KATARZYNA LICHWA

THE ENERGY POLICY AS A FIELD OF EU'S LIMITATIONS AND CONFLICT AMONG THE MEMBER STATES AND THE EU

INTRODUCTION

Since the establishment of the European Community in 1957, significant developments have taken place in the European energy policy, driven by complex global challenges like the climate change, increasing energy prices and the security of supply in the European Union (EU). The very recent 2009 gas crisis between Ukraine and Russia further intensified the discussion within the EU about the weaknesses of the EU's energy policy and the lack of supranational instruments to successfully respond to the world's energy challenges, such as the gas crisis in January 2009.

Taking into account the fact that collectively the EU member states import half of their energy needs and this figure is expected to rise, reaching 64 percent in 2020 and 67 percent in 2030, member states are seriously concerned about introducing specific policies to secure their energy supplies[1]. However, due to the importance of the energy policy, it is often described as one of the fields of major conflict of interest between the Commission, member governments and interest groups[2]. Over the past decades the EU's 27 member states have ceded to the EU institutions some national sovereignty in the sphere of energy issues, nevertheless energy policy remains primarily the responsibility of the individual member states. While member states have been moving towards increased integration in some areas of energy policy, the process has been halted in others.

The aim of this article is to present the nature of the EU's competences in energy policy and to suggest that the power and instruments that the EU's institutions currently possess

[1] International Energy Agency, *IEA Energy Policies Review European Union 2008,* IEA 2008, p. 19.
[2] J. Haaland-Matlary, *Energy Policy in the EU,* Macmillan Press Ltd, London 1997.

are not strong or efficient enough to develop common and coherent EU energy policy; with its present tools, the EU is not able to manage the necessary political arbitrage between all 27 members on the issue of common energy policy.

The first part of the paper will focus on the general character of the EU's energy policy. The milestone events in the evolution of that policy will be presented, together with the legal provisions for energy-related issues in the EU's Treaties. The article will also present in particular those EU instruments which are available to introduce legally binding rules on the member states in order to achieve some degree of cooperation and common standards. The third part will describe all challenges that the member states face in the area of energy policy and which make the development of a common EU energy policy extremely difficult, if not impossible to achieve.

EVALUATION AND NATURE OF THE EU'S ENERGY POLICY

The Energy policy in the EC/EU did not play an important role, despite the fact that the two original treaties, the European Coal and Steel Community (ECSC) and Euratom, both concerned energy. The European coal policy existed under the ECSC from 1952 until 2002 and in relation to its nuclear policy, the EU has a clear remit only through the Euratom Treaty of 1957[3]. However both treaties did not lead to the development of a common energy policy and focused only on managing coal and steel production and developing a powerful nuclear industry among the signatory states.

Until the 1980's there was a very little progress towards a common energy policy and the member states with their different domestic energy resources, different energy requirements and large, state-owned monopolistic energy industries, preferred essentially national management of energy policy[4].

Nevertheless, significant changes in the sphere of energy policy were introduced after the 1980's, when the Single European Act was introduced in 1986 and it was realised that the internal market would not be complete without a freer energy market. However, there was still no possibility of introducing a uniform EU energy policy, which could be driven by the Commission and the other EU institutions, because European energy markets continued to be considered as a traditionally strong national domain, controlled by the national governments: the member states showed no interest in ceding their power. However, after 1986 numerous

[3] International Energy Agency, op. cit., p. 42.
[4] N. Nugent, *Energy Policy*, [in:] *The Government and Politics of the European Union,* Palgrave Macmillan, London 2003, p. 315-316.

directives were introduced as a consequence of the establishment of the EU's internal market. They were implemented in the areas of competition, interconnection, energy flows, efficiency and environment and to some degree regulated and coordinated the rules concerning energy policy. For example: the result of the 1990's negotiations between the EU authorities, the member states and the interest groups were the Electricity Directive (Directive 96/92/EC) and Gas Directive (Directive 98/30/EC) which for the first time set the common rules for the EU energy market[5] .Due to relatively strong opposition from some member states, the first market directives included soft reform provisions and lacked a number of instruments to supervise the market within the member states. Moreover, in December 1994 the European Energy Charter, which had been prompted by the Commission, was signed by 50 countries including all EU members. Its core objectives were: "the creation of a regime of energy management based on the principles of the market economy, the regulation and promotion of trade and investment in the energy area, and the mediation in any disputes that might arise from these challenging undertakings"[6].

Further Commission efforts to include energy policy in the legal framework of the EU met with strong opposition from the member states. During the negotiations on the Maastricht Treaty, three EU energy producers – Germany, Britain and the Netherlands – vehemently opposed the inclusion of a chapter on common energy policy in the Treaty on European Union[7], and, as a result, the chapter on energy was deleted from the final text of the Treaty.

At the moment there is no specific article on energy in the currently ratified EU treaties; energy–related legislation has been introduced regarding the environment, approximation of laws, trans-European networks, difficulties in the supply of products, research and external relations[8] .

The evolution of the EU's energy policy and its scarcely changing intergovernmental character proves, that despite many opportunities to enlarge the scope of the EU's competences in the energy sphere, member states constantly opposed the idea and it was one of the governments' highest priorities to retain their sovereignty over that issue. In spite of the fact that the member states agreed to transfer some national competences to the EU institutions in a variety of areas like economic and trade policies, the energy policy remains largely in the scope of member states' authorities. Nevertheless, although there are no legal articles in the Treaty directly concerning energy policy that would transfer authority over the energy towards the EU

[5] International Energy Agency, op. cit., p. 39.
[6] S. Muller-Kraenner, *A Common European Energy Policy*, [in:] *Energy Security,* Earthscan, London 2007, p. 83.
[7] J. Haaland-Matlary, op. cit., p. 48.
[8] International Energy Agency, op. cit., p. 96.

institutions, the Commission has some important instruments to influence particular stages of decision-making process, especially in the areas where the member states have not yet developed their own policies and at the same time to provide a limited level of political arbitrage between the member states.

The second part of the paper will analyse the Commission's powers in implementing its objectives towards the energy policy and its ability to develop among its 27 different member states a common policy which is coherent enough to play a significant role in global energy market.

THE COMMISSION AS AN ARBITER BETWEEN THE MEMBER STATES OVER THE ENERGY ISSUES

As has been stated above, the most important EU supranational institution in the sphere of energy is the European Commission which on the basis of Treaty regulations does not have a legal power to introduce a homogeneous, EU -coordinated energy policy. It is still an exclusive competence of the individual member states to determine the national energy mix and to sign bilateral agreements with the third countries. However, in terms of the energy sector, the Commission has exclusive rights to initiate policy and to intervene in its role as a guardian of policy implementation. The Commission is producing policy proposals in the form of draft directives, based on draft communications. As Haaland-Matlary argues: "This agenda setting may be important not only for defining policy problems and their subsequent solutions, but also for defining member states' positions at the later stage of negotiations"[9].

The main actors in energy policy of the Commission are the Directorates for Transport and Energy, Competition, Environment, Enterprise, External Relations, Research and Trade[10]. Proposals that come from one directorate must be checked by other directorates. Obviously, the Transport and Energy Directorate is the major actor in energy policy within the Commission. Because of rapid changes in global energy market, increasing concern about Europe's reliance on Russian energy (about half of the EU's natural gas imports and 30 percent of its imported oil come from Russia)[11] and growing pressure to address global climate change, since year 2000 there has been a greater involvement of the Commission in developing more coherent and coordinated energy policy within the EU. The Commission has risen to the chal-

[9] J. Haaland-Matlary, op. cit., p. 107.
[10] International Energy Agency, op. cit., p. 101.
[11] P. Belkin, *The European Union's Energy Security Challenges*, [in:] *CRS Report for Congress,* Congressional Research Service, Washington 2008, p. 17.

lenges, proposing a range of policies to address them, through a number of new directives, recommendations and the Strategic Reviews.

In 2006 the Commission produced a Green Paper on "European Strategy for Sustainable, Competitive and Secure Energy" [COM (2006) 849], which identified six key policy objectives to address the new global challenges: competitiveness and the internal energy market, diversification of the energy mix, solidarity, sustainable development, innovation and technology, and external policy. Generally, according to the Commission, each member state can make energy policy choices based on its own national preferences, but they should be based on the EU's three main objectives: sustainability, competitiveness and security of supply[12].

Furthermore, in the Commission's communication from January 2007, "An Energy Policy for Europe" [COM (2007) 1], and in Second Strategic Energy Review published in November 2008, the Commission readdressed the need for cooperation and implementation of its three core policy objectives in the states' energy policy agenda. The Commission proposals were largely supported among the Members of the European Parliament, which reflects a significant shift from treating energy policy as a fully member states' domain, to a more European concern. One of the MEPs, Andras Gyurk argued: "The EU's energy policy is still characterized by bilateral talks and private deals. We need to link the Member States' electricity and gas grids and agree on storage capacities to further improve energy solidarity"[13]. Nevertheless, the Commission is not simply using publications and Action Plans to influence the member states to adopt more cooperative and coherent energy policy that would be based on the same EU's objectives. The EU-developed energy policy objectives are supported by a number of instruments and tools that have significant impact on member states' energy policy agenda.

First of all, there are "market based tools"[14] influencing prices, such as taxes and fiscal incentives. Even though the EU does not have competences in the area of direct taxation, it has the power to set minimum taxation rates for certain products, including energy (indirect taxation). For example the Energy Taxation Directive (Directive 2003/96/EC) is regulating the minimum excise rate for fuel and minimum rates for the use of different energy resources

[12] European Commission. *COM(2006) 849 final: Green Paper follow-up action – Report on progress in renewable electricity*. [Online]. Available at: http://www.managenergy.net/products/R1594.htm [March 16, 2009].
[13] European Parliament (2009). *Gas Crisis highlights need for energy security say MEPs*. [Online]. Available at: http://www.europarl.europa.eu/news/public/story_page/051-47949-033-02-06-909-20090202STO47914-2009-02-02-2009/default_en.htm [March 16, 2009].
[14] European Commission (2009). *European Energy Policy*. [Online]. Available at: http://europa.eu/scadplus/leg/en/s14001.htm [March 16, 2009].

for business use and non-business consumers[15] . The same tax regulations among all 27 member states reduce distortion of competition, influence a more efficient use of energy due to the relatively high minimum tax rate, and at the same time fulfill two of the Commission's core objectives in relation to sustainability and competitiveness.

Secondly, the Commission possesses instruments that influence quantities through directives such as the EU Emission Trading Scheme Directive (Directive 2003/87/EC). Launched on January 1, 2005 and running to December 1, 2012, the Directive is the largest multi-country and multi-sectoral Greenhouse Gas emission trading scheme in the world, and the Commission's major tool to force energy efficiency improvements among member states[16]. The Directive on Electricity Production from Renewable Energy Sources (Directive 2001/77/EC) which sets national indicative targets for renewable energy production from individual member states, also represents the Commission's tool to influence the member states' behaviour in the sphere of renewable energy resources, and further fulfilment of the EU's core policy objectives.

Moreover, the Commission has a significant impact on member states' behaviour through developing energy technology, especially technologies for energy efficiency and renewable or low cost energy[17]. When Euratom came into force, the EC began to fund joint research programmes over technology and energy issues; however there was still a high level of disorganization in the involvement of the member states. For instance, both Italy and Germany had started their own nationally funded programmes in order to prevent France from continuing to dominate that sector[18] . The task of the Commission is to create a European research landscape that together with national research and development programmes will integrate the work on national and European level; will build a long-term partnership, and will increase exchange of information within the EU. To achieve that aim, the Commission introduced a comprehensive, long- term strategy for Europe's Energy Technology objectives. "A European strategic energy technology plan (SET plan) – towards a low carbon future" [COM (2007) 723], proposed by the Commission in 2007, is composed of measures relating to planning, implementation, resources and international cooperation in the field of energy technology. The SET Plan distinguishes the long and short-term EU's objectives for the energy technology sector and highlights the fact that if the member states want to achieve these goals,

[15] International Energy Agency, op. cit., p. 35.
[16] European Commission (2005). *Emission Trading Scheme (EU ETS)*. [Online]. Available at: http://ec.europa.eu/environment/climat/emission/index_en.htm [March 18, 2009].
[17] Europa: Activities of European Union. *European Energy Policy*. [Online]. Available at: http://europa.eu/scadplus/leg/en/s14001.htm [March 18, 2009].
[18] J. Haaland-Matlary, op. cit., p. 112.

collective efforts and cooperation among the EU, the member states and private sector are necessary. Furthermore, the SET plan sets out the creation of specific institutions that extends cooperation and research among the member states.

Similarly, the aim of the European Energy Research Alliance (EERA) is to expand, strengthen and optimise the EU energy research capabilities, through sharing of national facilities in Europe and the joint realisation of pan-European programmes[19]. Additionally, a steering group created by the Commission in 2008 and made up of representatives of the member states, should be a platform for discussing strategic planning and implementation of the European Energy Technology Policy, including the objectives of SET Plan and other related Community Programmes. The European Community Steering Group should also focus and foster the EU's joint actions and measures, "matching specific instruments to the needs of different technologies, to ensure an optimisation of overall energy Research, Technological, Development, Demonstration and Deployment efforts in the European Research Area, through joint programming and concerted actions"[20].

By taking a lead in coordinating the member states' national programmes in the sphere of energy technology and by the creation of an advisory body that consists of high-level representatives from the member states and from the European Commission, the Commission is trying not only to influence current member states' energy strategies but simultaneously to have an impact on shaping individual states' future long-term energy actions towards a more sustainable, coordinated and EU-oriented approach.

The Commission can affect national governments' energy policies through the proper use of the available Community financial instruments. The Commission introduced various programmes, funded by the European Union, to strengthen competitiveness and innovation capacity in the EU, which are among three EU objectives introduced by the 2006 Green Paper and by the 2008 Second Strategic Energy Review. In 2006 the Competitiveness and Innovation Framework Programme for years 2007-2013 (CIP) was established on the basis of the EP and the Council decisions (Decision 1639/2006/EC). Its main goal is to encourage national governments and the enterprises within to use information technologies, environmental technologies and renewable energy sources. The CIP programme consists of three sub-programmes and includes a wide range of policy objectives. Moreover, the CIP's important objective is to create an EU-wide network of actors capable of participating in European as well as national, regional and local initiatives, furthering substantial energy use and as a result extending

[19] *European Energy Research Alliance*. [Online]. Available at: http://www.eera-set.eu/ [March 19, 2009].
[20] SET-Group-2008/003-rev, 2008, 1.

the share of experiences through dedicated networks[21]. The framework programme has been allocated a budget of 3.621 billion euro for the period from January 1, 2007 to December 31, 2013[22] and offers an attractive field of co-operation especially for the new member states (after 2004 and 2007 enlargements) and their businesses.

Another important EU programme that forms a part of the Commission's financial instruments to influence the member states' energy policies, is "The Seventh Framework Programme (2007-2013): Building the Europe for Knowledge"(FP7)[23]. It represents the EU's major instrument for funding research and plays a crucial role in reaching the goals of growth, competitiveness and employment. Moreover, the programme focuses on stimulating cooperation and improving links between industry and research within a transnational framework[24]. The programme covers various energy research areas and this is also reflected in the composition of the budget for the programme: "Under FP7 3.35 billion euro is allocated to non-nuclear energy research from 2007 to 2013, and 2.751 billion euro for nuclear research for the period to 2011 (…). This contrasts with 9.05 billion euro for information and communication technologies and 6.1 billion euro for health and reflects the drafting of FP7 before sustainable energy research emerged as a key concern at the EU level"[25].

One the one hand, the Commission seems to have a relatively large number of powerful instruments to alter the member states' behaviour on the issue of energy policy. Market-based tools, in the form of indirect taxes and common minimum tax rates for specific energy resources can successfully shift the member states towards more sustainable and more adequate behaviour in conformity with the EU's common policy objectives. Moreover, the establishment of energy technologies and various research and development programmes together with significant financial instruments give the Commission an important apparatus to act as an arbitrator between all 27 member states in developing common and coherent energy policy of the EU. However, the various challenges that the EU members face in changing the energy environment and very distinctive member states' preferences in the area of energy policy, seem to exceed the Community's competences and actions over that issue and push the states to introduce their individual, mostly self-interested policies.

The next part of the article will present the current challenges that national governments face in the area of energy policy and will try to prove that given the current scope of

[21] International Energy Agency, op. cit., p. 190.
[22] European Commission (2009). *CIP – Competitiveness and Innovation Framework Programme*. [Online]. Available at: http://europa.eu/cgi-bin/etal.pl [March 20, 2009].
[23] Decision 1982/2006/EC.
[24] Ibidem, p. 190.
[25] Ibidem, p. 192.

Commission's competences in energy policy, the member states must basically introduce their own separate energy strategies and that in this respect the EU cannot manage the necessary political arbitrage between all member states.

THE MEMBER STATES' STRATEGIES TO DEAL WITH THE ENERGY CHALLENGES

As has been stated above, despite the EU's institutions and especially the Commission's efforts to introduce a common, fully coordinated EU energy policy, the energy sphere still remains in the scope of the individual member states' competences and as with foreign or defence policies, the states vigorously protect their sovereignty in that area. There is a number of important reasons why the decision making power has not been transferred to the EU supranational level and why the Commission cannot manage the political arbitrage between the member states to develop one, coherent EU energy policy.

First of all, there are significant differences among the 27 EU member states in terms of their energy policy objectives. Each member state faces relatively different external factors due to its geographical location, availability of domestic primary energy resources or even very diverse national preferences towards nuclear energy and the share of renewable sources in its energy mix. Because of that it is extremely hard, if not impossible, to find a common EU consensus among the member states that would be satisfactory enough to achieve a unified position on energy issues in the international arena. For example: some EU countries have their own energy resources, such as gas (the Netherlands and the UK), oil (Denmark and the UK), lignite and coal (the Czech Republic) and nuclear (the Czech Republic) and are not highly dependent on the external resources[26]. On the other hand, there are countries within the EU such as Belgium, Spain and Poland that are highly dependent on foreign energy resources. E.g. Poland has a very small and not yet liberalised gas market and is very dependent on Russian gas supply. Both France and Germany have an important share of local primary energy sources in their energy mix (nuclear for France, and coal and gas for Germany) and their import dependence is slightly below the European average[27]. Additionally, the member states have different attitudes towards the use of renewable energy. In Finland and Sweden, renewable energy is a high priority. Finland, Latvia and Sweden have so far the largest share of renewables in their energy mix and all three countries have already put in place the appro-

[26] L.H. Roller, H. Delegado, H.W. Friederszick, *Energy: Choices for Europe,* Brugel Blueprint Series, Brussels 2007, p. 19.
[27] Ibidem, p. 20.

priate measures to meet the Kyoto targets[28]. Furthermore, national public preferences towards nuclear power vary significantly among member states.

After assessing all the evidence in relation to significant differences between national interests of the member states, it is not surprising that finding an agreement on energy policy is a very complicated task. The EU countries face the energy challenges from different starting points and with different needs and priorities; if the Commission wants to find the necessary consensus among a range of states' interests, it will have to include it all in one EU policy, and this appears to be too complex a task even for such a developed and multiplex actor as the European Union.

Secondly, it can be argued that the introduction of a common and coherent EU energy policy is not equally beneficial for all member states due to the different needs and performance of individual member states, which can result in strong opposition among particular states towards the development of such policy. The adoption of some measures may imply higher costs for some countries than for others. Small countries such as those in the Central European or Baltic states are in a weaker negotiating position with foreign upstream suppliers and may find it beneficial to face such negotiations under an European umbrella. However, large countries or the ones with relatively low foreign dependence such as France or Germany may actually lose significantly from giving an European dimension to their external policy. Similarly, states with few domestic resources (Austria, Greece, Latvia and Luxembourg) might see domestic competition as a real threat to their security of supply. Finally, countries like the UK or Poland, which have a low share of renewables in their energy mix and limited sources of renewable energy, might see renewables as an expensive option that might endanger their security of supply[29]. As Roller argues "…common European energy policy cannot simply ignore the current situation of each Member State, as well as the differing mix of costs and benefits of such policy for each country" [30]. For some member states introducing an individual energy policy is simply more beneficial in terms of costs, and no national government is fully willing to sacrifice its prosperity and welfare in the name of more united and coherent European Union action on the international arena.

Another argument supporting the thesis that despite the strong Commission's efforts to introduce the common EU energy policy the member states are not able to arrive at an agreement in this respect, is the fact that very often the Commission's goals and objectives are con-

[28] Ibidem, p. 22.
[29] Ibidem, p. 21.
[30] Ibidem, p. 22.

trary to the member states' interest. If at the moment member states are having significant problems in fulfilling the Commission's three objectives, the extension of the EU's power in that area may complicate even further the member states' position and can be against their national self-interest.

At present, with the current scope of the Commission's objectives agreed among the member states, national governments may find the polices designed to increase the efficiency, to secure supply and to protect the environment against their national interest and preferences, and even now they are using a number of trade offs[31]. Different countries are introducing versatile types of trade offs, depending on individual factors (geography and natural resources) and preferences (such as attitudes towards nuclear energy or renewables), but they all share the same objective – to protect their national interest by "playing" with the Commission's rules. A scholar Hendrik Roller distinguished three types of national trade offs in the present scope of the Commission's regulations: the trade off between competition and securing supply, the trade off between supply security and environment and finally the trade off between competition and environment[32].

The trade off between competition and securing supply is argued to be the most common trade off among the member states. In terms of the Commission's competition objective, dependence on foreign energy resources is leading the member states to support national champions; "to offset the market power of up-stream energy producing countries, and to secure their energy supply governments are tempted to support the creation of large horizontally and/or vertically integrated energy companies"[33]. There are a few recent examples throughout Europe (2003 merger of E.ON with Ruhrgas in Germany, 2006-2007 merger of Endesa and Gas Natural in Spain) where governments have prompted the creation of large national champions while reducing competition, arguing that such mergers and takeovers promote further investment and supply security[34]. Some countries seem to support large national energy companies to secure investment and access to primary resources at the expense of domestic competition and the Commission's competition objective. The participation of the state in European energy companies is very high among the member states; at the same time these companies hold a very important position on their domestic market. For instance Estonian "Eesti Energia", which represents 92 percent cent of total national market, is fully state-owned; France has 80 percent of shares in the energy company GDF, which holds 95 percent

[31] Ibidem, p. 22.
[32] Ibidem, p. 23.
[33] Ibidem, p. 26.
[34] Ibidem, p. 28.

of overall market share and there are similar examples in other countries, such as Latvia, Hungary, Italy or Sweden[35]. This practice does not include all member states and varies in scope. It is particularly evident among the states with a relatively high import dependence.

Another type of national trade off is the one between supply security and the environment. This type of national trade off is strongly linked with the state's energy mix. Different energy sources present significantly various CO2 intensities, and at the same time the energy mix reflects the diversification of energy suppliers and the level of import dependency. The trade off between an optimal energy mix from a supply security perspective, and an optimal energy mix that is adequate to the Commission's environmental objectives depends on the individual state energy performance. For instance, member states whose energy use is mostly based on the use of nuclear energy (France, Finland), may find it acceptable to reduce import dependence and the CO2 emissions by relying on their own nuclear energy resources. On the other hand, countries with significant coal reserves (Germany, Poland) may shift to coal as a way to reduce their import dependence, facing a trade off between the security of supply and the reduction of CO2 emission[36]. The evidence shows that even though coal consumption in Europe has been decreasing since 1990, some countries such as Germany and Spain are returning to coal as a reliable replacement for nuclear energy, due to an increasing demand for energy and increasing price instability, whereas Poland is using its coal resources to decrease its dependence on Russian gas. Needless to say, some member states seem to ignore the EU's environmental objectives in order to increase their future security of supply, at the expense of not reducing their CO2 emission.

The last type of a trade off occurs between competition and the environment and is strongly linked to the associated cost and benefits from the renewables. According to research, despite the significant increase in prices of non-renewable energy resources in recent years and future instability in their prices, the renewables are still less attractive for the member states in economic terms. The associated cost, necessary to produce a unit of renewable energy (solar, wind, biomass) is much higher than the required investment for a comparable non-renewable energy output. Examples from Ireland or Denmark, which are among the most successful in reducing CO2 emission, support the thesis that the reduction of CO2 emission is accompanied by large increases in electricity prices, especially in the short term. As a result higher energy prices can have a significant effect on the competitiveness of national indus-

[35] Ibidem, p. 29.
[36] Ibidem, p. 31.

tries, due to differences in energy prices among member states. Some member states are trying to "relax" their environmental policies in order to secure their domestic companies from competitive disadvantage and making their domestic market more attractive for foreign investors.

National trade offs in various aspects of the Commission's energy policy objectives are excellent examples of the significant differences among the member states', first of all in national energy performance and secondly in individual countries' preferences and aims in the energy sector. Three types of trade off are the proof that even at present, with limited EU presence and interventions into national energy policy, various states are inclined to adopt various trade offs to gainsay the Commission's aims and adopt the most self-interested energy strategies.

CONCLUSION

It can be concluded that energy policy is a very complex and rather problematic issue for the EU authorities. Despite the high level of integration on various political fields, energy policy remains a crucial issue in national policy strategies: one which the states vigorously protect from an external intervention. As it was presented in the main body of the paper, the European Commission has some competences and instruments to influence the individual states' energy policy; however they serve only to regulate and to revise the existing national polices of the EU countries. The EU is unable to influence the member states' decisions on bilateral agreements or their energy mix. The lack of direct legal status for EU competences over energy issues in any of the EU treaties is weakening the Commission's role in the member states' energy policy framework. Moreover, looking at the significant diversity among the member states in the spheres of energy performance, dependability of supply, needs and priorities, as well as unequal costs associated with the adoption of the EU common energy policy, it appears almost impossible that the EU can manage the necessary political arbitrage between all 27 member states to develop a common and coherent energy policy. On the one hand, the absence of workable energy policy leaves many EU states without an alternative to this type of intergovernmental approach; but on the other that kind of approach leaves no space for more EU involvement and coordination.

Nonetheless, it must be highlighted that this kind of intergovernmental attitude may change in the future, due to the growing common energy challenges, a growing number of energy crises that have an impact on most EU member states and the more obvious advan-

tages for national governments that stem from speaking with one voice, representing huge market with over 450 millions consumers. However, at the moment the Commission can only make the best use of its limited competences and continue to steer national governments towards a more coherent, unified European direction.

STRESZCZENIE

Mimo głębokiej integracji państw członkowskich UE na płaszczyznach wielu polityk, polityka energetyczna i najważniejsze decyzje z nią związane nadal pozostają w gestii państw członkowskich. Mimo wielu podjętych kroków, Komisja Europejska wciąż nie jest w stanie wypracować na tyle zdecydowanej i skutecznej strategii energetycznej, aby zachęcić państwa do jednolitych i wspólnych działań w dziedzinie energii. W niniejszej pracy zanalizowano główne kompetencje i instrumenty instytucji unijnych w dziedzinie zapewnienia bezpieczeństwa energetycznego. Udowodniono, że przy obecnych uwarunkowaniach i minimalnych instrumentach prawnych dostępnych Komisji oraz sprzecznych interesach państw członkowskich zarządzanie polityką energetyczną pozostanie nadal w gestii poszczególnych krajów.

BIBLIOGRAPHY

1. Belkin P., *The European Union's Energy Security Challenges*, [in:] *CRS Report for Congress,* Congressional Research Service,Washington 2008.
2. Doran P., *Collective Energy Security: A New Approach for Europe. Journal of Energy Security*. [Online]. Available at: http://www.ensec.org/index.php?option=com_content&view=article&id=177:collective-energy-security-a-new-approach-for-europe&catid=92:issuecontent&Itemid=341 [March 15, 2009].
3. Directorate General for Energy and Transport (European Commission). *EU Energy Security and Solidarity Action Plan: Second Strategic Energy Review*. [Online]. Available at: http://ec.europa.eu/energy/strategies/2008/2008_11_ser2_en.htm [March 15, 2009].
4. Directorate General for Energy and Transport (European Commission). *Legislation: COM(2007)723 final – European Strategic Energy Technology Plan (SET-Plan) – Towards a low carbon future.* [Online]. Available at: http://www.managenergy.net/products/R1603.htm [March 15, 2008].
5. European Commission. *Emission Trading Scheme (EU ETS).* [Online]. Available at: http://ec.europa.eu/environment/climat/emission/index_en.htm [March 18, 2009].
6. European Commission. *COM(2006)849 final: Green Paper follow-up action – Report on progress in renewable electricity*. [Online]. Available at: http://www.managenergy.net/products/R1594.htm [March 16, 2009].
7. European Commission. *European Community Steering Group on Strategic Energy Technologies (SET-Group), SET-Group-2008/003-rev*. [Online]. Available at: http://ec.europa.eu/energy/technology/set_plan/doc/2008_tor.pdf [March 16, 2009].

8. European Commission. *European Energy Policy.* [Online]. Available at: http://europa.eu/scadplus/leg/-en/s14001.htm [March 17, 2009].
9. European Commission. *CIP – Competitiveness and Innovation Framework Programme*. [Online]. Available at: http://europa.eu/cgi-bin/etal.pl [March 20, 2009].
10. *European Energy Research Alliance official website*. [Online]. Available at: http://www.eera-set.eu/ [March 19, 2009].
11. European Parliament. *Gas Crisis highlights need for energy security say MEPs*. [Online]. Available at: http://www.europarl.europa.eu/news/public/story_page/051-47949-033-02-06-909-20090202STO47914-2009-02-02-2009/default_en.htm [March 16, 2009].
12. European Union official website. *European Energy Policy*. [Online]. Available at: http://europa.eu/scadplus/leg/en/s14001.htm [March 18, 2009].
13. Haaland-Matlary J., *Energy Policy in the EU,* Macmillan Press Ltd, London 1997.
14. International Energy Agency, *IEA Energy Policies Review European Union 2008,* IEA 2008.
15. Muller-Kraenner S., *A Common European Energy Policy*, [in:] *Energy Security,* Earthscan, London 2007.
16. Nugent N., *Energy Policy*, [in:] *The Government and Politics of the European Union,* Palgrave Macmillan, London 2003.
17. Roller L.H., Delegado H., Friederszick H.W., *Energy: Choices for Europe,* Brugel Blueprint Series, Brussels 2007.