

SUMMARY

THE LIMITS OF EU EXTERNAL ENERGY GOVERNANCE VIS-À-VIS NEIGHBOURING GAS SUPPLIERS. INSIGHTS FROM AZERBAIJAN AND ALGERIA

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Observation:

The EU external energy policy towards the two most relevant gas producers in the neighbourhood besides Russia, Azerbaijan in the East and Algeria in the South, has changed over time and differs from that towards other countries within the European Neighbourhood Policy (ENP). While the EU initially urged both countries to select, adopt and implement prescribed EU rules and infrastructure projects in the energy sector, these provisions and the corresponding top-down policy approach have become less prominent in energy relations with Baku and Algiers. Nonetheless, both, Azerbaijan’s emerging gas sector and gas corridor that links it to the EU substantially reflect convergence with EU promoted rules and projects. This is less the case for Algeria, which is the neighbouring country, whose energy sector and energy corridors feature the lowest degree of “substantial convergence” with EU promoted rules and projects.

Puzzle:

EU policy towards its neighbourhood area has increasingly been analysed in terms of the process by which the EU responds to external challenges in the neighbourhood (such as energy security interdependence) by attempting to transfer and promote EU rules, norms, policies and projects towards third countries (Lavenex 2004). With regard to the question of how and under which conditions the EU is effective to ensure convergence, three major explanations are put forward (Lavenex/Schimmelfennig 2009). The *power-based explanation* stipulates superior EU power as the cause of effectiveness of EU external policy in terms of convergence. The *institutionalist explanation* attributes convergence to the degree of legalisation and compliance. The more EU rules and projects are precisely, bindingly and controllably prescribed, the more likely partner countries will select, adopt and implement them (Abbott et al. 2000). Alternatively, the more they are complied with within the EU, the more likely they will be accepted, adopted and applied (Schimmelfennig/Sedelmeier 2005). Thirdly, the *domestic structure explanation* assumes that the degree of convergence increases with the legitimacy and institutional resonance of promoted rules and projects. The more they are considered as normal and legitimate by relevant actors and the more they resonate with domestic rules, practices and beliefs, the more likely partner countries will accept and adopt them (Lavenex/Schimmelfennig 2009). However, none of these explanations can explain the ambiguous results of EU external energy policy towards the two supplier countries. Firstly, the EU does not hold a superior bargaining power vis-à-vis Baku and Algiers, since the EU finds itself at the receiving end of the energy interdependence equation. Thus, we would expect broad rejection but not substantial convergence as in the case of Azerbaijan and limited convergence as in the case of Algeria. Secondly, highly *and* moderately prescribed rules and projects have been selected, but only moderately prescribed ones proved to be sustainable and were not overthrown afterwards. Additionally, external convergence does not necessarily increase with intra-EU compliance. Finally, domestic resonance and legitimacy cannot account for occurring and absent convergence in both countries neither.

Question:

Whether and how can the EU tie neighbouring suppliers to rules and projects in the energy sector that reflect European interests, institutions, and ideas, while it cannot offer strong incentives to its partners.

Arguments:

- 1. Actors' preferences with regard to rules and projects in the energy sector are less driven by the EU than by market-based and geopolitical constraints and influences on the regional and international level.*
- 2. The more decentred the EU external energy policy towards both countries, the more effective it can be in terms of convergence*

Approach

The approach accounts for increasing and decreasing *policy convergence* as the result of an unstable, “open” and conflictual process of external Europeanisation in the field of energy. Azerbaijan and Algeria are borderline cases for external energy Europeanisation (Padgett 2011). The notion of “policy convergence” focuses on the “[...] similarity between one or more characteristics of a certain policy [...]” (Knill 2005, 768). It captures the fact, that the increasing substantial similarity in rules and projects is the result of a more complex interaction between European and neighbouring actors than the one-way process suggested by the notion of a “1:1 policy transfer” of the *acquis communautaire* and predefined projects. The approach conceives “substantial convergence” as policy convergence below a “1:1 policy transfer”. The degree of *substantial convergence* can be measured by analysing the degree of similarity in substance.

Two independent variables are identified and analysed over time. They are understood in a relational, intersubjective way rather than in a structuralist one (Barbé et al. 2009) and are embedded in a larger regional and international context. The first variable, *perceived bargaining power*, stems from the rational institutionalist “logic of consequences”. According to it, actors’ decision-making deliberations are based on the assessment of costs and benefits of different alternatives. The EU alters cost-benefit assessments through providing incentives and disincentives directly (*conditionality*) or indirectly (*externalisation*). There are three points to be made here. Actors find it difficult to carry out clear-cut cost/benefit assessments with regard to EU rules and projects, since incentives, their credibility and adoption cost are imprecise and in flux within the ENP (Sasse 2008). Secondly, cost/benefit assessments and thus the bargaining power that neighbouring countries hold vis-à-vis the EU is influenced by volatile markets for gas and geopolitical constraints. *Markets* can favour suppliers and strengthen or weaken their bargaining power by increasing or decreasing capacities, resources, and the need for foreign investment. Furthermore, markets shape the economic attractiveness of different available alternatives. *Geopolitics* constrain available alternatives or open up new ones. Geopolitical threats put pressure on actors to counterbalance them. What is more, neighbours take into account the effects that any course of action has for their geopolitical and economic standing as producer. A second variable is *perceived legitimacy*. According to the “logic of appropriateness” actors select and adopt new rules and projects, when they are convinced of their appropriateness. Here, the domestic normative resonance of (alternative) rules and projects is of importance and thus, the question, in how far do new rules and projects and the ideas and concepts behind them resonate with those of relevant domestic actors. Furthermore, perceived legitimacy also concerns the question of in how far, the targeted actor identifies with the EU or alternative actors who act as promoters. Both bits give more historic depth to the analysis of decision-making deliberations of actors. Arguably, both aspects of perceived legitimacy are not necessarily given with regard to both countries.

A third aspect of perceived legitimacy is thus important to stress in this context. It relates to the way and the form in which rules and projects that are promoted are set. This aspect takes into consideration, in how far actors are able to participate and shape the process and find themselves in the polity that sets the rules and projects that are promoted. It is important to note, that both neighbouring countries challenge the incremental ENP and the subsidiary role it attributes to neighbours. Both insist on special relationships with the EU as equal strategic partners.

I argue that EU external energy policy can only ensure a certain degree of substantial convergence, in terms of rules and projects that get selected *and* adopted, if the EU *decentres* its external energy policy (Bechev/Nicolaidis 2010). This means that the EU should refrain from unilaterally prescribing rules and projects that are imposing over-ambitious, unrealistic convergence constraints on its energy relations with both countries. The underlying assumption is, that due to socialisation processes, outcomes of a more decentred approach will nonetheless reflect EU interests, institutions and ideas to a certain degree in terms of substantial convergence. Decentring concerns the question, in how far cooperation draws on shared strategic goals and contents such as establishing a common strategic gas corridor and strategic modernisation (*co-development*). It further relates to the question, in how far local actors co-own promoted reform processes in the energy sector and are able to shape specific rules and projects jointly with their European partners instead of having only the binary choice of refusing or accepting prescribed EU frames. Instruments like co-owned budget support programmes, twinnings and networks can engage public and private local actors and depoliticise energy issues. Decentring also raises the question of *status* and polity-building. Strategic partnerships to the benefit of both sides, with symmetric organisational structures upgrade the status of the partner countries and reflect better the actual underlying energy interdependence situation.

Preliminary findings:

The highest degree of convergence in terms of selection of EU rules to liberalise energy supply, transport and distribution in Azerbaijan was achieved from 2006 to 2009. While market conditions were very favourable for suppliers, Azerbaijan faced serious geopolitical and economic threats by Russia. In this situation, the EU was able to insist on convergence with the all relevant EU rules and projects. Indeed, Azerbaijan was ready to subscribe to them for strategic reasons. The major rationale was to counterbalance Russia by increasing interdependence with the EU. At the same time, perceived legitimacy was limited since involved Azerbaijani decision-makers were never convinced of the appropriateness of EU-prescribed solutions. Once the Azerbaijani alternatives multiplied and its bargaining power vis-à-vis the EU increased, Azerbaijan put the adoption and implementation of these rules and projects on hold and rejected them later on. More effective were more decentred approaches of EU external energy policy, since they did not stop short of adoption and were not rejected once Azerbaijan's perceived bargaining power increased. In the early 2000s, the EU initiated governance networks with public and private actors on the regional and bilateral level. On the bilateral level, they led to jointly developed rules and projects, which nonetheless reflect significant substantial convergence. The degree of substantial convergence increases with the value of the variable of perceived legitimacy and was particularly favoured at the beginning by a re-emerging domestic gas sector and positive experiences from upstream liberalisation. Decentred EU external energy policy became more important with regard to the Southern Corridor as the Commission dropped its clear preference for a prescribed particular pipeline in the early 2010s in the light of the resistance of Azerbaijan, Turkey and European companies engaged in the upstream of the Shah Deniz gas field. With the signing of a new Memorandum of Understanding (MoU), the Commission singled out Azerbaijan and awarded it the status of *the* major strategic energy partner in the Southern Gas Corridor. Furthermore,

it integrated Azerbaijan and private companies in the co-development of regulatory governance of specific sections of the corridor. This strategic co-development contributed to an increase in perceived legitimacy and led to substantial convergence reflected in the adopted Intergovernmental Agreements (IGA).

Convergence in terms of rule adoption with Algeria did not take place to the same degree as with Azerbaijan. This can be explained, firstly, by favourable market conditions for the supplier and a strong perceived bargaining power vis-à-vis the EU, and secondly, by the clearly negative value of perceived legitimacy with regard to the EU, imposing its rules and projects in a way that echoed the colonial past of the country and the negative experience with liberalisation in the early 2000s. The latter led indeed to the adoption of EU-inspired rules, which got largely rejected afterwards in the light of the strong resistance of other domestic actors than the reformers. It was not before the market situation deteriorated and the “Arab Spring” destabilised Algeria’s neighbourhood that Algiers opened up to a more decentred EU external energy policy and the ENP in general. In 2013 the Commission singled out Algeria as a strategic partner by signing a MoU and thus prepared the ground for more co-development. In how far this can lead to substantial convergence remains to be seen.

References

- Abbott, K. W./ Keohane, R. O./ Moravcsik, A./ Slaughter, A.-M./Snidal, D. (2000) "The Concept of Legalization". In: *International Organization*, 54 (03), pp. 401-419.
- Barbé, E./ Costa, O./ Herranz, A./ Johansson-Nogues, E./ Natorski, M., et al. (2009) "Drawing the Neighbours Closer ... to What?: Explaining Emerging Patterns of Policy Convergence between the EU and its Neighbours". In: *Cooperation and Conflict*, 44 (4), pp. 378-399.
- Bechev, D./Nicolaidis, K. (2010) "From Policy to Polity: Can the EU's Special Relations with its 'Neighbourhood' be Decentred?". In: *JCMS: Journal of Common Market Studies*, 48 (3), pp. 475-500.
- Knill, C. (2005) "Introduction: Cross-national policy convergence: concepts, approaches and explanatory factors". In: *Journal of European Public Policy*, 12 (5), pp. 764-774.
- Lavenex, S. (2004) "EU external governance in 'wider Europe'". In: *Journal of European Public Policy*, 11 (4), pp. 680-700.
- Lavenex, S./Schimmelfennig, F. (2009) "EU rules beyond EU borders: theorizing external governance in European politics". In: *Journal of European Public Policy*, 16 (6), pp. 791-812.
- Padgett, S. (2011) "Energy Co - operation in the Wider Europe: Institutionalizing Interdependence". In: *JCMS: Journal of Common Market Studies*, 49 (5), pp. 1065-1087.
- Sasse, G. (2008) "The European Neighbourhood Policy: conditionality revisited for the EU's eastern neighbours". In: *Europe-Asia Studies*, 60 (2), pp. 295-316.
- Schimmelfennig, F./Sedelmeier, U. (2005) *The Europeanization of Central and Eastern Europe*. Ithaca, NY: Cornell University Press.

Further publications

- Weber, B./ Bafoil, F. (2014 forthcoming) "The Limits of Europeanisation in the field of Energy. The case of a pan-European gas market" in: Beslay C. / Zélem, M.C. (Eds.): *La sociologie de l'énergie. Approches conceptuelles et modes de gouvernance*. Paris: Edition CNRS.
- Weber, B. (2012) "The Evaluation of the EU's Neighbourhood Policies – How to measure the Effectiveness of External Europeanisation?". In: E. Ratka/O. Spaiser (Eds.) *Understanding European Neighbourhoods Policies. Concepts, Actors, Perceptions*. Baden-Baden: Nomos, pp. 69-86.
- Weber, B. (2011) "Die Effektivität der Europäischen Nachbarschaftspolitik in der östlichen Dimension in den Politikfeldern Energie- und Innere Sicherheit", in: *Münchener Beiträge zur Politikwissenschaft*, 2, URL: http://epub.ub.uni-muenchen.de/12199/1/MAA_Weber.pdf (consulted 19/01/2014).