our analysis to see how policymakers react to the energy security crisis considered as an occurrence that was not expected to take place, hence a contingent event. To be sure, the concept of contingency is often connected to exogenous shocks; however, this does not preclude the existence of endogenous factors also disrupting institutional development (Capoccia, 2015; Soifer, 2012). External contingencies often contribute to an increased sense of vulnerability and induce countries to rally together to find common solutions (Schmitter, 2005).

At the same time, antecedent conditions, such as institutional arrangements, are what define the range of options available to policymakers, but without determining the chosen alternatives (Džankić et al., 2023). The choices of policymakers during critical junctures are more unrestricted and more influential compared to regular times (Swidler, 1986). In our case, the antecedent conditions are constituted by the European institutional setting, as described in Chapter 1, formed by the two organisations (the EU and the EnC) and their respective set of formal rules and public policies. The policy heritage that these create, activated by the pressures exerted by the energy security crisis, determines the relative leverage of neofunctionalism and new intergovernmentalism in the explanation of crisis-specific policymaking.

During critical junctures, policymakers are affected by pressures. According to Falkner (2016), a crisis creates two types of pressures that lead to policy change: functional pressure (the need to act) and time pressure (a sense of urgency as problems could, without a counter-steer, reach a breaking point). *Ceteris paribus*, the more urgent and consistent the pressure, the



more likely it is that a crisis will lead to political change. Commonalities can often be identified in terms of pressure on similar institutional configurations, in this case, the European Union and the Energy Community. The 2022 energy security crisis fostered both the functional imperative to take action and the relentless time pressure compelling a decisive shift toward political action in both organisations, which reacted accordingly. Building upon these considerations, it is argued here that the 2022 energy security crisis can be considered as a candidate critical juncture for European integration, bearing in mind, however, that its destabilising effect on the European institutional set-up will only be confirmed by the temporal distance from the events in question.

Authors suggest that when institutions reach a critical juncture, among the multiple possible outcomes, the result may involve reverting to the pre-critical juncture status quo (Capoccia & Kelemen, 2007; Mahoney, 2001). While recognising that critical junctures do not always result in significant change, they are undeniably an essential trigger for it. According to Ferrara and Kriesi (2022)'s causal pathway, analysing the nature of the crisis can indicate if the crisis will lead to (dis)integration, as similar crises induce similar crisis policymaking, which will lead to similar crisis-induced integration outcomes. The presence of a crisis activates crisis policymaking and allows for policy change because, during the occurrence of these events, the usual constraints on action are lifted or eased (Mahoney & Thelen, 2010). National governments may be more open to change in the presence of a crisis because they feel internal pressure to respond to external shocks in a timely manner, especially if the crisis has a direct and severe impact on national constituencies (Dekanozishvili, 2023). In addition, the need for unpopular measures and, consequently, the temptation for governments to blame the regional organisation for unpopular measures may increase during times of contingency, which makes the solutions adopted become convenient scapegoats for Member State governments (Dekanozishvili, 2023).

As discussed in this part, the idea of critical juncture, as described by scholars such as Capoccia and Kelemen, explains how the current crisis has created a unique opportunity for policymakers. It has temporarily lifted the institutional limits on political action, resulting in a broader range of policy options. Furthermore, the long-term influence of these decisions is likely to leave a permanent institutional legacy, which is characteristic of critical junctures. The urgency and functional imperative created by the crisis, as well as the pressures exerted on both the European Union and the Energy Community, resulted in decisive shifts toward legislative

action. Hence, this section demonstrated that there is room to think that the Ukrainian war created the conditions for a critical juncture in the European integration (Dimitrova, 2023; Klenovskaja, 2023; Koppa, 2022). While it is true that critical junctures do not always translate into significant policy changes, the energy security crisis of 2022 has already left a significant impact on European legislation, as we will explore in the next chapter.

## 2.4. Conclusion

In conclusion, the 2022 energy security crisis connected to the Russian invasion of Ukraine cast a spotlight on the intricate and interdependent nature of European energy dynamics. Firstly, the crisis underscored the threats and vulnerabilities inherent in Europe's energy landscape. The overdependence on a single energy supplier, coupled with control over critical energy infrastructure by Russian companies, created a precarious situation for both the European Union and the Energy Community. The varying energy balances, import dependencies, and reliance on Russian energy among member states within these organisations revealed complex challenges exacerbated by an uncertain transit zone, primarily Ukraine, representing an external threat. Countries in both the EU and the Energy Community were exposed to supply disruptions and geopolitical pressures.

Secondly, the 2022 energy security crisis unfolded against the backdrop of a broader global energy landscape marked by a complex interplay of factors. The crisis, though partly driven by economic and energy market dynamics, ultimately became a systemic energy security crisis, leading to unprecedented energy price spikes across Europe. This multifaceted crisis, with its significant economic, social, and political implications, has prompted policy change about the need for a more integrated approach to energy security within the European Union and the Energy Community. This highlighted the importance of a coordinated response that addresses not only immediate supply concerns but also the long-term sustainability of energy systems and their alignment with climate objectives.

Thirdly, the 2022 energy security crisis provides critical insights into the recurring nature of crises in European politics and their impact on European integration dynamics. The comparative analysis of the 2006 and 2009 energy crises with the 2022 energy security crisis sheds light on the pivotal role of crisis types in shaping the extent and nature of policy change. Notably, the 2022 crisis, unlike its predecessors, was rooted in broader economic and geopolitical factors, including the ongoing war in Ukraine, which significantly impacted the EU's response and led to greater integration. The concept of a critical juncture appears instrumental to emphasise how the Ukrainian war created conditions for a potentially transformative moment in European integration. The crisis-induced pressures of urgency and functional imperative played a pivotal role in stimulating policy changes within the European Union and the Energy Community. The subsequent chapters will further explore the lasting impact of this critical juncture on European energy security policy, illustrating how theories of

European integration have developed alternative perspectives on the crisis-induced internal and external integration outcomes.

## **Ch. 3: European Energy Security Integration**

### **3.1 Introduction**

The Versailles Declaration by EU leaders on the Russian aggression against Ukraine, which emerged from the Informal meeting of the Heads of State or Government on 11 March 2022, was instrumental in bringing energy security back to the heart of EU policymaking (European Council, 2022, p. 3). In the Declaration, EU leaders defined Russian unprovoked and unjustified military aggression against Ukraine as a “tectonic shift in European history” (European Council, 2022, p. 3). They outlined new strategic guidelines for several domains, including security and energy affairs. Notably, they placed the reduction of energy dependence among the “three key dimensions” addressed in the Declaration, together with bolstering defence capabilities and building a more robust economic base. Accordingly, they decided to decrease the role of Russian fossil fuels in the European energy balance to reduce Russia’s revenues that support its war chest. A few months later, the Ministerial Council of the Energy Community also strongly denounced the belligerent actions against Ukraine and the weaponisation of energy resources to blackmail other European countries by Russia (Ministerial Council, 2022a). This demonstrates that energy security has become a central dimension of European integration, with leaders recognising its critical importance.

This third and final chapter makes significant contributions to the understanding of European energy security integration in the context of the 2022 energy security crisis. Our contribution to the literature lies in a critical overview of the measures taken by the EU and EnC, with a specific focus on energy security. This detailed empirical exploration provides valuable insights into the practical aspects of crisis management within the EU and EnC. Second, it shows that many 'bridges' have been built between the two organisations, as there have been numerous instances where they have worked together to provide a coherent European response. Thirdly, it contributes to the NI literature by applying this theory in a policy area where it has yet to be applied, namely energy security.

The first part of this chapter explores the nuances of the European response to the 2022 energy security crisis within the broader context of European integration. At the forefront of this response was the REPowerEU Plan, a comprehensive initiative aimed at countering the threat of energy dependence on Russia, including ambitious targets to reduce fossil fuel consumption while emphasising collaboration with EnC Contracting Parties. Among the other

several initiatives, we will explore the Temporary Crisis and Transition Framework, the Gas Storage Regulation, the European Gas Demand Reduction Plan, the EU Energy Platform, the temporary market correction mechanism (MCM), the EU restrictive measures (sanctions), and country specific-programmes (concerning Ukraine and Moldova).

The second part highlights that the response to the 2022 energy security crisis in Europe has pointed out complex dynamics in energy security integration, according to two theories: new intergovernmentalism and neofunctionalism. The crisis presents a unique opportunity to evaluate the applicability of four theoretical assumptions based on four hypotheses (the deliberation and consensus hypothesis, the *de novo* institutions hypothesis, the policy entrepreneurship hypothesis and the spillover hypothesis). Ultimately, we will observe that multiple theories coexist and interact in response to multifaceted critical junctures, like the 2022 energy security crisis.

## 3.2 The European response: intertwined strategies and policies

### 3.2.1 REPowerEU Plan

#### A. REPowerEU Plan (COM/2022/108) + (COM(2022)230)

The efforts at the EU level to increase its energy security culminated in the REPowerEU package, which can be considered the most significant initiative up to date to tackle the crisis, enhancing European integration by supporting actions to increase energy security. The Executive Vice-President for the European Green Deal, Frans Timmermans, affirmed that “REPowerEU is our response to Putin’s attempt to bring Europe to its knees by weaponising his fossil fuels” (European Commission, 2022w, p. 2). The Commission published the ‘REPowerEU’ Communication on 8 March 2022, less than two weeks after Russia launched its invasion of Ukraine (COM/2022/108), addressing two targets: decreasing dependence on Russian fossil fuels and diversifying energy supply. The Communication encompasses considerable reductions in EU fossil gas use of 155 bcm minimum, which was the volume of gas imports from Russia in 2021, two-thirds of which had to be achieved in a year. It mentions several initiatives that were later carried out in order to respond to the energy security crisis (COM/2022/108). For instance, it suggests the creation of a new Temporary Crisis Framework, invites Member States to conclude solidarity arrangements, and envisages the introduction of an EU gas storage policy, a joint purchasing platform for gas. In the Communication, the Commission also reiterated the importance of the collaboration with the EnC Contracting Parties “which share the EU’s fossil fuel dependencies and exposure to price hikes, while also having committed to the same long-term climate goals” (COM/2022/108, p. 6). It also commits to an emergency synchronisation between the continental European energy grid and the Moldovan and Ukrainian grids (COM/2022/108).

Drawing on this Communication, the Commission introduced a detailed REPowerEU plan in order to achieve more resiliency in the energy system and a “true Energy Union” (COM/2022/230, p. 2). In addition to increasing diversification and decreasing dependence on Russian fossil fuels, the REPowerEU Plan emphasises the need to save energy, smartly combining investments and reforms, and accelerating the clean energy transition, in line with the European Green Deal (COM/2022/230). The REPowerEU Plan can also be seen as a step towards obtaining the “strategic autonomy” of the EU, which is defined as “the capacity of the EU to act autonomously – that is, without being dependent on other countries – in strategically

important policy areas” (Damen, 2022, p. 1). To support the argument of the previous chapter that the critical juncture nature of the energy security crisis will have a long-lasting impact on the European institutional architecture, the Executive Vice President for the European Green Deal, Frans Timmermans, affirmed that the EU proposed, through the REPowerEU Plan, what he labels a ‘double deal’: “first a short-term deal to provide us with the fossil fuel that we need, and then a long-term deal to incorporate them in a global system on the production and use of green hydrogen” (Carella, 2022, p. 4).

## **B. RRF modification (2023/435)**

Among the measures envisaged in the REPowerEU Plan, the Commission proposed to modify Regulation (2021/241) of 12 February 2021, establishing the Recovery and Resilience Facility (RRF), lying at the core of the NextGenerationEU architecture, to include extra financing to support Member States in fostering energy independence and diversification (EU, 2021). Member States willing to receive additional funding must submit a “REPowerEU Chapter” in their Recovery and Resilience Plans (RRPs), explaining how the envisaged measures contribute to the EU energy security. After the submission of the REPowerEU chapters, the European Commission evaluates them relying on new assessment criteria: diversification of EU energy supply and reduction of dependence on (mainly Russian) fossil fuels. The country-specific recommendations in the European Semester cycle shall align with these provisions (European Commission, 2022g). As the European Parliament and the Council reached a political agreement on 14 December 2022, the Commissioner for Economy Paolo Gentiloni affirmed that European leaders “[...] remain united in [their] solidarity with Ukraine - and resolute in [their] determination to safeguard European sovereignty” (European Commission, 2022w, p. 3).

To support REPowerEU measures, the two co-legislators agreed to add €20 billion (in grants financed through the sale of Emissions Trading System allowances and the resources of the Innovation Fund) and €5.4 billion (coming from Brexit Adjustment Reserve funds) to the €225 billion already available in loans under the RRF (European Commission, 2022w). Member States are also able to request pre-financing of up to 20% of funds allocated to REPowerEU chapters (European Commission, 2022w). On 1 February 2022, the Commission published a Guidance on RRFs in the context of REPowerEU in order to assist Member States (Guidance 2022/C 214/01). The amendments to the RRF Regulation were adopted on 27 February 2023, with Regulation (2023/435) (EU, 2023d). In the Regulation, the EU reiterated



that investments and reforms of the REPowerEU chapters should be implemented to diversify supply away from Russia and lower demand for gas in the short term, in a spirit of solidarity in terms of supply security (EU, 2023d). Regulation (2023/435) also encourages Member States to reinforce and develop more cross-border initiatives, notably Projects of Common Interest (PCIs) and Projects of Mutual Interest (PMIs) concerning natural gas and oil, as they are not financed by Connecting Europe Facility (CEF) funds (the ministers had previously agreed that these projects should generally not be selected under this policy) (Wilson, 2022).

The REPowerEU Plan can be considered the first example of the architecture of the NextGenerationEU beyond the pandemic, thus testifying to the incorporation of an exceptional measure into the ‘new normal’ (Famà, 2023). The fact that both NextGenerationEU and REPowerEU’s grants are placed outside the budget and excluded from the budgetary procedure can be considered a legal workaround to circumvent the principle of budgetary balance contained in Art. 310 TFEU. This strategic move accorded additional fiscal powers to the EU, a prerogative which still formally belongs to the Member States, envisaging the possibility of redirecting more resources to address crises. By adding another layer to the RRF, this initiative solidifies its role as a central EU economic investment and reform framework. While the RRF was intended to be a temporary crisis response mechanism, it may have triggered a gradual process of transformative change in the EU’s economic and sectoral governance structures (Bocquillon et al., 2023). This shows how, in EU policy-making, temporary institutions established in times of crisis can endure, be reinforced and foster further integration (Bocquillon et al., 2023).

Furthermore, the RRF has hardened existing processes and instruments through the “carrot” of additional funding for Member States and the “stick” of conditionality (Bocquillon et al., 2023). As the disbursement of loans and grants is conditional on the achievement of targets and milestones, the dynamics regarding conditionality upon performance and the ‘integration-through-funding bubble’ are thus consolidated (Marin & Münchmeyer, 2023). Questions relating to consistency with the current constitutional arrangements established by the Treaties, which are still based on the principle of conferred competencies, arise accordingly.

### **C. Cohesion Policy (COM/2022/553) + Connecting Europe Facility (2022/869)**

Alongside the RRF, EU Member States can also use other sources to finance REPowerEU projects, such as the Cohesion Policy and the CEF Funds. Firstly, the Commission proposed in a Communication (COM/2022/553) in October 2022 to make the 2014-2020 Cohesion Policy

Framework more flexible in order to assist Member States and regions in dealing with the current energy crisis by providing support to enterprises affected by high energy prices, supporting vulnerable households to address energy poverty, and financing employment (European Commission, 2022b, 2022w). It proposed using up to 10% of the total national allocations (equivalent to around €40 billion) for this purpose (European Commission, 2022r). A political agreement between the Parliament and the Council was reached on 14 December 2022, welcoming the introduction of SAFE (Supporting Affordable Energy) measures under the Cohesion Policy (European Commission, 2022x). The recent Bulgaria-Greece gas interconnector is an example of crucial infrastructure financed also by the Cohesion Policy Funds (European Commission, 2022t). Cohesion funds can be considered a powerful and flexible tool in times of crises, which is used not ‘by design’ but rather due to necessity. Yet, the regular use of Cohesion funds by the EU to address crises has fostered a debate among Cohesion Policy’s drivers and scholars (Crist, 2023).

Secondly, the Connecting Europe Facility for Energy (CEF-E) is an envelope of CEF that underpins the implementation of the Regulation on Trans-European Networks for Energy (TEN-E). The EU Revised its 2013 TEN-E Policy with Regulation (2022/869), adopted on 30 May 2022 (EU, 2022l). The EnC had previously incorporated and adapted the 2013 TEN-E Regulation and is currently in the process of doing the same with its revision (Energy Community Secretariat, 2022d). PCIs and PMIs are concepts introduced by the TEN-E Regulation in order to finance infrastructure connecting the Member States and their neighbouring countries. Eleven priority corridors, three priority thematic areas and four regional High-Level Groups have accordingly been identified, including the Central and South Eastern Europe Energy Connectivity group to which all Contracting Parties (except for Georgia) participate. Neighbouring countries participating in the projects should not only “have a high level of regulatory alignment or convergence” with the EU but also “have demonstrated effective legal enforcement mechanisms” (Wilson, 2022, p. 7).

For this reason, the Energy Community plays a crucial role in the TEN-E Regulation. This instrument identifies relevant Projects of Energy Community Interest (PECIs); facilitates their implementation by streamlining, coordinating, and accelerating permit granting processes, as well as by improving transparency and public participation; establishes the conditions of eligibility for technical and financial assistance from the Instrument of Pre-Accession Assistance and the Neighbourhood Investment Facility; and sets guidelines for the cross-border allocation of costs and risk-related incentives (Energy Community Secretariat, 2022d). It also

facilitated the closer integration of Moldova and Ukraine, both of which are significant players in the 2022 energy security crisis, into the European energy market. The Commissioner for the Internal Market, Thierry Breton, affirmed that Moldova “is on its path to become a member of our Union” and that the association of Moldova to the CEF “marks an important step in this path” (European Commission, 2023g, p. 3). Along the same lines, Commissioner for Energy Kadri Simson affirmed that the agreement with Ukraine “deepens the energy partnership between the EU and Ukraine by supporting Ukraine’s integration within the EU single energy market” (European Commission, 2023h, p. 3). Interestingly, the Revised TEN-E Regulation also envisages the Commission and ACER playing a more prominent role in the process of drawing up the Ten-Year Network Development Plan (TYNDP) for gas and electricity, evaluating PCI project costs and implementation plans, developing guidelines, producing recommendations on the cost-sharing methodology, and good practise for investment requests (Wilson, 2022).

#### **D. External energy strategy (JOIN/2022/23) and energy deals**

The REPowerEU Plan also presented an external dimension through a commitment by the Member States to a common energy strategy and unified energy diplomacy (Chachko & Linos, 2022). The Commission and the HR/VP presented the energy security strategy in the Joint Communication (JOIN/2022/23) “EU external energy engagement in a changing world”, clearly linking a multidimensional industrial policy with diplomatic tools to shape EU energy relations (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2022). The Strategy explains that the Union’s external energy policy aims to increase the EU energy security, resilience and open strategic autonomy; accelerate the global green and just energy transition; support the countries (and not only the Member States) directly and indirectly affected by Russian unjustified actions; and build international partnerships (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2022). The European Commission and the HR/VP committed to promoting the EU’s energy objectives by reinforcing the role of energy diplomacy in foreign and security policy (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2022). The Strategy also recognises that the Energy Community plays a crucial role in this sense, notably by supporting Ukraine in the wake of the Russian aggression through the Energy Support Fund (discussed in more detail later in this section) and supporting the full integration of the Contracting Parties’ energy markets (Energy Community,

2022c). It also underlines that the EnC Contracting Parties' adoption of the energy acquis is critical for more integration of renewables, storage, and demand side response (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2022).

Following the invasion, both the EU and its Member States increased their deal-making activity in line with the External Energy strategy, concluding several international supply agreements on gas and oil to diversify energy suppliers (Chachko & Linos, 2022). The EU Energy Platform (explained later in this section) facilitated the signing of a significant number of Memoranda of Understanding (MoUs) between the EU and third-country suppliers. For instance, in March 2022, the EU and the US launched the EU-US Task Force on Energy Security; the following month, they also reached an agreement with the US to increase gas supplies of natural gas by 15 bcm in 2022 and by 50 bcm in the following years until 2030 (for comparison purposes, the annual demand was 360 bcm in 2022 in the EU) (European Commission, 2022n, 2023f). Another example is the MoU with Azerbaijan on 18 July 2022, in which the country agreed to increase gas supplies to the EU and committed to double the capacity of the Southern Gas Corridor to deliver at least 20 bcm of gas to the EU annually by 2027 (European Commission, 2022o). Similarly, the EU also revived the energy dialogue with North African countries, focusing on hydrogen with Algeria, Egypt and Morocco (Amadio Viceré & Venneri, 2023). The MoU that it signed together with Egypt and Israel also envisioned securing gas supplies from these and other countries in the Eastern Mediterranean region via the Egyptian LNG infrastructure (Dulian & Klochko, 2023).

### *3.2.2. EU (Council) Regulations and EnC Decisions*

#### **E. Temporary Crisis and Transition Framework (C/2023/1711)**

Based on Art. 107(3) of TFEU, the Council adopted, after the Commission's proposal, a State aid Temporary Crisis Framework (TCF) on 23 March 2022 to support the economic recovery in the context of Russia's invasion of Ukraine (European Commission, 2023b). The TCF was revised and extended three times (on 20 July 2022, on 28 October 2022, and on 9 March 2023), as well as renamed "Temporary Crisis and Transition Framework" (TCTF) in order to enlarge its scope in line with the latest EU Regulations. The TCTF deals not only with the energy crisis but also with the transition to a net-zero economy, in line with the Green Deal

Industrial Plan (European Commission, 2023b). The TCTF gives Member States more room for manoeuvre in terms of targeting support to companies by providing them with three types of aid (European Commission, 2022k). First, it grants aid to companies affected by the energy crisis or by the related restrictive measures (hence, it does need to be directly linked to an increase in energy prices per se, as the European response affected the economy in multiple ways) (European Commission, 2023b). Second, it ensures that sufficient liquidity, in the form of State aid and subsidised loans, remains available for businesses (European Commission, 2023b). Third, it allows Member States to compensate companies, in particular intensive energy users, for the additional costs incurred due to exceptionally high energy prices (European Commission, 2023b).

This is not the first time that the EU has adopted a TCF. The European Commission had previously adopted a TCF in 2008, in response to the global financial crisis, and 2020, in the context of the COVID-19 pandemic (European Commission, 2022k). While it is essential to have a TCF dealing with crises, the current framework raises critical issues for European integration. It is important to remember that the Treaties contain a ban on State aid in the very same Art. 107 TFEU, as the Member States, should refrain from distorting competition by helping their own undertakings (Hettne, 2023). The fact that the framework has been consistently prolonged and extended, both in response to the 2022 energy security crisis and the COVID-19 pandemic, as well as the decision to include a reference to the slow-burning climate change crisis in the title of the instrument (with the word “Transition”), are a reminder that there is always the risk of temporary measures becoming permanent. Exceptions to the state aid ban granting more leeway to Member States clearly have a negative integration logic (Hancher et al., 2021).

#### **F. Gas Storage Regulation (COM/2022/138) + (2022/1032)**

In its Communication concerning the security of supply and affordable energy prices published on 23 March, 2022 the Commission proposed a new Regulation on gas storage to increase the energy security of Member States. Accordingly, on 29 June, 2022, the co-legislators adopted Regulation (EU) 2022/1032 on gas storage, amending Regulation (EU) 2017/1938 (the Security of Gas Supply Regulation). Regulation (EU) 2022/1032 established intermediary targets to reach before October 2022 and a minimum of 80% gas storage level obligation by 1 November 2022, rising to 90% for the following years (European Commission, 2022j). This allowed the EU to address its critical situation concerning gas storage, as 73% of

the European gas storage is, in fact, concentrated in only five Member States. In contrast, many others have little or no storage capacity (Fleming & Guérin, 2023). Subsequently, the implementing Regulation (2022/2301) was adopted on 23 November, 2022, setting out the updated intermediate targets in order to meet the 90% target by 1 November, 2023, based on the proposals made by EU countries in September 2022, the filling rates of the preceding five years, and the Commission's assessments (European Commission, 2022a). Furthermore, the Regulation empowered both the GCG, acting as a critical adviser to the Commission at all times, and ACER, which can be invited by the Commission to assist with monitoring (European Commission, 2022a). Member states without storage facilities must ensure that operators on their territory secure storage in a neighbouring country that covers at least 15% of their national annual gas consumption; alternatively, they can implement a "burden-sharing mechanism" introduced by the Gas Storage Regulation (European Commission, 2022h).

Marin and Münchmeyer (2023) noted that although the objective in itself is binding, the complex procedural provisions of the instrument make formal infringement proceedings an unlikely and impractical solution in the event that a Member State does not fulfil its obligations. However, in both 2022 and 2023, the EU did not have to bother with this matter because it met (and even exceeded) its targets. In March 2023, the Commission confirmed that the EU achieved a 94.9% storage level by 1 November 2022, and it had a still high average level of 83.4% at the end of the year (European Commission, 2023e). The 90% gas storage target for 2023 was met on 18 August 2023, with almost 2.5 months to spare before the deadline imposed by the Regulation (European Commission, 2023i).

When the EU enacted the Gas Storage Regulation, the Contracting Parties were still working on the transposition of the 2017 Security of Gas Supply Regulation. Yet, they transposed the new Regulation at an unprecedented speed, namely within three months after its adoption in the EU (Energy Community Secretariat, 2023). On 30 September, 2022, the Energy Community adopted by written procedure (therefore, in an exceptional circumstance) a Ministerial Council Decision to adapt and implement the Gas Storage Regulation ((Ministerial Council, 2022c). The Decision requires the Contracting Parties to fill up their gas storages and certify storage operators, introducing specific amendments in the transposition (Ministerial Council, 2022c). The new rules require those Contracting Parties that have storage, notably Serbia and Ukraine (Energy Community, 2022d), to fill them every year to the same EU levels indicated in the EU Regulation. Decision 1/2022 by the EnC Secretariat (with powers delegated by the Ministerial Council) also set intermediate targets for 2023 for Serbia (50% on

1 February, 2023, 15% on 1 May, 2023, 45% on 1 July, 2023, 70% on 1 September 2023) and Ukraine (33% on 1 February 2023, 23% on 1 May 2023, 47% on 1 July, 2023, 58% on 1 September, 2023) (Energy Community Secretariat, 2022b). The “burden-sharing mechanism” with one or more Contracting Parties and Member States with underground gas storage facilities is also available for Contracting Parties, a derogation to this rule (Ministerial Council, 2022c). Finally, it also empowers the EnC Secretariat, as gas storage system operators are required to undergo a certification procedure involving a binding opinion from the latter (Energy Community, 2022d).

### **G. Gas Demand Reduction Plan (COM/2022/360) + (2022/1369)**

The Commission published the European Gas Demand Reduction Plan in the “Save Gas for a Safe Winter” Communication (COM/2022/360), built upon REPowerEU published in May 2022 (European Commission, 2022p). In the Plan, it proposed the creation of a new legislative tool based on Art. 122(1) TFEU to reduce gas use in Europe by 15% (the equivalent of 45 bcm of gas) between 1 August, 2022 and 31 March, 2023, as well as suggested several (voluntary) actions that Member States can take to reduce demand and consumption (European Commission, 2022c). The opposition of several states was overcome through amendments to the Commission proposal, which was translated into voluntary mechanisms (Raimondi & Bianchi, 2022). The final text was adopted on 5 August, 2022 with Council Regulation (2022/1369) (EU, 2022d). At the request of the Member States, the 15% gas demand reduction target (which was supposed to be mandatory) was made voluntary (Council of the European Union, 2022a). Member states agreed to empower the role of the Council in triggering a ‘Union alert’ when there is a substantial risk of a severe gas shortage or an exceptionally high gas demand (as per Art.s 4 and 5 of Regulation 2022/1369), granting the EU emergency authority to mandate rationing if voluntary measures prove insufficient (European Commission, 2022p). In case of such a situation, the Commission can propose a binding demand reduction target at its initiative or following a request by at least 3 Member States (European Commission, 2022f). Member States were also asked to update their NEPs by the end of September 2022 to show how they aim to accomplish the target, as well as constantly reporting to the Commission (European Commission, 2022p).

As President von der Leyen emphasised in her statement on the Plan (European Commission, 2022q), this initiative is based on the principle of solidarity, regardless of where the emergency emerges or is most severe: Member States can also request solidarity supplies,

after that all appropriate gas demand reduction measures have been implemented domestically (European Commission, 2022f). After overviewing the NEPs, the Commission can request additional measures from Member States in case the submitted NEPs are not sufficient or solidarity supplies are invoked by a Member State (European Commission, 2022f). The Commission also recognises the crucial role of the European GCG in managing the security of supply, notably through information exchanges and European coordination, in the event of a crisis. Regulation (2023/706) amended the previous Regulation (2022/1369) to extend the period for demand reduction measures for gas and reinforce the reporting and monitoring of their implementation (EU, 2022i).

Even if the EnC did not transpose the European Gas Demand Reduction Plan, the EnC Secretariat coordinated efforts to improve energy efficiency and reduce demand amid the energy crisis. (Energy Community, 2023a). The Energy Efficiency Coordination Group (EECG), composed of the EnC Secretariat, representatives from ministries of the Energy Community Contracting Parties, the Commission, and external donors, highlighted the importance of implementing demand reduction measures and the need to find ways to improve their integration into national energy policies (Energy Community, 2023a). The EECG also undertook to continuously assess and report on existing and planned demand-side energy efficiency measures in the Contracting Parties, aimed at reducing energy demand and combating the current energy crisis (Energy Community, 2023a). Furthermore, at the 67th Permanent High-Level Group meeting on 22 March, 2023, the Ministerial Council also invited the EnC Secretariat to develop tailored measures for demand reduction, continue monitoring compliance of national measures with the *acquis* and bring relative concerns to the attention of the Ministerial Council (Energy Community, 2023c).

## **H. Gas Solidarity Regulation (2022/2576)**

Council Regulation (2022/2576), “Enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders”, of 19 December, 2022 amended Regulation (2017/1938) by introducing several relevant provisions (EU, 2022h). The EU identified several shortcomings in its gas solidarity mechanism, particularly the potential unwillingness of member states to participate, signified by the low number of bilateral gas solidarity arrangements voluntarily signed by Member States. In line with this, President von der Leyen stated on 18 October, 2022 that “Potentially, we should have 40 of these solidarity agreements. We only have 6. This is not enough in a crisis of this scope”



(European Commission, 2022s, p. 2). Under the previous Regulation, only six bilateral agreements were signed: Germany and Denmark (14 December, 2020), Germany and Austria (2 December, 2021), Estonia and Latvia (4 January, 2022), Lithuania and Latvia (10 March 2022), Italy and Slovenia (22 April, 2022), Finland and Estonia (25 April, 2022). Hence, Regulation (2022/2576) introduced changes pertaining to the conditions for the solidarity request and the voluntary bilateral arrangements (EU, 2022h). Notably, the Regulation envisages that in the absence of a bilateral solidarity arrangement between two Member States, the “Default rules for solidarity measures” apply by default, rendering it impossible to escape this obligation under the mechanism.

Regulation (2022/2576) embedded an EU-level gas demand aggregation and joint purchasing mechanism, institutionalising collective energy procurement (EU, 2022h). This has already previously been established on the basis of a European Council mandate. An ‘EU Energy Platform’ for the voluntary joint purchase of pipeline fossil gas, LNG, and hydrogen on 7 April, 2022 was introduced eight months before it became enshrined in Regulation (2022/2576) (EU, 2022h). The EU Energy Platform plays a crucial role in pooling gas demand, coordinating infrastructure use, coordinating outreach and negotiations with international partners and preparing for joint gas and hydrogen purchases at the European-wide level (European Commission, 2022i). The Platform has three goals: demand aggregation and joint purchasing of gas, international outreach, and more efficient use of existing gas infrastructure. From an economic point of view, it allows to resolve the prevention paradox, prevent free-riding, and reduce the risk of energy market fragmentation (Boltz et al., 2022).

On 31 May, 2022, the European Council invited the EnC Contracting Parties with gas markets to join the EU Energy Platform (European Commission, 2023c). In its 2022 Annual Implementation Report, the Energy Community Secretariat welcomed the call to enter the gas demand aggregation and joint purchasing mechanism, affirming that “it is yet another token of the swift and effective integration of the Energy Community in the REPowerEU programme” (Energy Community Secretariat, 2022a, p. 8). Along the same lines, the Ministerial Council affirmed that “Such a common approach to purchasing of gas is a token of further integration” (Ministerial Council, 2022a, p. 2).

‘AggregateEU’, operated by the service provider Prisma European Capacity Platform GmbH, is the Commission's flagship initiative for the first goal of the EU Energy Platform. EU countries must aggregate gas demand equivalent to 15% of their storage filling obligations, representing around 13.5 bcm of gas per year (beyond the 15%, the aggregation is voluntary,

but based on the exact mechanism) (EU, 2022h). Then, AggregateEU pools gas demand from EU and EnC companies match it with competitive supply offers, after which companies can (in a framework outside AggregateEU) voluntarily conclude purchasing contracts with gas suppliers. Tendering rounds were organised in May and June/July; for these two rounds, 91 buyers expressed a demand of 27.5 bcm of gas, and 85 among them were partially or totally matched (Taylor, 2023b). The mechanism proved particularly useful for vulnerable countries: for example, it matched 100% of gas demand in Bulgaria and Ukraine, as well as 80% in Moldova (Dulian & Klochko, 2023).

The governance of the EU Energy Platform was modelled on the structure adopted for the COVID-19 vaccine procurement (Boltz et al., 2022; Chachko & Linos, 2022; Genschel et al., 2023). In its initial proposal, the Commission envisaged itself leading a negotiation team to hold talks with gas suppliers, supported by an Ad-Hoc Steering Board composed of Member States representatives; however, EU leaders were not on the same page and governance was scaled down to softer coordination of ongoing EU initiatives (Boltz et al., 2022). The Commission set up a Task Force within its DG ENER on 25 May, 2022 to provide support to the EU Energy Platform, implement the REPowerEU goal of supply diversification, and support regional task forces (European Commission, 2022m). The Task Force is composed of three units reporting to the Task Force director, as well as and to the deputy director-general and director-general of DG ENER: the first unit deals with global demand and international negotiations; the second with relations with the Member States and the neighbourhood; and the third with international relations (Dulian & Klochko, 2023).

On 13 January, 2023, the Commission also created an Ad-hoc Steering Board in order to facilitate the coordination of joint purchases and consult entities on the feasibility of the tender mechanism, monitoring for adverse effects on the internal market, on the security of supply and energy solidarity (European Commission, 2023a). Its members come from the 27 Member States, the European Commission and the EnC Contracting Parties. Five regional groups of Member States have already been initiated: EnC Contracting Parties Serbia, North Macedonia, Moldova and Ukraine joined the Southeast Europe Group (together with Bulgaria, Greece, and Romania) (European Commission, 2022p). Moldova and Ukraine joined the Central and Eastern Europe Group (together with Poland, Czechia, Slovakia, Germany, Hungary, Austria, Slovenia, Croatia, and Italy) (European Commission, 2022p). Finally, the Regulation also empowered ACER, increasing its role in collecting and publishing objective price data,

carrying out price assessments and benchmarks, reviewing methodology, and allowing it broad discretion in the choice of transmission protocols (EU, 2022h).

### **I. Price correction mechanism (2022/1854)**

On 30 September, 2022, the Council agreed on an urgent initiative to mitigate the impact of high energy prices in the EU . It adopted Council Regulation (2022/1854) of 6 October, 2022 on an emergency intervention to address high energy prices (EU, 2022e). The Council Regulation introduced a target for reducing electricity consumption (10% voluntary monthly and 5% mandatory at peak times). It raised revenues for Member States to redistribute surplus revenues and profits to vulnerable energy consumers between 1 December, 2022 and 31 March, 2023 (Council of the European Union, 2022b).

The EU electricity markets work according to the marginal pricing model (or 'merit order principle'), according to which the overall price paid for electricity in wholesale markets is set by the most expensive energy source, which during the energy security crisis was undoubtedly gas (Goldthau & Youngs, 2023). As a consequence, consumers pay far more for their electricity than is justified by the cost of production. In this scenario, ACER would gain an enhanced ability to monitor energy market integrity and transparency and investigate potential market abuse cases of a cross-border nature (Goldthau & Youngs, 2023). While the effect of price gaps imposed by the EU on its Member States on European integration is complex and context-dependent, these policies are generally aimed at reducing barriers to trade and promoting economic integration in the long term.

The Commission proposed on 18 October, 2022 to adopt a new emergency Regulation to address high gas prices in the EU and ensure the security of supply during the 2022 winter in the Communication (COM/2022/553) “Energy Emergency - preparing, purchasing and protecting the EU together” (European Commission, 2022b). It also put forward a proposal for a Council Regulation to develop a new price benchmark, together with ACER, in order to provide stable and predictable prices for LNG transactions (European Commission, 2022d). For this purpose, it mandated ACER to create an objective tool to assess the daily price and, subsequently, a benchmark to index the gas price in the contracts of energy market operators (European Commission, 2022r). ACER and the European Securities and Markets Authority (ESMA) established a new joint ACER-ESMA Task Force to strengthen their capabilities to

monitor and detect market manipulations and abuses in energy markets (European Securities and Market Authority, 2022).

While the two are still in the process of developing the tool, the Commission proposed the creation of a temporary market correction mechanism ('MCM'), i.e., an emergency gas price cap, to limit prices for transactions on the TTF. In concrete terms, this MCM implies that transactions at a price higher than the (dynamic) limit are not authorised in the TTF (European Commission, 2022r). The mechanism is automatically triggered when two conditions are simultaneously met: a front-month TTF derivative settlement price exceeding €275 for two weeks and TTF prices €58 higher than the LNG reference price for ten consecutive trading days within the two weeks (European Commission, 2022v). After that, ACER will immediately publish a market correction notice informing the Commission, ESMA and the European Central Bank, and the MCM will come into effect the following day (European Commission, 2022v). Additionally, in order to avoid extreme volatility and excessive prices in the energy derivatives markets, a new temporary intra-day price spike collar was established by EU derivatives exchanges to protect energy operators from large intra-day price movements (European Commission, 2022r). The MCM was ultimately adopted within Council Regulation (2022/2578) of 22 December, 2022.

While the Energy Community did not transpose the Regulation, the Ministerial Council invited the Contracting Parties to align with the measures taken by the European Union to mitigate the exposure to high energy prices to the extent applicable to their economies (Energy Community, 2023c). The EnC Secretariat wrote a Note to assess the measures undertaken by the Contracting Parties to tackle the impacts of the energy price surge and suggested measures intervening in the electricity market functioning at the retail and wholesale level (Energy Community Secretariat, 2022c). It was also invited by the Ministerial Council to assist Contracting Parties wishing to negotiate with Member States bilateral agreements on the sharing of surplus revenues in the spirit of solidarity and the Energy Prices Regulation (Ministerial Council, 2022a).

## **J. Restrictive measures on energy affairs**

The EU also acted with regard to the second dimension of energy security, namely energy diplomacy, even outside the REPowerEU Plan. In this sense, it put increased attention on the neighbouring countries' alignment with its sanctions policy, followed by an internal reflection on its enlargement policy (Džankić et al., 2023). Restrictive measures, colloquially named

‘sanctions’, are an essential tool of CFSP, thus subject to intergovernmental decision-making mechanisms based on unanimity. This explains why Hungary could single-handedly veto the Sixth Sanctions Package, which also encompassed the Commission's proposal to gradually reduce its reliance on Russian oil (F. Fabbrini, 2023).

By means of sanctions, the EU can intervene to respond to crises intended to bring about a policy change by targeting entities and individuals in non-EU countries. The EU has progressively imposed restrictive measures against Russia, initially in response to the illegal annexation of Crimea and Sevastopol, introducing Council Regulation (EU) 833/2014 of 31 July, 2014 (EU, 2014). The Council Regulation was amended several times as sanctions were considerably expanded after the Russian invasion of Ukraine in 2022. Among the sanction packages adopted by the EU, the following concerned energy: Council Regulation (EU) 2022/328 of 25 February, 2022 (2nd Sanction package), Council Regulation (EU) 2022/428 of 15 March, 2022 (4th Sanction package), Council Regulation (EU) 2022/576 of 8 April, 2022 (5th Sanction Package), Council Regulation (EU) 2022/879 of 3 June, 2022 (6th Sanction Package), Council Regulation (EU) 2022/1269 of 21 July, 2022 (Maintenance and alignment package), Council Regulation (EU) 2022/1904 of 6 October, 2022 (8th Sanction Package), Council Regulation (EU) 2022/2474 of 16 December, 2022 (9th Sanction Package), Council Regulation (EU) 2023/250 of 4 February, 2023, Council Regulation (EU) 2023/427 of 25 February, 2023 (10th Sanction Package), Council Regulation (EU) 2023/1214 of 23 June, 2023 (11th Sanction Package) (EU, 2022j, 2022a, 2022k, 2022b, 2022c, 2022f, 2022g, 2023a, 2023b, 2023c).

Although the Energy Community is not concerned with ensuring the alignment of Contracting Parties with sanctions, it has succeeded in being an essential forum for the Commission to reiterate their significance. The Conclusions of the 20th Ministerial Council underlined the EU's systematic request to all Contracting Parties to urgently align with the EU restrictive measures imposed on Russia and Belarus, particularly the ones in the energy sector, inviting the Secretariat to assist the Contracting Parties in developing and adopting the necessary measures to this end (Ministerial Council, 2022a). The majority of the EnC Contracting Parties in the Western Balkans (North Macedonia, Kosovo, Albania, Montenegro, Bosnia and Herzegovina) fully aligned with the EU sanctions, confirming that these countries share the same values and geopolitical orientation, strengthening their EU accession bid (Džankić et al., 2023). The case of Bosnia and Herzegovina is quite peculiar because even if the country formally aligned with the sanctions, some ministries belonging to its Bosnian Serb

ruling class attempted to hinder their enforcement (Džankić et al., 2023). Among the Eastern Contracting Parties, Ukrainian sanctions on Russia are currently even broader than those adopted by the EU.

In contrast, other EnC Contracting Parties did not align with EU sanctions against Russia. Serbia only took some minor steps to align with the EU sanctions policy by joining sanctions against Belarus and Ukraine's former president Yanukovich, not taking part in military exercises with Russia or the Collective Security Treaty Organisation since the invasion of Ukraine (Džankić et al., 2023). As the country is widely known to take pro-Russian stances, it is unlikely that it will align in full with EU sanctions, ostensibly with the aim of preserving Russian goodwill on Kosovo at the UN (Stasiukevych & Malovec, 2022). Similarly, Georgia did not align with most of the EU sanctions, which constitutes an obstacle to the development of relations with the country: it abstained from all but three out of the 26 declarations issued by the EU in 2022 that imposed sanctions on Russia (Akobia, 2023). This low rate of alignment was a debated topic of the meeting between HR/VP Josep Borrell and Prime Minister Irakli Garibashvili (Akobia, 2023; Delegation of the European Union to Georgia, 2023). EU also adopted personal restrictive measures to protect Moldova, one of the countries most affected by the fallout of the war, against persons responsible for supporting or implementing actions aimed at undermining or threatening its sovereignty and independence (Council of the European Union, 2023a, 2023b; Delegation of the European Union to the Republic of Moldova, 2023).

### *3.2.3. Country-specific programmes*

#### **K. Ukraine energy support activities**

The European Commission and the EnC Secretariat stepped up their joint efforts through two main country-specific initiatives following the targeted shelling of vital energy infrastructure in Ukraine and Moldova. The Energy Community, and more specifically the EnC Secretariat, is actively engaging in the preparations for reconstructing Ukraine through a number of support activities, namely the Ukraine Energy Support Fund (UESF), the Support Task Force (USTF), the Energy Market Observatory (UEMO), and the Legal Support Platform (ULSP). Acting on a request by the Ministry of Energy of Ukraine, on 18 March, 2022, the Secretariat set up the USTF to coordinate door-to-door deliveries of specialised energy

equipment. USTF has already assisted in the successful delivery of 2.025 metric tons of equipment and 2.200 tons of liquids donated from 86 companies from 22 countries. For this purpose, it works closely with the European Commission, in particular with the coordinator of the European Union Civil Protection Mechanism, i.e., the Emergency Response Coordination Centre within DG for European Civil Protection and Humanitarian Aid Operations (DG ECHO).

On April 5, 2022, the EnC Secretariat set up the legal framework for the UESF, a unique institutional arrangement established at the request of the European Commission, in agreement with the Ministry of Energy of Ukraine (Energy Community, 2023d). The UESF allows a wide range of actors, including governments, international financial institutions, international organisations, and corporate donors, to financially support the reconstruction of the Ukrainian energy sector transparently, meeting the demand for financing the purchase of goods and services needed by Ukrainian energy companies (Energy Community, 2022a). These include equipment, spare parts, technical items, fuel and services needed to repair infrastructure and maintain energy security in the country, which amounted to a total pledge of €220 million to date (Energy Community, 2023e). The Fund is managed by the Secretariat, which acts (free of charge) as its fiduciary and as an intermediary between the donors and the Ukrainian authorities and co-chaired by the European Commission (Energy Community, 2022b). In addition, on 27 January, 2023, the Secretariat launched the Ukraine Market Observatory to closely follow and review all developments related to the energy market and corporate governance in Ukraine (Energy Community, 2023b). On 19 July, 2023, it also established a pro bono platform for law firms and qualified independent lawyers to contribute pro bono hours to various projects and match them with the demand of Ukrainian energy companies (Energy Community, 2023b).

#### **L. Moldova Energy Rescue Scheme**

Finally, the Energy Community Secretariat has established the Energy Rescue Scheme for Moldova (MERS), aiming at supporting the unstable Moldovan energy system by mitigating the costs incurred from imports at high European market prices during the winter season and its ongoing energy crisis. Moldova has faced challenges due to its heavy reliance on Russian gas and electricity, and the conflict between Russia and Ukraine has made this situation even more precarious. Donors can contribute to this scheme and may earmark their contributions for specific purposes. The EnC Secretariat acts as a fiduciary for these grants and manages the disbursement of funds in accordance with strict accounting and auditing rules. In the default

mode, the funds are used to pay for electricity and gas procurements by Moldova's state-owned trading company, Energocom, from non-Russian suppliers. The scheme ensures that the funds are used exclusively for their intended purpose. Donors' contributions are held in a particular purpose account in Austria, and the Ministry of Infrastructure and Regional Development of Moldova confirms the disbursements. The importance of the Moldova Energy Rescue Scheme was reiterated in a Statement by President von der Leyen at the joint press conference with Moldovan President Sandu on 10 November, 2022 (European Commission, 2022u).

On the one side, these specific initiatives recall the origins of the Energy Community and the rationale that was instilled in it, as it was conceived and built on the ruins of the Balkan wars to promote the reconstruction of the energy sector in the region (Energy Community Secretariat, 2022a). On the other, they demonstrate how the Commission and the Secretariat play a crucial role in the integration of the two organisations while raising important questions about the coherence of the EnC's activities with respect to its founding Treaty.



### **3.3. Explaining integration (theory) outcomes**

#### *3.3.1. Comparing the results*

An analysis of the European response to the 2022 energy security crisis reveals a complex and diverse picture. Many of the initiatives mentioned above transferred significant administrative authority to central institutions. In contrast, others were specifically designed to be 'Ukraine-specific' and encompass built-in sunset clauses that will prevent them from becoming long-lasting by default (Chachko & Linos, 2022). Their variety also lies in their source: we find a combination of 'on-the-spot' policies, such as the Energy Platform, with measures that originated from previous policy learning, such as the modification of the RRF and the adoption of a new TCF, with indirect policy transfers from the national level, such as the ability to influence the energy mix (a prerogative of Member States under Art. 194 TFEU) through cross-cutting targets contained in the Gas Demand Regulation (Falkner, 2016).

In this landscape, we can observe the use of different 'techniques', which demonstrate that the crisis management by European institutions has much in common with that of national, concentrating power in the hands of bodies comparable to national executives, departing from everyday decision-making and setting precedents to be normalised in future actions (Chachko & Linos, 2022). EU institutions used legal workarounds to circumvent constitutional restrictions imposed by the Treaties (such as the principle of budgetary balance contained in Art. 310 TFEU or the provisions concerning the energy mix in Art. 194 TFEU), leverage existing programmes and repurpose them to expand their scope, consolidate their powers by migrating authority from the Member States to the 'federal' centre, push during crises policies that EU member states previously rejected, maximise the use of technocracy and enter new policy fields (Chachko & Linos, 2022).

As already argued on multiple occasions throughout this thesis, crises provide an opportunity to evaluate EU integration theories and their explanatory capacity. To this end, the 2022 energy security crisis offers an opportunity to make a novel theoretical assessment. The plethora of scholarly work on crisis-driven European integration indicates that no single theory of European integration can fully capture the multitude of policy contexts generated by a crisis. Numerous scholars have noted that it is no longer the case to cling to the idea of 'gladiator-like tests', in which two theories enter the arena, compete with each other, and only one comes out the winner (Beach & Pedersen, 2019; Ferrara & Kriesi, 2022; Smeets & Zaun, 2021). In a

similar vein, Hooghe and Marks (2019, p. 1) are also correct in noting that the various theories must be considered “[...] flexible bodies of thought that resist decisive falsification” and are better described as ‘schools’ than ‘grand theories’. Scholars are now more prone to combining existing theoretical approaches (Zachová, 2022). The core task of the following sections is, hence, to compare new intergovernmental and neo-functionalist approaches to European energy security integration in light of the 2022 energy security crisis response. The evidence suggests that both new intergovernmentalism and neofunctionalism are well grounded in empirical reality but in two different directions of European energy security integration: while NI provides more explanations for the internal integration (among EU Member States), NF explains additional dynamics in external integration (beyond EU borders, with the Energy Community).

### *3.3.2. NI: a baseline for internal EU integration*

The internal European energy security integration aligns with the characteristics of NI, as it represents an instance of integration without the involvement of supranational entities, as outlined by Bickerton, Hodson, and Puetter (2015). Hence, the internal dimension of energy security integration is marked by the broadening of the EU's activities, devoid of the typical 'spill-over' processes associated with supranationalism. In this scenario, we can observe that decision-making predominantly involves executives, namely EU leaders, engaged in a consensus-seeking process. When faced with the significant and multiple pressures of the recent energy security crisis, integration outcomes proved to be contingent upon the prevailing intergovernmental preferences and power dynamics.

The first hypothesis advanced under NI (*H2a*), claiming that deliberation and consensus have become the guiding norm of day-to-day decision-making at all levels of the EU, is therefore confirmed in the internal European integration (Bickerton, Hodson, Puetter, et al., 2015). NI assumes that intergovernmental consensus and deliberation have effectively sidelined supranational institutions. In advancing this hypothesis, NI not only pushes back against functionalist accounts of EU integration but also dislocates the automaticity with which we equate deeper EU integration with increased supranational power (Fiott, 2023).

Governments and the European Council, operating in a deliberative mode, wielded greater authority during the crisis. Indeed, it is possible to argue that the European Council has always

played the crucial role of solving the most delicate interstate disputes; yet, ever since the Maastricht Treaty and especially with the Lisbon Treaty, its role in dealing with crises has been more and more formalised (S. Fabbrini & Puetter, 2016; Van Middelaar, 2013). In one year of war after the outbreak of the 2022 energy security crisis, the European Council took the lead role in the response, adopting Council Regulations, answering with several restrictive measures (adopted with CFSP) and replying (affirmatively) to the neighbouring countries' demands for candidate status in enlargement policy in a way that is without precedent in recent history (Džankić et al., 2023). This logic cannot go on without its reproaches. It encourages the secrecy of political deliberations (for instance, there are no official minutes of the meetings of these high-level intergovernmental fora) and reinforces the dominance of executive players in EU politics, jeopardising the ability of the European Parliament and the public at large to be informed and to scrutinise the holders of political authority (S. Fabbrini & Puetter, 2016).

Interestingly, many new legislative acts adopted since the invasion of Ukraine were proposed as urgent Regulations under the intergovernmental Art. 122(1) TFEU, the solidarity clause calling on Member States to help each other in the event of an energy emergency. Art. 122(1) TFEU was used as a 'passe-partout' legal basis to deal with the crisis (Marin & Münchmeyer, 2023). While this procedure has already been discussed in the first Chapter, it is worth recalling that Council Regulations, as the name suggests, are adopted by the Council alone rather than by Council and Parliament as co-legislators under the OLP, by the Commission on a delegated basis under a Council-Parliament measure (Huhta & Reins, 2023). These legal acts probably constitute a paradigm shift because, through these crisis measures, the EU is indirectly pursuing an economic policy to which Art. 122 TFEU supposedly relates (Chamon, 2023). This measure was fast-tracked through the EP, and no public consultation procedures or impact assessments held by the Commission preceded its adoption (Hancher, 2023).

When comparing the two dimensions of energy security, it is possible to observe some differences between them, which are consistent with Falkner's (2016) findings. Concerning the first component of energy policy, energy governance (which Falkner refers to as "energy policy"), it is helpful to notice that it was neither accompanied by a protracted stalemate nor a particularly noteworthy breakthrough, and it did not witness the implementation of any significant long-lasting reforms. Many of the instruments that were adopted with Council Regulations were not decisive in this respect for two reasons. On the one hand, the voluntary nature of several laws has been preserved or consolidated by new Regulations, such as the 15%

reduction target introduced by the Gas Demand Reduction Plan (Regulation 2022/1369), the bilateral solidarity agreements of the Gas Solidarity Regulation and the 10% voluntary monthly target of the price correction mechanism, the "burden-sharing mechanism" introduced by the Gas Storage Regulation (Regulation 2022/1032). On the other hand, most of these are short-term and specific to respond to the crisis in Ukraine, such as the Temporary Crisis Framework (C/2023/1711).

Institutional blockade prevailed in foreign policy and, consequently, also in foreign energy policy. Crisis-induced pressures had no discernible effect on policymaking where the requirements of (near) unanimity prevailed (as in the CFSP); governments decided in the European Council rather than supranational institutions or experts, and preferences due to structural differences between countries (such as import dependency and energy mix) were significant (Falkner, 2016). Particularly in this sphere, NI manifested itself primarily through the coordination of national policies and intergovernmental collaboration rather than the formation of a standard legal system (the so-called "integration through law") (Džankić et al., 2023). As Amadio Viceré (2022, p. 3) argued – albeit with reference to foreign policy in a broader sense – “Rather than fostering centre formation, the war fostered intergovernmental policy coordination”.

Furthermore, consistent with (*H2b*), it is possible to make the argument that, where there is a shift towards greater supranationalism, this was towards *de novo* bodies and not traditional supranational institutions like the European Commission. NI demonstrates how EU Member States are progressively creating new agencies to regulate the political impulses of other supranational institutions (Fiott, 2023). Similarly, the creation by governments of innovative mechanisms to which power was delegated (Bulmer, 2015) was a frequent development during the first year of the 2022 energy security crisis.

A number of bodies that were involved in the 2022 energy security crisis response can be considered as *de novo* entities within the framework of NI, such as the Agency for the Cooperation of Energy Regulators, ACER, the Gas Coordinator Group, GCG, and the EU Energy Platform governance, encompassing Task Force and the Ad-hoc Steering Board, the ACER-ESMA Task Force, involved in the MCM to address high energy prices. As with other *de novo* bodies, the creation and the empowerment of these instruments could only happen by agreement between governments (Bickerton, Hodson, & Puetter, 2015). Indeed, these may opt

to delegate powers as a mode of governance. Nevertheless, this delegation of powers does not provide for the creation of *de novo* bodies in the Treaties, even less so in the significant area of the single energy market policy (linked to the first dimension of energy security), where the Commission shall be the primary receiver of delegations powers (Bulmer, 2015).

Many of the *de novo* bodies, such as ACER, are playing a coordinating role among national agencies, and their empowerment can be inscribed in broader trends in public administration towards the 'new public management' (Bulmer, 2015) and 'agencification' (Egeberg, 2016). This growth in agency governance ought to be considered as a compromise between functional needs for more regulatory capacity at the European level, on the one hand, and Member States' reluctance to delegate executive authority to the European Commission (Commission), on the other (Egeberg, 2016; Keleman, 2002). Wallace (Wallace et al., 2020) further argued that these *de novo bodies* are embedded in a 'transgovernmentalist pattern of governance' that departs from the classic methods of EU governance. Hence, the creation of *de novo* bodies raises additional questions that merit deeper investigations beyond NI integration theories.

Consequently, between the two dimensions of energy security, more integration has taken place in the former. Foreign policy has thus remained an area where member state governments have been very reluctant to transfer powers to supranational institutions or to pursue 'integration through law'. Indeed, one might argue that the argument merely states the obvious. As it is undoubted that foreign policy is primarily controlled by the Member States as outlined in the EU Treaties, there may not be much room for theoretical innovation in asserting that it is primarily the second dimension of energy policy that remained intergovernmental even in the face of the 2022 energy security crisis (Fiott, 2023).

This critique is valid, but it overlooks at least two crucial nuances in the theoretical discourse surrounding European integration. First, by concentrating on NI concerning foreign energy policy, we can explore the boundaries of this theoretical approach in a specific sub-domain of foreign policy, confirming the assumptions made by several authors in the broader policy sphere (Fiott, 2023). Second, by employing hypotheses rooted in NI, the findings of this thesis challenge the assumptions made in recent times by scholars arguing that various tools developed prior to the 2022 energy security crisis indicated an increased role for the European Commission, a growing trend towards supranationalism and hence the revival of functionalism (Håkansson, 2021; Haroche, 2020; Sabatino, 2022).

### 3.3.3. *NF: external integration with the EnC*

This section argues that the European external energy security integration with the Energy Community aligns with the assumptions of neofunctionalism, as it represents an instance of integration with the involvement of supranational actors acting as policy entrepreneurs and spillover effects. According to neofunctionalists, integration starts in a highly technical area and creates the institutional capacity for a possible spillover into other areas (Nicoli, 2020). Crises are expected to lead to a spill-over process enhancing either the scope or the level of integration, in which states agree to shift some responsibilities for accomplishing a limited task to a supranational level (Zachová, 2022). This is consistent with the very origin of the Energy Community as a neo-functionalist project. As argued by Renner (2009) and demonstrated in Section 1.1.1., its rationale was based on the neo-functional thinking of the European Commission officials who worked the Athens process that created the organisation.

According to the policy entrepreneurship hypothesis (*H3a*) consistent with NF, supranational actors can act as “policy entrepreneurs”, promoting and facilitating integration. In several measures outlined in section 3.2., there is evidence to support this claim. An in-depth analysis of the European response to the 2022 energy security crisis demonstrates that the Commission and the EnC Secretariat played a central and autonomous role in the process of crisis management: they initiated integrative policies, influenced the policy process, and helped organise the Contracting Parties’ response. In accordance with Skoczek-Wojciechowska (2023), we find that the European Commission acted as a policy entrepreneur within the Energy Community in response to the 2022 energy security crisis. More specifically, we can point out that the Commission highlighted the Energy Community and the role of the Secretariat in several documents, most notably in its Communication on the REPowerEU Plan (COM/2022/230) and the External energy strategy (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2022). Thanks to the Commission's urging, the Energy Community proceeded with the transposition of the Gas Storage Regulation (Regulation 2022/1032) in record time, only three months after its adoption in the EU. The Commission also invited the Contracting Parties to participate in the EU Energy Platform included in the Gas Solidarity Regulation (2022/2576).

Concerning the EnC Secretariat, Decision No.2022/01/MC-EnC considerably empowered its role, as gas storage system operators are required to undergo a certification procedure

involving a binding opinion from the latter (Ministerial Council, 2022c). Although without recurring to binding instruments, the Secretariat played an essential role in coordinating the efforts of the Contracting Parties to improve energy efficiency and reduce demand in response to the crisis. The Ministerial Council also invited the EnC Secretariat to develop coordinated measures for demand reduction and monitor compliance of national measures with the *acquis* (Ministerial Council, 2022c).

Both the European Commission and the EnC Secretariat have intensified their joint efforts through two major country-specific initiatives following the targeted damages to vital energy infrastructure in Ukraine and Moldova, which allows us at the same time to confirm the policy entrepreneurship hypothesis (*H3a*) and demonstrate the spillover hypothesis (*H3b*). The initiatives described in 3.2.3 (namely the Ukraine Energy Support Fund, the Ukraine Support Task Force, the Energy Market Observatory, the Legal Support Platform, and the Moldova Energy Rescue Scheme) can be argued to demonstrate the idea of spillover effects into other policy areas consistent with neofunctionalism.

While the primary goal of the Energy Community was to establish a pan-European energy market, it is plausible to argue that these activities are still energy-related but go beyond this scope. As a result, the Energy Community has evolved into a venue for collaboration on a wide range of energy-related issues. Both initiatives are primarily focused on addressing immediate energy-related challenges in Ukraine and Moldova. However, they also involve the establishment of governance structures and mechanisms to manage funds and coordinate efforts. For example, the Support Fund and the Market Observatory not only address energy infrastructure but also contribute to improving governance, transparency, and market functioning. Similarly, the Moldova Energy Rescue Scheme involves fiduciary management and accounting rules, which contribute to better governance of Moldova's energy system. Finally, it is possible to argue that these initiatives also indirectly address broader security and conflict-related issues. By providing support to Ukraine and Moldova to reduce their reliance on Russian energy sources, these initiatives contribute to regional security and stability. This represents a spillover effect from energy policy into the realm of security and conflict resolution.

Therefore, the Energy Community has become a forum for cooperation on a wide range of energy-related issues. These activities have contributed to a more sustainable and secure energy future for the European continent. Still, they have also created new challenges for the Energy

Community: only time will reveal whether it will have to formally review its founding Treaty and rationale or reduce its ambitions to expand into other policy areas. Ultimately, its success will depend on its ability to strike a balance between promoting the pan-European energy market and ensuring that this is not at the expense of its original mandate. In doing so, it can continue to play a vital role in promoting energy security and cooperation in Europe for years to come.



### 3.4. Conclusion

In sum, this chapter advances our understanding of the intricate dynamics of European energy security integration and its theoretical underpinnings in the face of critical junctures. Through the assumptions of NI, we observed the predominance of intergovernmental decision-making processes and the emergence of new *de novo* bodies that reflected a shift towards more executive-centric governance. This internal integration was marked by consensus-seeking and intergovernmental coordination, with the European Council assuming a central role in crisis management. On the other hand, NF found resonance in the external integration with the Energy Community, where supranational actors, particularly the European Commission and the EnC Secretariat, acted as policy entrepreneurs. Policy spillover effects characterised this external integration, as crisis-driven initiatives expanded the scope of cooperation beyond its original mandate.

As we navigate the complexity of European energy security, both new intergovernmentalism and neofunctionalism provide invaluable lenses through which to understand the intricacies of integration in a rapidly evolving landscape. The assumptions fostered by these two ‘schools’ serve as a compelling narrative, offering fresh perspectives on the future of European integration in the energy sphere and beyond. The intricate landscape of European energy security integration needs to be examined through multiple theories, not necessarily competing with each other, in order to provide a complete picture and also consider the integration of neighbouring countries with the EU.

Concerning internal integration among the EU Member States, new intergovernmentalism serves as a cornerstone to explain the integration dynamics in the post-Maastricht era, upending conventional notions of supranational dominance and emphasising the power of intergovernmental consensus and deliberation. It sheds light on the evolving dynamics of EU decision-making, particularly during the response to the 2022 energy security crisis. In contrast, on the external front, the European integration with the Energy Community unfolds as a testament to neofunctionalism, with supranational actors taking on the role of policy entrepreneurs and spillover effects extending the boundaries of energy policy into broader realms of governance and security policy.

## Conclusion

This research thesis aimed to investigate European internal and external energy security integration in the wake of the 2022 energy security crisis, considered as a critical juncture, while taking into account the institutional legacies that it inherited from the past.

The first chapter offered a comprehensive analysis of European institutional framework concerning energy security policymaking, spanning from historical developments to the period preceding the 2021 energy crisis. It emphasised the dynamic nature of the concept of ‘energy security’ in the EU, combining historical phases (1952-2004 and 2004-today) with theoretical sub-dimensions of energy security that developed during these phases (energy governance and energy diplomacy). Then, it scrutinised both the vertical and horizontal separation of powers, analysing how competences are shared between the EU and its Member States, and among decision-makers at the EU level. The Lisbon Treaty marked a significant shift, granting the EU energy policy competencies while respecting Member States' authority, but the latter still retain the last word in energy security matters thanks to the important Article 194(1) TFEU, according to which they detain the power to decide on their energy mix. It pointed out that according to the current institutional framework, while energy governance is mostly subject to decision-making processes that involve supranational institutions, energy diplomacy still remains in the hands of Member States. The complexity of energy security policy within the EU involves various actors, including the European Commission (mostly DG ENER), the European Council, the Council of Ministers, the European Parliament, the HR/VP and the EEAS. New players such as ACER and GCG are gaining more and more prominence. In this scenario, policymaking is often the result of a tug-of-war between the Commission, a supranational entity, and fluctuating majorities in the Council, in the hands of Member States.

In a similar way, the second part of the first chapter focussed on the Energy Community, examining its historical background, intergovernmental vs. supranational dynamics, and decision-making institutions. The creation of the Energy Community testifies to the EU's commitment to promoting energy security, stability, and prosperity through the reconstruction of energy infrastructure in the Western Balkans, affected by the war during the 1990s. When the Commission established the Community, it was strongly inspired by the European integration model. This facilitated the integration of the electricity and gas sectors between the EU and neighbouring countries willing to become 'Contracting Parties'. It created the

Ministerial Council, the Permanent High Level Group, the Secretariat and several fora, each with a more or less similar counterpart in the EU. The Community exercises an ‘integrating force’ by transferring EU energy Regulations to non-EU Member States, helping candidate and aspiring candidate countries meet conditions for EU accession negotiations.

The second chapter continues this historical evolution of energy policy, looking in depth at the energy security crisis of 2022. It reviewed the economic impact of the COVID-19 pandemic on the energy prices, associated to the 2021 energy crisis. Then, it provided a ‘snapshot’ of the threats and vulnerabilities that were affecting both EU Member States and EnC Contracting Parties prior to 2021 energy crisis by looking at their energy balance, aggregate import dependency, and import dependency on Russia by fuel type. It revealed an overreliance on a single energy supplier and critical infrastructure controlled by Russian companies. This created a precarious situation for both the EU and the Energy Community, exposing Member States to supply disruptions and geopolitical pressures. The analysis also pointing out to the considerable differences present across countries.

The 2022 energy security crisis, stemming from the Russian invasion of Ukraine, resulted in unprecedented energy price spikes across Europe, which affected all countries due to the interconnected nature of European energy dynamics. After describing how the external shock affected European countries, we compared the 2022 energy security crisis to the previous 2006/2009 energy crises according to five explanatory values: availability and allocation of pre-existing national capacities, the immediacy of a threat, the exogeneity or endogeneity of the crisis origin, the (a)symmetry in terms of crisis affectedness, and policy learning mechanisms. This analysis was instrumental to point out that not every crisis is the same in the context of European integration, and that the 2022 energy security crisis emerges as a ‘critical juncture’, confirming *HI*. The ‘critical juncture’ spurred coordination efforts within the EU and the Energy Community, showcasing how crises can lead to transformative moments in European integration.

The third and final chapter focused on the response by the EU and the Energy Community to the 2022 energy security crisis. It used two theoretical approaches, new intergovernmentalism and neofunctionalism, to analyse the integration dynamics. Firstly, when analysing internal European energy security integration, NI highlighted the prominence of

intergovernmental decision-making processes based on consensus-seeking and coordination, and the empowerment of *de novo* bodies, such as ACER and the GCG, to curb the influence of traditional supranational institutions. Consequently, hypotheses *H2a* and *H2b* appear to be verified in this analysis. The Council played a central role in the management of the crisis by issuing several Council Regulations, adopted thanks to the intergovernmental Article 122 TFEU, bypassing the European Parliament. On the opposite side, in external integration with the Energy Community, neofunctionalist integration logics found more resonance. Supranational actors like the European Commission and the EnC Secretariat acted as policy entrepreneurs, leading to policy spillover effects that considerably expanded cooperation between the Energy Community and the EU (confirming *H3a* and *H3b*). Crucial in this respect are the country-specific programmes introduced by the two institutions in Ukraine and Moldova.

Hence, both theories recognise valuable insights, as well as provide different but complementary perspectives on the future of European energy security integration and its relationships with neighbouring countries. While new intergovernmentalism has become crucial for understanding internal integration among EU Member States post-Maastricht, new functionalism was instrumental in explaining European integration with the Energy Community, showcasing how supranational actors act as policy entrepreneurs, leading to spillover effects that extend energy policy into broader realms of governance and security policy. Overall, it is possible to assess that the effective competences of the EU in response to the 2022 energy security crisis remained somewhat limited. Although a series of treaty revisions have over time expanded the powers that Member States have delegated, shared or pooled at the EU supranational level, its powers in important areas such as energy diplomacy remain constrained due to the institutional structures. Even in policy areas in which the EU retains more competences, Governance rules have *de facto* given decision-making powers to intergovernmental institutions and subjected decisions to unanimity rules, as in CFSP.

There are still some open questions which deserve further studying and monitoring of their development. Starting with the internal integration, there is still a need to continue exploring the institutional developments in the area of the EU foreign energy policy, for instance with detailed studies on the stakeholders involved in the policymaking process, or the role of private trans-national actors, such as interest groups, multinationals related to the energy business, or civil society organisations. Reflecting an academic gap already pointed out by **Herranz-**

**Surrallés** (2015), the literature needs to explore the role of parliamentary comitology, the Council Working Groups, or the actual functioning of the Gas Coordination Group. Another issue is the role of the parliamentary oversight in a policy area that is developing through mechanisms eluding parliamentary involvement, such as MoU with third countries. Concerning the external dimension of energy security, the literature would benefit from the application of analytical frameworks imported from other adjacent or broader policy fields. As an instance, one intriguing avenue for future research centres on the concepts of differentiated integration and cooperation applied in the field of foreign policy (Amadio Viceré & Sus, 2023), to the domain of energy security. Furthermore, there would be great academic value in comparing levels of integration between policy areas subject to external differentiation, such as foreign policy and energy policy, in the Western Balkans.

Second, historical institutionalists shall undertake an examination of the 'criticalness' of the 2022 energy security crisis as a critical juncture compared to other critical junctures. With due temporal distance, scholars it would be of great academic interest to juxtapose the role played by the Energy Community in the post-crisis reconstruction of the Western Balkans with its prospective role in the reconstruction efforts related to Ukraine. Based on an operationalisation like that of Capoccia and Kelemen (2007), such research could focus primarily on two salient components: first, the possibility that, at the peak of the critical juncture, the institution in question will assume path-dependent enduring characteristics observable during the enduring legacy of the juncture; second, the time duration of the critical juncture in relation to its enduring impact.

Finally, the energy security crisis of 2022 left its mark on policymaking as the moment when the energy transition became more explicitly securitised (Goldthau & Youngs, 2023). While past policy responses to past energy crises focussed on increasing the resilience of the fossil energy system in order to face external shocks, the response to the 2022 energy security crisis gave considerable weight to the just transition, placing decarbonisation at the heart of energy security policy. To be sure, there is still the imperative – although diminishing – of securitising fossil fuels. However, renewables joined for the first time the core of securitisation concerns. Environmental concerns and climate change considerations became pivotal and cross-cutting ‘connective shapers’ of the European integration (2007). Hence, according to a logic of path dependence, the EU response was coherent with its climate objectives because of its stringent climate policy frameworks (Goldthau & Youngs, 2023). Perhaps the EU may have found the

solution to the famous energy trilemma, according to which efficiency, energy security and renewable energy cannot be combined. This is another topic that deserves deeper investigation.

In conclusion, it is worth emphasising that this thesis was not an attempt to speculate on European integration, and therefore recognises that only time will ultimately determine whether the institutional legacy introduced by these events will persist or whether it will only be circumscribed to the 2022 energy security crisis. The longevity of the European response remains unclear, as does the potential for it to evolve into a greater ambition for European integration in the future (Giuli & Oberthür, 2023). Against this backdrop, the central issue for the Western Balkans is not simply to ascertain the duration of this momentum: the offer of EU candidate status to Ukraine, Moldova, and Georgia, along with the clear recommendation by the European Commission to extend this status to Bosnia and Herzegovina, “brings the Energy Community to the heart of the enlargement process” (Energy Community Secretariat, 2022a, p. 10). Exciting times lie ahead, replete with opportunities for further developments in European energy security integration.

# Annex

Figure 3: Energy balance by country in 2021

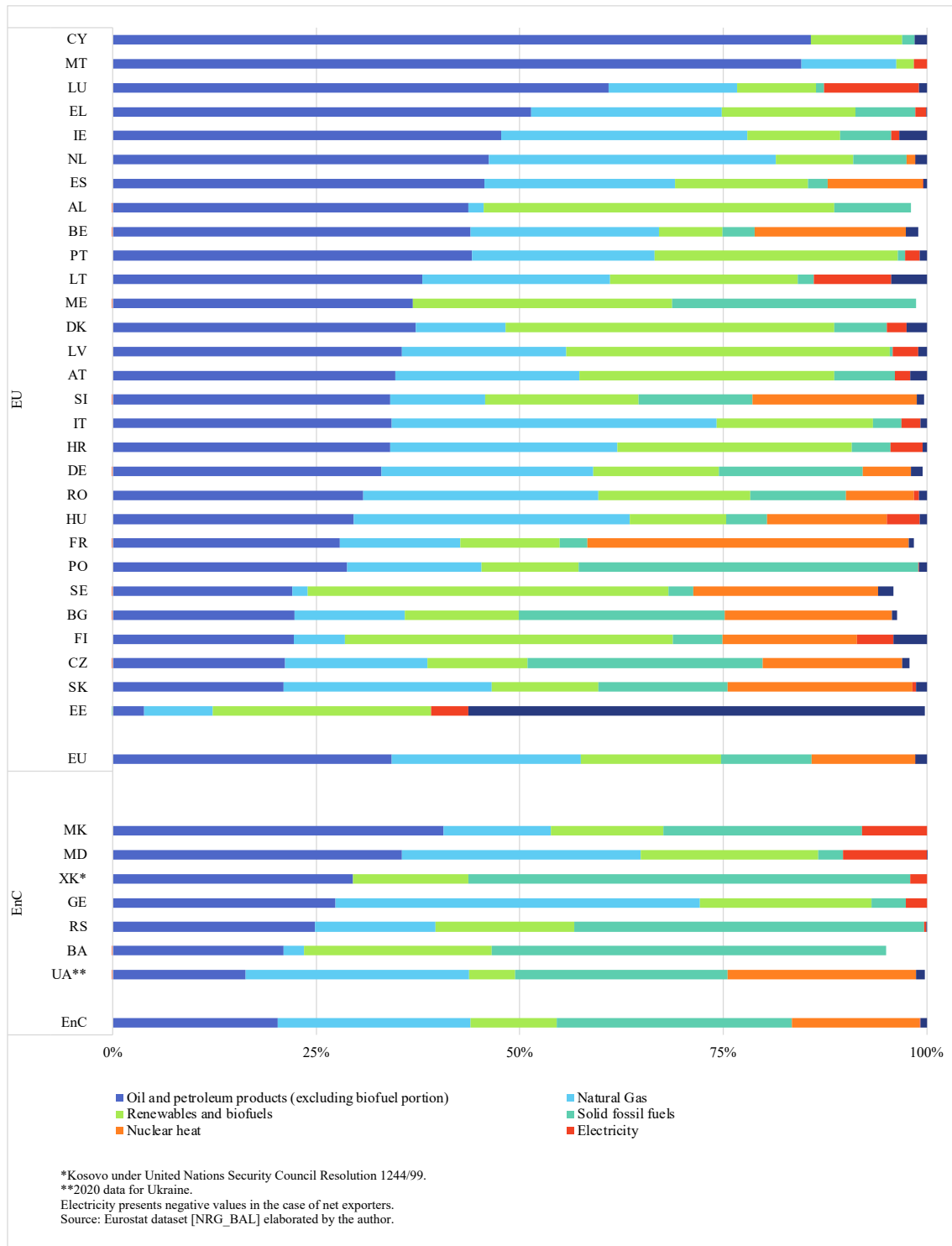


Figure 4: Energy import dependency from Russia by fuel type in 2021

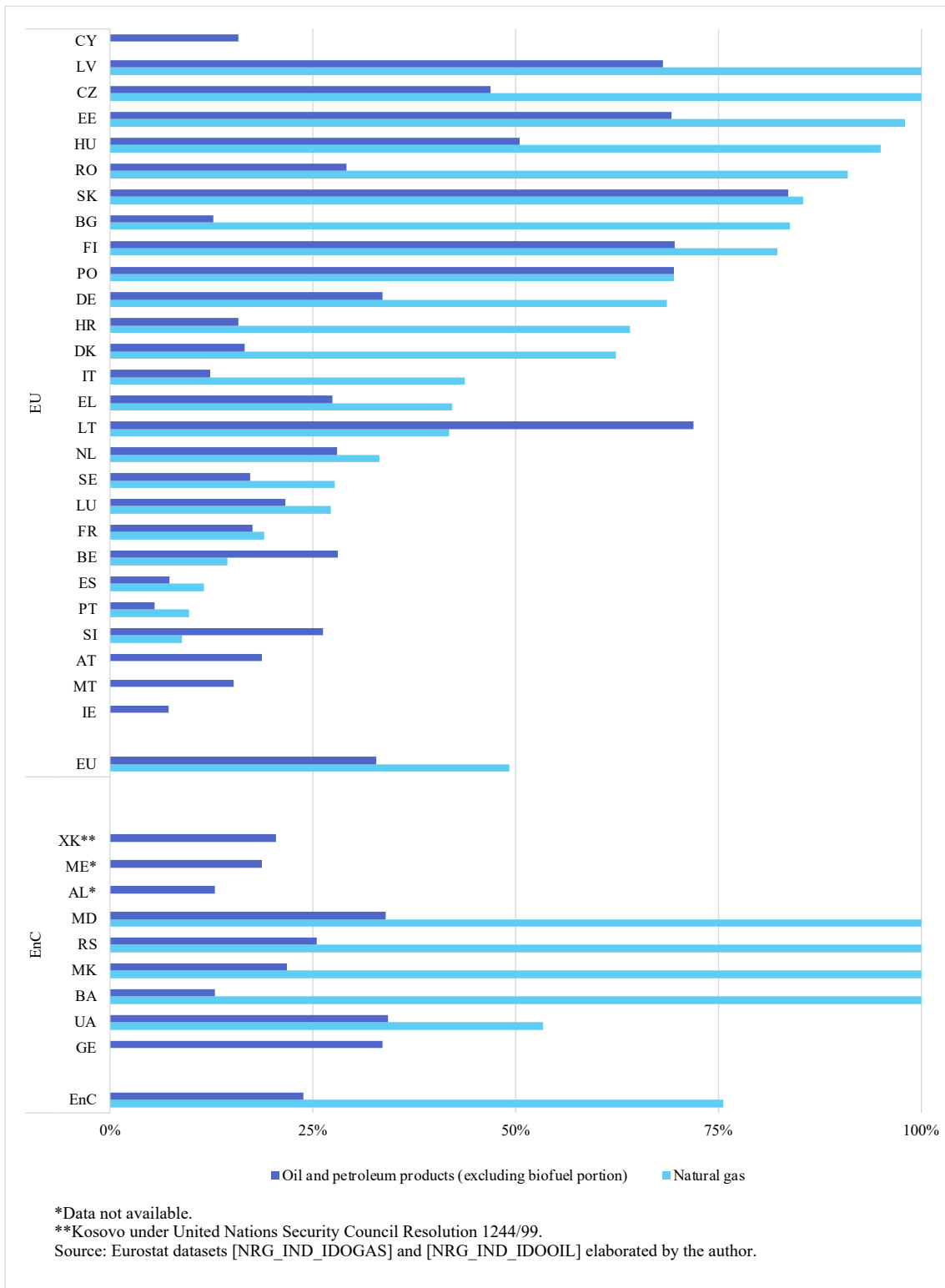




Figure 5: Aggregate supplier concentration index in 2020

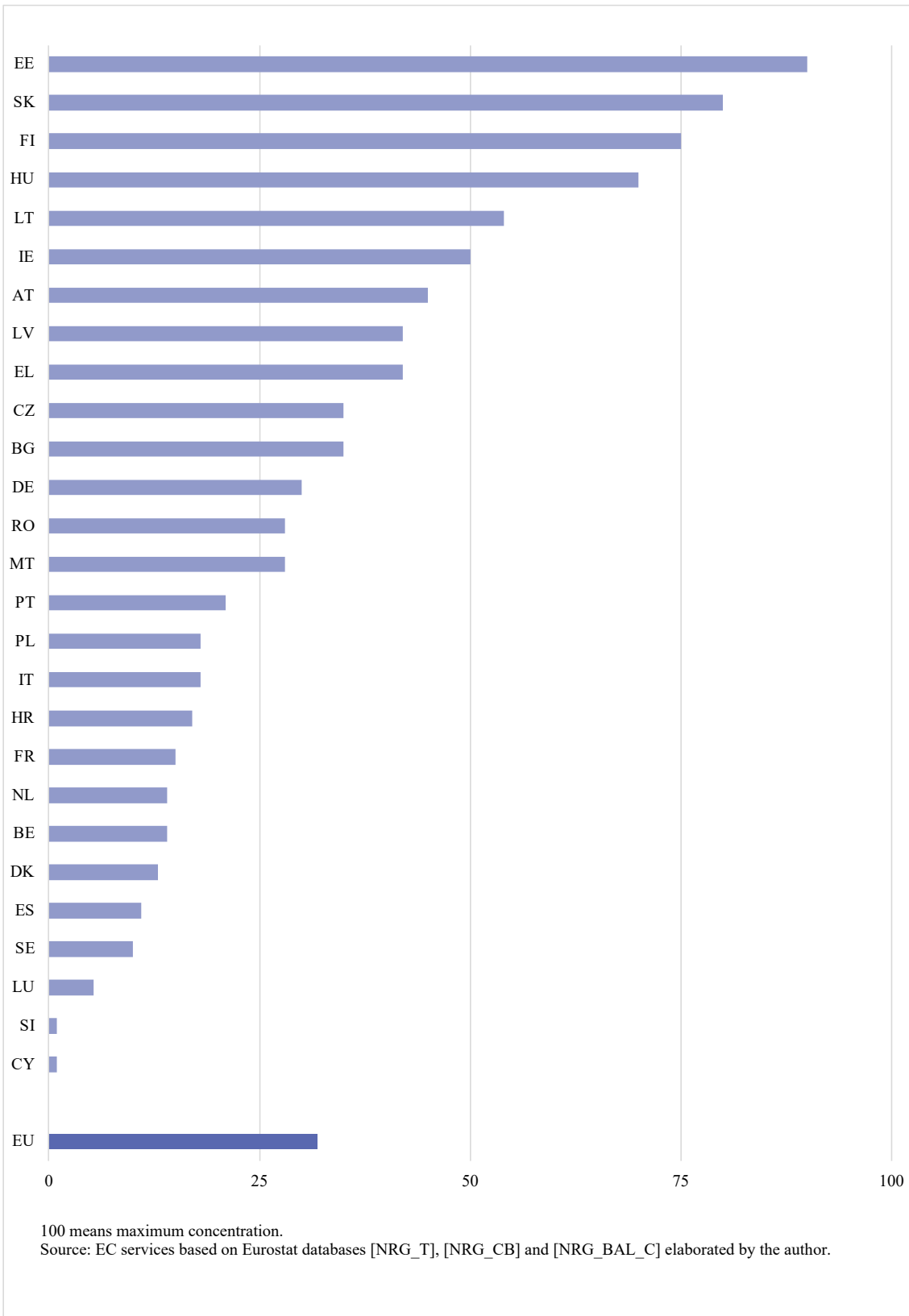
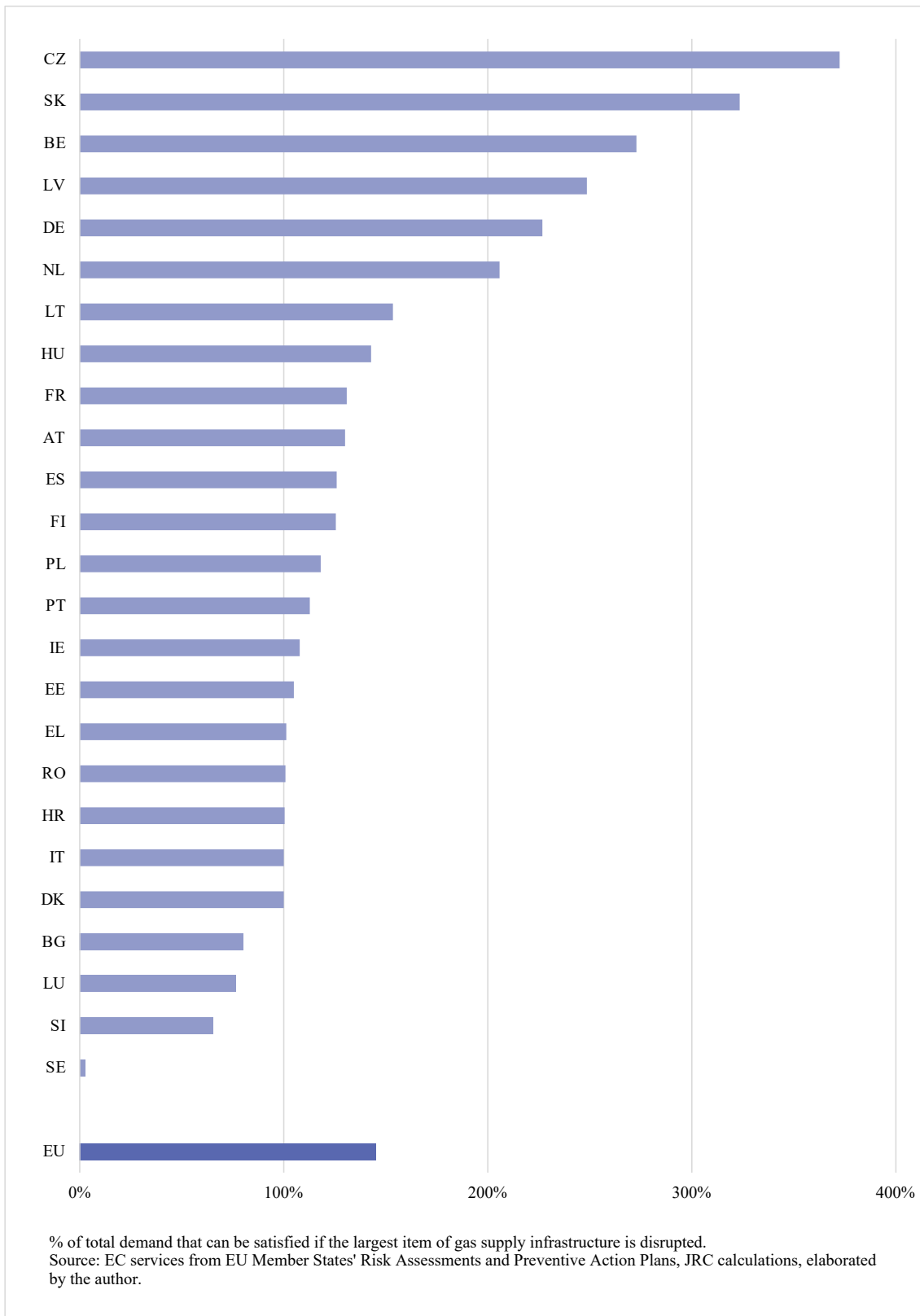


Figure 6: N-1 rule for infrastructure in 2020



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