

EU Energy Policy Blog

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Moving towards a Real European Energy Community

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The challenges and opportunities which our societies face today call for decisive and immediate action. Urgent action is needed to address the challenges raised by the energy and climate crises, and to realise a transition to a low-carbon European economy. It is in the field of energy that the next industrial revolution will occur. Ensuring economic prosperity for all and meeting the challenge of climate change necessarily imply energy-related solutions. The urgency of the situation further requires public policies re-orienting societies to more sustainable, targeted and secure energy uses. As such, this action must be European, energy-specific and result-oriented.

Europeans should develop a common answer to common threats that are profoundly relevant to their current state of integration as well as to the future wellbeing of the global community. But all this requires setting collective ambitions at a higher level both in terms of substance and procedure. As in 1951 and 1957, there must be a concerted endeavour to help collective ambitions focus on energy. A unique challenge requires a unique response.

The solution proposed in [Notre Europe's report](#) in order to achieve that ultimate goal is to develop a real European Energy Community. This common project offers the member states the opportunity to design a common energy policy in the most efficient and democratic manner. It will require a stronger and more coherent European energy regulatory space governed by credible institutions capable of delivering effective solutions on the basis of democratic legitimacy. It should also be capable of exporting European regulatory norms in a credible and convincing way to the Union's partners on the international scene.

This common project will inevitably call for enhanced integration and the transfer of sovereignty to intervene in sensitive policy areas. The coordination of research policies, the steering of investment decisions, the creation of solidarity mechanisms and the need to speak in unison on the international scene all imply a powerful and supranational approach. This does not mean that the new energy policy will be an affair of distant technocrats.

On the contrary, a common energy policy can be a full success only if all participating states contribute. For example, specialisation between states offers the most efficient way to ensure a diversified energy portfolio and to create de facto solidarity. Within these logical limits each member state will not only be responsible for its own national production, but also for the European production. However, the conception and coordination of these policies requires a central and supranational decision making platform.

The new European Energy Community would therefore ideally be placed under the present Union structure and rely on the institutional machinery of the Union. The new Community

would however develop new rules as to how these institutions would function in the policy areas covered by the new energy-specific Treaty. Involvement of the Parliament and seamless judicial control would be the basic rule upon which the new policy should work. The conclusion of new constitutional rules also allows the participants to set up new organs, such as the creation of a European Energy Fund and an 'Economic and Social Committee for Energy', or, conversely to set aside (real or perceived) institutional obstacles, such as the 'Meroni' case law which is said to prevent the putting into place of a true European regulator. Similarly, nothing would prevent the participants to ensure that the Energy Community is represented on the international scene by one supranational body that will be the sole interlocutory with energy suppliers from third countries. Last but not least, the decision-making process within the European Energy Community would need to be based on majority voting and not unanimity.

All these advantages do not take away the fact that the conclusion of a new Energy Community Treaty under the Union structure will unavoidably give rise to complex demarcation issues, and notably the definition of the scope of the new Treaty vis-à-vis other Union Treaties, in particular the Lisbon Treaty (TFEU). Unlike the ECSC Treaty or the Common Agricultural Policy, the scope of the new Energy Treaty should not rest upon relatively static lists of products and technologies. Locking in the new Community would conflict with its dynamic and innovative aspirations. The new Treaty should rather rely on a series of clearly and elaborately defined objectives and provide for an accelerated procedure which would allow the European Court of Justice to issue a binding opinion in case where the scope of the new rules is unclear and/or disputed.

Last but not least, it follows from the conclusion of [Notre Europe's report](#) that the best available legal option for achieving this European Energy Community is to conclude a new Treaty under the Union structure (Option 3). Obviously, the conclusion of such Treaty by the European Union and all 27 member states is to be preferred, because it avoids all sorts of complex questions regarding the scope of the Treaty and the potential relation between the participating and non-participating states. However, not all member states may be willing at this stage to pool their energy policies under one common supranational structure. The adoption of the Lisbon Treaty was a long and tedious process. Not all member states and their people are necessarily willing to embark upon a yet another institutional adventure.

These political constraints lead to the conclusion that a "fully fledged and opt-in" Energy Treaty allowing the ambitious member states to embrace the common energy policy whilst leaving the door open for the more reticent states is the best option at Europe's disposal. The fact that some ambitious states take the lead in developing a genuine Energy Community does not mean that the general measures adopted under this Energy Community are not developed for the benefit of the whole European Union. This neither means that the general measures developed under the current Union structure should not be improved for the benefit of all member states.

First Pragmatic Steps

The legal and political difficulties inevitably associated with the longer term nature of any project to create a new European Energy Community should not be a reason to delay interim processes of further integration at Union level in ensuring affordable access to secure and sustainable energy sources. Nor should it be a reason to prevent committed member states to conclude functional arrangements or to use other mechanisms of enhanced cooperation

dealing with specific issues, such as the enhanced operation of networks, the creation of an Energy Fund or the setting up of a Gas Purchasing Group and/or Supply Agency. Such initiatives should be welcomed, since they aim to serve the wider policy objectives and ambitions of a European Energy Community.

Hence, the development of an Energy Community along the above lines puts the ambitious member states back on the track which the founding fathers traced in 1951 when they concluded the ECSC Treaty, albeit in a manner that is technologically and democratically adapted to today's standards and to tomorrow's expectations.

All these initiatives have after all one common goal which is to promote energy market integration and solidarity between the peoples of Europe and beyond. Freedom from energy insecurity reduces the seeds of conflict. And peace is what Europe is about.

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